

116TH CONGRESS
1ST SESSION

H. R. 2371

To amend title 10, United States Code, to modify the requirement for certain former members of the Armed Forces to enroll in Medicare Part B to be eligible for TRICARE for Life, and to amend title XVIII of the Social Security Act to provide for coverage of certain DNA specimen provenance assay tests under the Medicare program.

IN THE HOUSE OF REPRESENTATIVES

APRIL 25, 2019

Mr. THOMPSON of California (for himself and Mr. FERGUSON) introduced the following bill; which was referred to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 10, United States Code, to modify the requirement for certain former members of the Armed Forces to enroll in Medicare Part B to be eligible for TRICARE for Life, and to amend title XVIII of the Social Security Act to provide for coverage of certain DNA specimen provenance assay tests under the Medicare program.

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

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Health Equity and
3 Access for Returning Troops and Servicemembers Act of
4 2019” or the “HEARTS Act of 2019”.

5 **SEC. 2. MODIFICATION OF REQUIREMENT FOR CERTAIN**
6 **FORMER MEMBERS OF THE ARMED FORCES**
7 **TO ENROLL IN MEDICARE PART B TO BE ELI-**
8 **GIBLE FOR TRICARE FOR LIFE.**

9 (a) TRICARE ELIGIBILITY.—

10 (1) IN GENERAL.—Subsection (d) of section
11 1086 of title 10, United States Code, is amended by
12 adding at the end the following new paragraph:

13 “(6)(A) The requirement in paragraph (2)(A)
14 to enroll in the supplementary medical insurance
15 program under part B of title XVIII of the Social
16 Security Act (42 U.S.C. 1395j et seq.) shall not
17 apply to a person described in subparagraph (B)
18 during any month in which such person is not enti-
19 tled to a benefit described in subparagraph (A) of
20 section 226(b)(2) of the Social Security Act (42
21 U.S.C. 426(b)(2)) if such person has received the
22 counseling and information under subparagraph (C).

23 “(B) A person described in this subpara-
24 graph is a person—

25 “(i) who is under 65 years of age;

1 “(ii) who is entitled to hospital insur-
2 ance benefits under part A of title XVIII
3 of the Social Security Act pursuant to sub-
4 paragraph (A) or (C) of section 226(b)(2)
5 of such Act (42 U.S.C. 426(b)(2));

6 “(iii) whose entitlement to a benefit
7 described in subparagraph (A) of such sec-
8 tion has terminated due to performance of
9 substantial gainful activity; and

10 “(iv) who is retired under chapter 61
11 of this title.

12 “(C) The Secretary of Defense shall co-
13 ordinate with the Secretary of Health and
14 Human Services and the Commissioner of So-
15 cial Security to notify persons described in sub-
16 paragraph (B) of, and provide information and
17 counseling regarding, the effects of not enroll-
18 ing in the supplementary medical insurance
19 program under part B of title XVIII of the So-
20 cial Security Act (42 U.S.C. 1395j et seq.), as
21 described in subparagraph (A).”.

22 (2) CONFORMING AMENDMENT.—Paragraph
23 (2)(A) of such subsection is amended by striking “is
24 enrolled” and inserting “except as provided by para-
25 graph (6), is enrolled”.

1 (3) IDENTIFICATION OF PERSONS.—Section
2 1110a of such title is amended by adding at the end
3 the following new subsection:

4 “(c) CERTAIN INDIVIDUALS NOT REQUIRED TO EN-
5 ROLL IN MEDICARE PART B.—In carrying out subsection
6 (a), the Secretary of Defense shall coordinate with the
7 Secretary of Health and Human Services and the Commis-
8 sioner of Social Security to—

9 “(1) identify persons described in subparagraph
10 (B) of section 1086(d)(6) of this title; and

11 “(2) provide information and counseling pursu-
12 ant to subparagraph (D) of such section.”.

