

117TH CONGRESS
2D SESSION

S. 4169

To require the Secretary of Veterans Affairs to carry out a pilot program to provide assisted living services to eligible veterans, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MAY 10, 2022

Mr. TESTER (for himself, Mr. MORAN, and Mrs. MURRAY) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To require the Secretary of Veterans Affairs to carry out a pilot program to provide assisted living services to eligible veterans, 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 “Expanding Veterans’
5 Options for Long Term Care Act”.

6 **SEC. 2. PILOT PROGRAM ON ASSISTED LIVING SERVICES**
7 **FOR VETERANS.**

8 (a) PROGRAM.—

1 (1) IN GENERAL.—Beginning not later than
2 one year after the date of the enactment of this Act,
3 the Secretary of Veterans Affairs shall carry out a
4 three-year pilot program to assess—

5 (A) the effectiveness of providing assisted
6 living services to eligible veterans, at the elec-
7 tion of such veterans; and

8 (B) the satisfaction with the pilot program
9 of veterans participating in the pilot program.

10 (2) EXTENSION.—The Secretary may extend
11 the duration of the pilot program under paragraph
12 (1) for an additional three-year period if the Sec-
13 retary, based on the results of the reports submitted
14 under subsections (e) and (f), determines that it is
15 appropriate to do so.

16 (b) PROGRAM LOCATIONS.—

17 (1) VETERANS INTEGRATED SERVICE NET-
18 WORKS.—

19 (A) IN GENERAL.—The Secretary shall se-
20 lect not fewer than six Veterans Integrated
21 Service Networks of the Department of Vet-
22 erans Affairs at which to carry out the pilot
23 program under subsection (a)(1).

24 (B) VETERANS RECEIVING NURSING HOME
25 CARE.—The Secretary shall ensure that not

fewer than three Veterans Integrated Service Networks selected under subparagraph (A) serve areas with the highest percentage of veterans who are currently receiving nursing home care through the Department and would be eligible to receive assisted living services under the pilot program.

(2) FACILITIES.—

(A) IN GENERAL.—Within each Veterans Integrated Service Network selected under paragraph (1), the Secretary shall select facilities at which to carry out the pilot program under subsection (a)(1).

(B) SELECTION CRITERIA.—In selecting facilities under subparagraph (A), the Secretary shall ensure that—

(i) the locations of such facilities are in geographically diverse areas;

(ii) not fewer than two such facilities serve veterans in rural or highly rural areas (as determined through the use of the Rural-Urban Commuting Areas coding system of the Department of Agriculture);

- 1 (iii) not fewer than one such facility is
 2 located in each Veterans Integrated Service
 3 Network selected under paragraph (1); and
 4 (iv) not fewer than two such facilities
 5 are State homes.

6 (c) PROVISION OF ASSISTED LIVING SERVICES.—

7 (1) AGREEMENTS.—In carrying out the pilot
 8 program under subsection (a)(1), the Secretary may
 9 enter into agreements for the provision of assisted
 10 living services on behalf of eligible veterans with—

11 (A) a provider participating under a State
 12 plan or waiver under title XIX of the Social Se-
 13 curity Act (42 U.S.C. 1396 et seq.); or

14 (B) a State home recognized and certified
 15 under subpart B of part 51 of title 38, Code of
 16 Federal Regulations, or successor regulations.

17 (2) STANDARDS.—The Secretary may not place,
 18 transfer, or admit a veteran to any facility for as-
 19 sisted living services under the pilot program under
 20 subsection (a)(1) unless the Secretary determines
 21 that—

22 (A) the facility meets the standards for
 23 community residential care established under
 24 sections 17.61 through 17.72 of title 38, Code
 25 of Federal Regulations, or successor regula-

tions, and any additional standards of care as the Secretary may specify; or

(B) in the case of a facility that is a State home, the State home meets the standards for care established under subpart E of part 51 of title 38, Code of Federal Regulations, or successor regulations, and any additional standards of care as the Secretary may specify.

(3) INSPECTION.—The Secretary shall inspect facilities at which veterans are placed under the pilot program under subsection (a)(1)—

(A) with respect to a facility that is a State home, not less frequently than annually and in the same manner as the Secretary conducts inspection of State homes under section 1742 of title 38, United States Code; and

(B) with respect to any other facility, not less frequently than annually and in the same manner as the Secretary conducts inspection of facilities under section 1730 of such title.

(4) PAYMENT TO CERTAIN FACILITIES.—

(A) STATE HOMES.—In the case of a facility participating in the pilot program under subsection (a)(1) that is a State home, the Secretary shall pay to the State home a per diem

1 for each veteran participating in the pilot pro-
 2 gram at the State home that is—

3 (i) greater than the per diem for
 4 domiciliary care at the State home, if ap-
 5 plicable; and

6 (ii) less than the per diem for nursing
 7 home care at the State home.

