

112TH CONGRESS
1ST SESSION

H. R. 2383

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to use electronic communication to provide required notice to claimants for benefits under laws administered by the Secretary, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 24, 2011

Mr. JOHNSON of Ohio introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to use electronic communication to provide required notice to claimants for benefits under laws administered by the Secretary, 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.**

4 This Act may be cited as the “Modernizing Notice
5 to Claimants Act”.

1 **SEC. 2. AUTHORIZATION OF USE OF ELECTRONIC COMMU-**
2 **UNICATION TO PROVIDE NOTICE TO CLAIM-**
3 **ANTS FOR BENEFITS UNDER LAWS ADMINIS-**
4 **TERED BY THE SECRETARY OF VETERANS AF-**
5 **FAIR.**

6 Section 5103 of title 38, United States Code, is
7 amended—

8 (1) in subsection (a)(1)—

9 (A) by striking “Upon receipt of a com-
10 plete or substantially complete application, the”
11 and inserting “The”;

12 (B) by striking “notify” and inserting
13 “provide to”; and

14 (C) by inserting “by the most expeditious
15 means available, including electronic commu-
16 nication or notification in writing” before “of
17 any information”; and

18 (2) in subsection (b), by adding at the end the
19 following new paragraphs:

20 “(4) Nothing in this section shall require the Sec-
21 retary to provide notice for a subsequent claim that is filed
22 while a previous claim is pending if the notice previously
23 provided for such pending claim provides notice of the in-
24 formation and evidence necessary to substantiate such
25 subsequent claim.

1 “(5) This section shall not apply to any claim or issue
2 where the Secretary may award the benefit sought based
3 on the evidence of record.”.

4 **SEC. 3. DUTY TO ASSIST CLAIMANTS IN OBTAINING PRI-**
5 **VATE RECORDS.**

6 (a) IN GENERAL.—Section 5103A(b) of title 38,
7 United States Code, is amended to read as follows:

8 “(b) ASSISTANCE IN OBTAINING PRIVATE
9 RECORDS.—(1) As part of the assistance provided under
10 subsection (a), the Secretary shall make reasonable efforts
11 to obtain relevant private records if the claimant requests
12 assistance, in a manner prescribed by the Secretary, in
13 obtaining such records.

14 “(2)(A) Whenever the Secretary, after making such
15 reasonable efforts, is unable to obtain all of the relevant
16 records sought, the Secretary shall notify the claimant
17 that the Secretary is unable to obtain records with respect
18 to the claim. Such a notification shall—

19 “(i) identify the records the Secretary is unable
20 to obtain;

21 “(ii) briefly explain the efforts that the Sec-
22 retary made to obtain such records; and

23 “(iii) explain that the Secretary will decide the
24 claim based on the evidence of record but that this
25 section does not prohibit the submission of records

1 at a later date if such submission is otherwise al-
2 lowed.

3 “(B) The Secretary shall make not less than two re-
4 quests to a custodian of a private record in order for an
5 effort to obtain relevant private records to be treated as
6 reasonable under this section.

7 “(3) This section shall not apply if the evidence of
8 record allows for the Secretary to award the benefit
9 sought.

10 “(4) Under regulations prescribed by the Secretary,
11 the Secretary shall encourage claimants to submit relevant
12 private medical records of the claimant to the Secretary
13 if such submission does not burden the claimant.

14 “(5) The claimant may waive any requirements under
15 this section.”.

16 (b) PUBLIC RECORDS.—Section 5103A(c) of such
17 title is amended to read as follows:

18 “(c) OBTAINING RECORDS FOR COMPENSATION
19 CLAIMS.—(1) In the case of a claim for disability com-
20 pensation, the assistance provided by the Secretary under
21 this section shall include obtaining the following records
22 if relevant to the claim:

23 “(A) The claimant’s service medical records
24 and, if the claimant has furnished the Secretary in-
25 formation sufficient to locate such records, other rel-

1 evant records pertaining to the claimant's active
2 military, naval, or air service that are held or main-
3 tained by a governmental entity.

4 “(B) Records of relevant medical treatment or
5 examination of the claimant at Department health-
6 care facilities or at the expense of the Department,
7 if the claimant furnishes information sufficient to lo-
8 cate those records.

9 “(C) Any other relevant records held by any
10 Federal department or agency that the claimant ade-
11 quately identifies and authorizes the Secretary to ob-
12 tain.

13 “(2) Whenever the Secretary attempts to obtain
14 records from a Federal department or agency under this
15 subsection, the efforts to obtain those records shall con-
16 tinue until the records are obtained unless it is reasonably
17 certain that such records do not exist or that further ef-
18 forts to obtain those records would be futile.”.

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