13 (b) NON-APPLICATION OF MEDICARE PART B LATE
14 ENROLLMENT PENALTY.—Section 1839(b) of the Social
15 Security Act (42 U.S.C. 1395r(b)) is amended, in the sec-
16 ond sentence, by inserting “or months for which the indi-
17 vidual can demonstrate that the individual is an individual
18 described in paragraph (6)(B) of section 1086(d) of title
19 10, United States Code, who is enrolled in the TRICARE
20 program pursuant to such section” after “an individual
21 described in section 1837(k)(3)”.

22 (c) REPORT.—Not later than October 1, 2024, the
23 Secretary of Defense, the Secretary of Health and Human
24 Services, and the Commissioner of Social Security shall
25 jointly submit to the Committees on Armed Services of

1 the House of Representatives and the Senate, the Com-
2 mittee on Ways and Means and the Committee on Energy
3 and Commerce of the House of Representatives, and the
4 Committee on Finance of the Senate a report on the im-
5 plementation of section 1086(d)(6) of title 10, United
6 States Code, as added by subsection (a). Such report shall
7 include, with respect to the period covered by the report—

8 (1) the number of individuals enrolled in
9 TRICARE for Life who are not enrolled in the sup-
10 plementary medical insurance program under part B
11 of title XVIII of the Social Security Act (42 U.S.C.
12 1395j et seq.) by reason of such section 1086(d)(6);
13 and

14 (2) the number of individuals who—

15 (A) are retired from the Armed Forces
16 under chapter 61 of title 10, United States
17 Code;

18 (B) are entitled to hospital insurance bene-
19 fits under part A of title XVIII of the Social
20 Security Act pursuant to receiving benefits for
21 24 months as described in subparagraph (A) or
22 (C) of section 226(b)(2) of such Act (42 U.S.C.
23 426(b)(2)); and

24 (C) because of such entitlement, are no
25 longer enrolled in TRICARE Standard,

1 TRICARE Prime, TRICARE Extra, or
 2 TRICARE Select under chapter 55 of title 10,
 3 United States Code.

4 (d) DEPOSIT OF SAVINGS INTO MEDICARE IMPROVE-
 5 MENT FUND.—Section 1898(b)(1) of the Social Security
 6 Act (42 U.S.C. 1395iii(b)(1)) is amended by striking
 7 “during and after fiscal year 2021, \$0” and inserting
 8 “during and after fiscal year 2024, \$5,000,000”.

9 (e) APPLICATION.—The amendments made by sub-
 10 sections (a) and (b) shall apply with respect to a person
 11 who, on or after October 1, 2023, is a person described
 12 in section 1086(d)(6)(B) of title 10, United States Code,
 13 as added by subsection (a).

14 **SEC. 3. COVERAGE OF CERTAIN DNA SPECIMEN PROVE-**
 15 **NANCE ASSAY TESTS UNDER MEDICARE.**

16 (a) BENEFIT.—

17 (1) COVERAGE.—Section 1861 of the Social Se-
 18 curity Act (42 U.S.C. 1395x) is amended—

19 (A) in subsection (s)(2)—

20 (i) in subparagraph (GG), by striking
 21 “and” at the end;

22 (ii) in subparagraph (HH), by insert-
 23 ing “and” at the end; and

24 (iii) by adding at the end the fol-
 25 lowing new subparagraph:

1 “(II) a prostate cancer DNA Specimen Prove-
 2 nance Assay test (DSPA test) (as defined in sub-
 3 section (kkk)); and”; and

4 (B) by adding at the end the following new
 5 subsection:

6 “(kkk) PROSTATE CANCER DNA SPECIMEN PROVE-
 7 NANCE ASSAY TEST.—The term ‘prostate cancer DNA
 8 Specimen Provenance Assay Test’ (DSPA test) means a
 9 test that, after a determination of cancer in one or more
 10 prostate biopsy specimens obtained from an individual, as-
 11 sesses the identity of the DNA in such specimens by com-
 12 paring such DNA with the DNA that was separately taken
 13 from such individual at the time of the biopsy.”.

