

118TH CONGRESS
1ST SESSION

H. R. 1822

To amend title 38, United States Code, to improve the review of claims for benefits under laws administered by the Secretary of Veterans Affairs.

IN THE HOUSE OF REPRESENTATIVES

MARCH 28, 2023

Mr. BERGMAN (for himself and Ms. MACE) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to improve the review of claims for benefits under laws administered by the Secretary of Veterans Affairs.

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.**

4 This Act may be cited as the “Preserving Lawful Uti-
5 lization of Services for Veterans Act of 2023” or the
6 “PLUS for Veterans Act of 2023”.

1 **SEC. 2. CLARIFICATION OF PREPARATION, PRESENTATION,**
2 **OR PROSECUTION OF A CLAIM UNDER A LAW**
3 **ADMINISTERED BY SECRETARY OF VET-**
4 **ERANS AFFAIRS.**

5 Section 5901 of title 38, United States Code, is
6 amended—

7 (1) by inserting “(a) IN GENERAL.—” before
8 “Except”; and

9 (2) by adding at the end the following new sub-
10 section:

11 “(b) EXCLUSION.—The administration of a medical
12 examination, or the writing of a report based on such ex-
13 amination, described in section 5125 of this title, does not
14 constitute the preparation, presentation, or prosecution of
15 a claim described in subsection (a).”.

16 **SEC. 3. AGENTS AND ATTORNEYS IN CLAIMS UNDER LAWS**
17 **ADMINISTERED BY SECRETARY OF VET-**
18 **ERANS AFFAIRS: RECOGNITION; SUSPENSION.**

19 Section 5904 of title 38, United States Code, is
20 amended—

21 (1) in paragraph (1) of subsection (a)—

22 (A) by inserting “(A)” before “Except”;

23 and

24 (B) by adding at the end the following new
25 subparagraphs:

1 “(B) The Secretary shall determine whether to recog-
2 nize under subparagraph (A) an agent or attorney who
3 applies for such recognition not later than 90 days after
4 the Secretary receives such application. If the Secretary
5 cannot verify whether the agent or attorney meets the
6 qualifications and standards prescribed under paragraph
7 (2) before the end of such 90 days, the Secretary shall
8 recognize the agent or attorney under such subparagraph.

9 “(C) The Secretary may not refuse to recognize
10 under subparagraph (A) an agent or attorney solely on
11 the basis that such agent or attorney charges a claimant
12 a fee for services rendered in the preparation, presen-
13 tation, or prosecution of a claim.

14 “(D) The Secretary may suspend under subsection
15 (b) an agent or attorney described in subparagraph (D)
16 without regard to the notice and opportunity for a hearing
17 under such subsection.

18 “(E) An agent or attorney described in this subpara-
19 graph is an agent or attorney—

20 “(i) recognized pursuant to the second sentence
21 of subparagraph (B); and

22 “(ii) whom the Secretary determines, after the
23 90-day period described in such subparagraph, does
24 not meet the qualifications and standards prescribed
25 under paragraph (2).”; and

1 (2) in subsection (b)—

2 (A) by redesignating paragraphs (1)
3 through (9) as subparagraphs (A) through (I),
4 respectively;

5 (B) in the matter preceding subparagraph
6 (A), as redesignated, by inserting “(1)” before
7 “The Secretary”; and

8 (C) by adding at the end the following new
9 paragraph:

10 “(2) Not later than one year after the date of the
11 enactment of the Preserving Lawful Utilization of Services
12 for Veterans Act of 2023 and annually thereafter, the Sec-
13 retary shall submit to the Committees on Veterans’ Affairs
14 of the Senate and House of Representatives a report re-
15 garding the number of individuals suspended under this
16 subsection or denied recognition under subsection (a),
17 disaggregated by the reasons for such suspension or denial
18 and whether the individual is—

19 “(A) a representative of an organization recog-
20 nized under section 5902 of this title;

21 “(B) an agent; or

22 “(C) an attorney.”.

1 **SEC. 4. FEES ALLOWABLE FOR REPRESENTATION OF VET-**
2 **ERANS FOR CLAIMS UNDER LAWS ADMINIS-**
3 **TERED BY SECRETARY OF VETERANS AF-**
4 **FAIRS.**

5 (a) FEES.—Section 5904 of title 38, United States
6 Code, as amended by section 3, is further amended—

7 (1) in subsection (a)(5), by striking “prepara-
8 tion, presentation, and prosecution of a claim before
9 the Department” and inserting “course of represen-
10 tation described in subsection (c)(2)”;

11 (2) in subsection (c)—

12 (A) in the heading, by inserting “FLAT
13 FEE AGREEMENTS.—” after “(c)”;

14 (B) by amending paragraph (1) to read as
15 follows:

16 “(1)(A) In a case other than a case described in para-
17 graph (2), a fee agreement between a claimant and an
18 agent or attorney, with respect to the preparation, presen-
19 tation, or prosecution of a claim under a law administered
20 by the Secretary, shall be a fee agreement under—

21 “(i) this paragraph, using a standard agree-
22 ment form prescribed by the Secretary;

23 “(ii) subsection (d); or

24 “(iii) subsection (e).

