

109TH CONGRESS
2^D SESSION

S. 2694

AN ACT

To amend title 38, United States Code, to remove certain limitations on attorney representation of claimants for veterans benefits in administrative proceedings before the Department of Veterans Affairs, to make certain improvements in the area of memorial affairs, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Veterans’ Choice of Representation and Benefits En-
6 hancement Act of 2006”.

9 **SEC. 403. MODIFICATIONS TO EXISTING STATE HOME AU-**
10 **THORITIES.**

11 (a) **NURSING HOME CARE AND PRESCRIPTION MEDI-**
12 **CATIONS IN STATE HOMES FOR VETERANS WITH SERV-**
13 **ICE-CONNECTED DISABILITIES.**—

14 (1) **NURSING HOME CARE.**—Subchapter V of
15 chapter 17 of title 38, United States Code, is
16 amended by adding at the end the following new sec-
17 tion:

18 **“§ 1745. Nursing home care and medications for vet-**
19 **erans with service-connected disabilities**

20 “(a)(1) The Secretary shall pay each State home for
21 nursing home care at the rate determined under para-
22 graph (2), where such care is provided to any veteran as
23 follows:

24 “(A) Any veteran in need of such care for a
25 service-connected disability.

1 “(B) Any veteran who—

2 “(i) has a service-connected disability rated
3 at 70 percent or more; and

4 “(ii) is in need of such care.

5 “(2) The rate determined under this paragraph with
6 respect to a State home is the lesser of—

7 “(A) the applicable or prevailing rate payable in
8 the geographic area in which the State home is lo-
9 cated, as determined by the Secretary, for nursing
10 home care furnished in a non-Department nursing
11 home (as that term is defined in section 1720(e)(2));
12 or

13 “(B) a rate not to exceed the daily cost of care,
14 as determined by the Secretary, following a report to
15 the Secretary by the director of the State home.

16 “(3) Payment by the Secretary under paragraph (1)
17 to a State home for nursing home care provided to a vet-
18 eran described in that paragraph constitutes payment in
19 full to the State home for such care furnished to that vet-
20 eran.”.

21 (2) PROVISION OF PRESCRIPTION MEDICINES.—

22 Such section, as so added, is further amended by
23 adding at the end the following new subsection:

24 “(b) The Secretary shall furnish such drugs and
25 medicines as may be ordered on prescription of a duly li-

1 censed physician as specific therapy in the treatment of
2 illness or injury to any veteran as follows:

3 “(1) Any veteran who—

4 “(A) is not being provided nursing home
5 care for which payment is payable under sub-
6 section (a); and

7 “(B) is in need of such drugs and medi-
8 cines for a service-connected disability.

9 “(2) Any veteran who—

10 “(A) has a service-connected disability
11 rated at 50 percent or more;

12 “(B) is not being provided nursing home
13 care for which payment is payable under sub-
14 section (a); and

15 “(C) is in need of such drugs and medi-
16 cines.”.

17 (3) CONFORMING AMENDMENTS.—

18 (A) CRITERIA FOR PAYMENT.—Section
19 1741(a)(1) of such title is amended by striking
20 “The” and inserting “Except as provided in
21 section 1745 of this title, the”.

22 (B) ELIGIBILITY FOR NURSING HOME
23 CARE.—Section 1710(a)(4) of such title is
24 amended—

1 (i) by striking “and” before “the re-
 2 quirement in section 1710B of this title”;
 3 and

4 (ii) by inserting “, and the require-
 5 ment in section 1745 of this title to pro-
 6 vide nursing home care and prescription
 7 medicines to veterans with service-con-
 8 nected disabilities in State homes” after “a
 9 program of extended care services”.

10 (4) CLERICAL AMENDMENT.—The table of sec-
 11 tions at the beginning of chapter 17 of such title is
 12 amended by inserting after the item relating to sec-
 13 tion 1744 the following new item:

“1745. Nursing home care and medications for veterans with service-connected
 disabilities.”.

14 (5) EFFECTIVE DATE.—The amendments made
 15 by this subsection shall take effect 90 days after the
 16 date of the enactment of this Act.