14 (2) EXCLUSION FROM COVERAGE.—Section
 15 1862(a)(1) of the Social Security Act (42 U.S.C.
 16 1395y(a)(1)) is amended—

17 (A) in subparagraph (O), by striking
 18 “and” at the end;

19 (B) in subparagraph (P), by striking the
 20 semicolon at the end and inserting “, and”; and

21 (C) by adding at the end the following new
 22 subparagraph:

23 “(Q) in the case of a prostate cancer DNA
 24 Specimen Provenance Assay test (DSPA test) (as
 25 defined in section 1861(kkk)), unless such test is

1 furnished on or after January 1, 2020, and before
2 January 1, 2025, and such test is ordered by the
3 physician who furnished the prostate cancer biopsy
4 that obtained the specimen tested;”.

5 (b) PAYMENT AMOUNT AND RELATED REQUIRE-
6 MENTS.—Section 1834 of the Social Security Act (42
7 U.S.C. 1395m) is amended by adding at the end the fol-
8 lowing new subsection:

9 “(x) PROSTATE CANCER DNA SPECIMEN PROVE-
10 NANCE ASSAY TESTS.—

11 “(1) PAYMENT FOR COVERED TESTS.—

12 “(A) IN GENERAL.—Subject to subpara-
13 graph (B), the payment amount for a prostate
14 cancer DNA Specimen Provenance Assay test
15 (DSPA test) (as defined in section 1861(kkk))
16 shall be \$200. Such payment shall be payment
17 for all of the specimens obtained from the bi-
18 opsy furnished to an individual that are tested.

19 “(B) LIMITATION.—Payment for a DSPA
20 test under subparagraph (A) may only be made
21 on an assignment-related basis.

22 “(C) PROHIBITION ON SEPARATE PAY-
23 MENT.—No separate payment shall be made for
24 obtaining DNA that was separately taken from

1 an individual at the time of a biopsy described
2 in subparagraph (A).

3 “(2) HCPCS CODE AND MODIFIER ASSIGN-
4 MENT.—

5 “(A) IN GENERAL.—The Secretary shall
6 assign one or more HCPCS codes to a prostate
7 cancer DNA Specimen Provenance Assay test
8 and may use a modifier to facilitate making
9 payment under this section for such test.

10 “(B) IDENTIFICATION OF DNA MATCH ON
11 CLAIM.—The Secretary shall require an indica-
12 tion on a claim for a prostate cancer DNA
13 Specimen Provenance Assay test of whether the
14 DNA of the prostate biopsy specimens match
15 the DNA of the individual diagnosed with pros-
16 tate cancer. Such indication may be made
17 through use of a HCPCS code, a modifier, or
18 other means, as determined appropriate by the
19 Secretary.

20 “(3) DNA MATCH REVIEW.—

21 “(A) IN GENERAL.—The Secretary shall
22 review at least three years of claims under part
23 B for prostate cancer DNA Specimen Prove-
24 nance Assay tests to identify whether the DNA
25 of the prostate biopsy specimens match the

1 DNA of the individuals diagnosed with prostate
2 cancer.

3 “(B) POSTING ON INTERNET WEBSITE.—
4 Not later than July 1, 2023, the Secretary shall
5 post on the internet website of the Centers for
6 Medicare & Medicaid Services the findings of
7 the review conducted under subparagraph
8 (A).”.

9 (c) COST-SHARING.—Section 1833(a)(1) of the So-
10 cial Security Act (42 U.S.C. 1395l(a)(1)) is amended—

11 (1) by striking “and (CC)” and inserting
12 “(CC)”; and

13 (2) by inserting before the semicolon at the end
14 the following: “, and (DD) with respect to a prostate
15 cancer DNA Specimen Provenance Assay test
16 (DSPA test) (as defined in section 1861(kkk)), the
17 amount paid shall be an amount equal to 80 percent
18 of the lesser of the actual charge for the test or the
19 amount specified under section 1834(x)”.

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