1 “(B) A fee agreement under this paragraph is one
2 under which the total amount payable by the claimant to
3 the agent or attorney with respect to the claim—

4 “(i) may not exceed \$12,500 (as adjusted from
5 time to time under subparagraph (C)); and

6 “(ii) is contingent on whether the claim is re-
7 solved in a manner favorable to the claimant.

8 “(C) Effective on October 1 of each year (beginning
9 in the first fiscal year after the date of the enactment of
10 the Preserving Lawful Utilization of Services for Veterans
11 Act of 2023), the Secretary shall increase the dollar
12 amount in effect under clause (i) of subparagraph (B) by
13 a percentage equal to the percentage by which the Con-
14 sumer Price Index for all urban consumers (U.S. city aver-
15 age) increased during the 12-month period ending with
16 the last month for which Consumer Price Index data is
17 available. In the event that such Consumer Price Index
18 does not increase during such period, the Secretary shall
19 maintain the dollar amount in effect under such clause
20 during the previous fiscal year.

21 “(D) The limitation under subparagraph (B)(i) does
22 not apply to any fee charged, allowed, or paid for services
23 provided with respect to proceedings before a court.

24 “(E) For purposes of subparagraph (B)(ii), a claim
25 shall be considered to have been resolved in a manner fa-

1 vorable to the claimant if all or any part of the relief
2 sought is granted.

3 “(F) The form prescribed by the Secretary under
4 subparagraph (A)(i) shall include the following notifica-
5 tions to the claimant:

6 “(i) That organizations recognized under sec-
7 tion 5902 of this title furnish services concerning
8 claims under laws administered by the Secretary, at
9 no cost to claimants.

10 “(ii) That the claimant may select a private
11 physician for a medical examination described in sec-
12 tion 5125 of this title regarding the claim.

13 “(iii) That such agent or attorney may not
14 refer the claimant to a private physician described in
15 clause (ii) with whom the agent or attorney has a
16 business relationship regarding the claim.”;

17 (C) in paragraph (2), by striking “referred
18 to in paragraph (1) of this subsection” and in-
19 serting “regarding a claim under a law adminis-
20 tered by the Secretary”;

21 (D) in paragraph (3)(A), by striking
22 “paragraph (2)” and inserting “paragraph (1)
23 or (2)”; and

24 (E) by striking paragraph (4); and

1 (3) by adding at the end the following new sub-
2 section (e):

3 “(e) PAYMENT OF FEES OUT OF AN AWARD OR IN-
4 CREASED AWARD.—(1) When a claimant and an agent or
5 attorney have entered into a fee agreement described in
6 paragraph (2), the total fee payable to the agent or attor-
7 ney (including all ancillary fees) may not exceed the
8 amount that is equal to the product of five and the amount
9 of the monthly increase of benefits awarded on the basis
10 of the claim.

11 “(2) A fee agreement referred to in paragraph (1)
12 is one under which the total amount of the fee payable
13 to the agent or attorney—

14 “(A) is to be paid to the agent or attorney by
15 the claimant, after commencement of the monthly
16 period of payment of monetary benefits based on an
17 award or increased award (as defined in section
18 5111(d) of this title); and

19 “(B) is contingent on whether the matter is re-
20 solved in a manner favorable to the claimant.

21 “(3) For the purposes of this subsection, a claim shall
22 be considered to have been resolved in a manner favorable
23 to the claimant if all or any part of the relief sought is
24 granted.”.

1 (b) REGULATIONS.—Not later than 180 days after
2 the date of the enactment of this Act, the Secretary shall
3 prescribe regulations to carry out the amendments made
4 by this section.

5 **SEC. 5. REINSTATEMENT OF PENALTIES FOR CHARGING**
6 **VETERANS UNAUTHORIZED FEES RELATING**
7 **TO CLAIMS UNDER LAWS ADMINISTERED BY**
8 **THE SECRETARY OF VETERANS AFFAIRS.**

9 (a) IN GENERAL.—Section 5905 of title 38, United
10 States Code, is amended—

11 (1) in the section heading, by striking “**Pen-**
12 **alty**” and inserting “**Penalties**”;

13 (2) by inserting “(a) WITHHOLDING OF BENE-
14 FITS.—” before “Whoever”; and

15 (3) by adding at the end the following new sub-
16 section:

17 “(b) CHARGING OF UNAUTHORIZED FEES.—Except
18 as provided in sections 5904 or 1984 of this title, whoever
19 directly or indirectly solicits, contracts for, charges, or re-
20 ceives, or attempts to solicit, contract for, charge, or re-
21 ceive, any fee or compensation with respect to the prepara-
22 tion, presentation, or prosecution of any claim for benefits
23 under the laws administered by the Secretary shall be
24 fined as provided in title 18, or imprisoned not more than
25 one year, or both.”.

1 (b) CLERICAL AMENDMENT.—The table of sections
2 at the beginning of chapter 59 of such title is amended
3 by striking the item relating to section 5905 and inserting
4 the following new item:

“5905. Penalties for certain acts.”.

5 (c) EFFECTIVE DATE.—The amendments made by
6 this section shall take effect one year after the date of
7 the enactment of this Act.

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