17 (b) IDENTIFICATION OF VETERANS IN STATE
 18 HOMES.—Such chapter is further amended—

19 (1) in section 1745, as added by subsection
 20 (a)(1) of this section, by adding at the end the fol-
 21 lowing new subsection:

22 “(c) Any State home that requests payment or reim-
 23 bursement for services provided to a veteran under this
 24 section shall provide to the Secretary such information as

1 the Secretary considers necessary to identify each indi-
 2 vidual veteran eligible for payment under such section.”;
 3 and

4 (2) in section 1741, by adding at the end the
 5 following new subsection:

6 “(f) Any State home that requests payment or reim-
 7 bursement for services provided to a veteran under this
 8 section shall provide to the Secretary such information as
 9 the Secretary considers necessary to identify each indi-
 10 vidual veteran eligible for payment under such section.”.

11 (c) **AUTHORITY TO TREAT CERTAIN HEALTH FA-
 12 CILITIES AS STATE HOMES.—**

13 (1) **AUTHORITY.**—Subchapter III of chapter 81
 14 of title 38, United States Code, is amended by add-
 15 ing at the end the following new section:

16 **“§ 8138. Treatment of certain health facilities as State
 17 homes**

18 “(a) The Secretary may treat a health facility, or cer-
 19 tain beds in a health facility, as a State home for purposes
 20 of subchapter V of chapter 17 of this title if the following
 21 requirements are met:

22 “(1) The facility, or certain beds in such facil-
 23 ity, meets the standards for the provision of nursing
 24 home care that is applicable to State homes, as pre-
 25 scribed by the Secretary under section 8134(b) of

1 this title, and such other standards relating to the
2 facility, or certain beds in such facility, as the Sec-
3 retary may require.

4 “(2) The facility, or certain beds in such facil-
5 ity, is licensed or certified by the appropriate State
6 and local agencies charged with the responsibility of
7 licensing or otherwise regulating or inspecting State
8 home facilities.

9 “(3) The State demonstrates in an application
10 to the Secretary that, but for the treatment of a fa-
11 cility (or certain beds in such facility), as a State
12 home under this subsection, a substantial number of
13 veterans residing in the geographic area in which the
14 facility is located who require nursing home care will
15 not have access to such care.

16 “(4) The Secretary determines that the treat-
17 ment of the facility, or certain beds in such facility,
18 as a State home best meets the needs of veterans for
19 nursing home care in the geographic area in which
20 the facility is located.

21 “(5) The Secretary approves the application
22 submitted by the State with respect to the facility,
23 or certain beds in such facility.

24 “(b) The Secretary may not treat a health facility,
25 or certain beds in a health facility, as a State home under

1 subsection (a) if the Secretary determines that such treat-
2 ment would increase the number of beds allocated to the
3 State in excess of the limit on the number of beds provided
4 for by regulations prescribed under section 8134(a) of this
5 title.

6 “(c) The number of beds occupied by veterans in a
7 health facility for which payment may be made under sub-
8 chapter V of chapter 17 of this title by reason of sub-
9 section (a) shall not exceed—

10 “(1) 100 beds in the aggregate for all States;

11 and

12 “(2) in the case of any State, the difference
13 between—

14 “(A) the number of veterans authorized to
15 be in beds in State homes in such State under
16 regulations prescribed under section 8134(a) of
17 this title; and

18 “(B) the number of veterans actually in
19 beds in State homes (other than facilities or
20 certain beds treated as State homes under sub-
21 section (a)) in such State under regulations
22 prescribed under such section.

23 “(d) The number of beds in a health facility in a
24 State that has been treated as a State home under sub-
25 section (a) shall be taken into account in determining the

1 unmet need for beds for State homes for the State under
2 section 8134(d)(1) of this title.

3 “(e) The Secretary may not treat any new health fa-
4 cilities, or any new certain beds in a health facility, as
5 a State home under subsection (a) after September 30,
6 2009.”.

7 (2) CLERICAL AMENDMENT.—The table of sec-
8 tions at the beginning of chapter 81 of such title is
9 amended by inserting after the item relating to sec-
10 tion 8137 the following new item:

“8138. Treatment of certain health facilities as State homes.”.