8 (B) COMMUNITY ASSISTED LIVING FACILI-
 9 TIES.—In the case of a facility participating in
 10 the pilot program that is a community assisted
 11 living facility, the Secretary shall pay to the fa-
 12 cility an amount that is less than the average
 13 rate paid by the Department for placement in
 14 a community nursing home in the same Vet-
 15 erans Integrated Service Network.

16 (d) CONTINUITY OF CARE.—Upon the termination of
 17 the pilot program under subsection (a)(1), the Secretary
 18 shall—

19 (1) provide to all veterans participating in the
 20 pilot program at the time of such termination the
 21 option to continue to receive assisted living services
 22 at the site they were assigned to under the pilot pro-
 23 gram, at the expense of the Department; and

24 (2) for such veterans who do not opt to con-
 25 tinue to receive such services—

1 (A) ensure such veterans do not experience
2 lapses in care; and

3 (B) provide such veterans with information
4 on, and enroll participants in, other long-term
5 care options based on their preferences and best
6 medical interest.

7 (e) ANNUAL REPORT.—

8 (1) IN GENERAL.—Not later than one year
9 after the initiation of the pilot program under sub-
10 section (a)(1), and annually thereafter for each year
11 in which the pilot program is carried out, the Sec-
12 retary shall submit to the Committee on Veterans'
13 Affairs of the Senate and the Committee on Vet-
14 erans' Affairs of the House of Representatives a re-
15 port on the pilot program, including—

16 (A) an identification of Veterans Inte-
17 grated Services Networks and facilities of the
18 Department participating in the pilot program
19 and assisted living facilities and State homes at
20 which veterans are placed under the pilot pro-
21 gram;

22 (B) the number of participants in the pilot
23 program, disaggregated by facility;

1 (C) general demographic information of
2 participants in the pilot program, including av-
3 erage age, gender, and race or ethnicity;

4 (D) disability status of participants in the
5 pilot program;

6 (E) an identification of any barriers or
7 challenges to enrolling veterans in the pilot pro-
8 gram, conducting oversight of the pilot pro-
9 gram, or any other barriers or challenges;

10 (F) the cost of care at each assisted living
11 facility and State home participating in the
12 pilot program, including an analysis of any cost
13 savings by the Department when comparing
14 that cost to the cost of nursing home care;

15 (G) aggregated feedback from participants
16 in the pilot program; and

17 (H) such other matters the Secretary con-
18 sider appropriate.

19 (2) FINAL REPORT.—As part of the final report
20 submitted under paragraph (1), the Secretary shall
21 include recommendations on whether the model
22 studied in the pilot program should be continued or
23 adopted throughout the Department.

24 (f) REPORT BY INSPECTOR GENERAL.—

1 (1) IN GENERAL.—Not later than two years
2 after the initiation of the pilot program under sub-
3 section (a)(1), the Inspector General of the Depart-
4 ment of Veterans Affairs shall submit to the Sec-
5 retary, the Committee on Veterans' Affairs of the
6 Senate, and the Committee on Veterans' Affairs of
7 the House of Representatives a report on the pilot
8 program.

9 (2) ELEMENTS.—The report required by para-
10 graph (1) shall include an assessment of—

11 (A) the quality of care provided to veterans
12 at facilities participating in the pilot program;

13 (B) the oversight of such facilities, as con-
14 ducted by the Department, the Centers for
15 Medicare & Medicaid Services, State agencies,
16 and other relevant entities; and

17 (C) such other matters as the Inspector
18 General considers appropriate.

19 (3) FOLLOW-UP.—Not later than 90 days after
20 the submittal of the report required by paragraph
21 (1), the Secretary shall submit to the Committee on
22 Veterans' Affairs of the Senate and the Committee
23 on Veterans' Affairs of the House of Representatives
24 a plan to address the deficiencies identified in the
25 report, if any.

1 (g) DEFINITIONS.—In this section:

2 (1) ASSISTED LIVING SERVICES.—The term
3 “assisted living services” means—

4 (A) services of a facility in providing room,
5 board, and personal care for and supervision of
6 residents for their health, safety, and welfare;
7 and

8 (B) a level of care more intensive than
9 domiciliary care and less intensive than nursing
10 home care.

11 (2) ELIGIBLE VETERAN.—The term “eligible
12 veteran” means a veteran who—

13 (A)(i) is already receiving nursing home
14 level care paid for by the Department;

15 (ii) is eligible to receive nursing home level
16 care paid for by the Department; or

17 (iii) exceeds the requirements for domi-
18 ciliary care paid for by the Department but
19 does not meet the requirements for nursing
20 home level care paid for by the Department;
21 and

22 (B) is eligible for assisted living services,
23 as determined by the Secretary.

1 (3) STATE HOME.—The term “State home” has
2 the meaning given that term in section 101(19) of
3 title 38, United States Code.

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