

118TH CONGRESS
1ST SESSION

S. 495

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

FEBRUARY 16, 2023

Mr. TESTER (for himself, Mr. MORAN, Mrs. MURRAY, and Mr. ROUNDS) 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 subsection (f), determines that it is appro-
15 priate 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

1 fewer than three Veterans Integrated Service
2 Networks selected under subparagraph (A)
3 serve regions with the top three highest per-
4 centage of veterans who are currently receiving
5 nursing home care through the Department and
6 would be eligible to receive assisted living serv-
7 ices under the pilot program.

8 (2) FACILITIES.—

9 (A) IN GENERAL.—Within the Veterans
10 Integrated Service Networks selected under
11 paragraph (1), the Secretary shall select facili-
12 ties at which to carry out the pilot program
13 under subsection (a)(1).

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

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

19 (ii) not fewer than two such facilities
20 serve veterans in rural or highly rural
21 areas (as determined through the use of
22 the Rural-Urban Commuting Areas coding
23 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-

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

3 (B) in the case of a facility that is a State
4 home, the State home meets such standards of
5 care as the Secretary may specify.

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

9 (A) with respect to a facility that is a
10 State home, not less frequently than annually
11 and in the same manner as the Secretary con-
12 ducts inspection of State homes under section
13 1742 of title 38, United States Code; and

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

18 (4) PAYMENT TO CERTAIN FACILITIES.—

19 (A) STATE HOMES.—In the case of a facil-
20 ity participating in the pilot program under
21 subsection (a)(1) that is a State home, the Sec-
22 retary shall pay to the State home a per diem
23 for each veteran participating in the pilot pro-
24 gram at a rate agreed to by the Secretary and
25 the State home.

1 (B) COMMUNITY ASSISTED LIVING FACILI-
2 TIES.—In the case of a facility participating in
3 the pilot program under subsection (a)(1) that
4 is a community assisted living facility, the Sec-
5 retary shall—

6 (i) pay to the facility an amount that
7 is less than the average rate paid by the
8 Department for placement in a community
9 nursing home in the same Veterans Inte-
10 grated Service Network; and

11 (ii) re-evaluate payment rates annu-
12 ally to account for current economic condi-
13 tions and current costs of assisted living
14 services.

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

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

23 (2) for such veterans who do not opt to con-
24 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 such veterans in, other extended
5 care services based on their preferences and
6 best medical interest.

7 (e) DETERMINATION OF QUALITY.—The Secretary
8 shall determine a method for assessment of quality of care
9 provided to veterans participating in the pilot program
10 under subsection (a)(1) and shall communicate that meth-
11 od to providers of services under the pilot program.

12 (f) ANNUAL REPORT.—Not later than one year after
13 the initiation of the pilot program under subsection (a)(1),
14 and annually thereafter for each year in which the pilot
15 program is carried out, the Secretary shall submit to the
16 Committee on Veterans' Affairs of the Senate and the
17 Committee on Veterans' Affairs of the House of Rep-
18 resentatives a report on the pilot program, including—

19 (1) an identification of Veterans Integrated
20 Services Networks and facilities of the Department
21 participating in the pilot program and assisted living
22 facilities and State homes at which veterans are
23 placed under the pilot program;

24 (2) the number of participants in the pilot pro-
25 gram, disaggregated by facility;

1 (3) general demographic information of partici-
2 pants in the pilot program, including average age,
3 gender, and race or ethnicity;

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

6 (5) an identification of any barriers or chal-
7 lenges to enrolling veterans in the pilot program,
8 conducting oversight of the pilot program, or any
9 other barriers or challenges;

10 (6) the cost of care at each assisted living facil-
11 ity and State home participating in the pilot pro-
12 gram, including an analysis of any cost savings by
13 the Department when comparing that cost to the
14 cost of nursing home care;

15 (7) aggregated feedback from participants in
16 the pilot program, including from veteran resident
17 surveys and interviews; and

18 (8) such other matters the Secretary considers
19 appropriate.

20 (g) FINAL REPORT.—Not later than four years after
21 the initiation of the pilot program under subsection (a)(1),
22 or not later than seven years after the initiation of the
23 pilot program if the pilot program is extended under sub-
24 section (a)(2), the Secretary shall submit to the Com-
25 mittee on Veterans' Affairs of the Senate and the Com-

1 mittee on Veterans' Affairs of the House of Representa-
2 tives a report on the pilot program that—

3 (1) includes the matters required under para-
4 graphs (1) through (8) of subsection (f);

5 (2) includes recommendations on whether the
6 model studied in the pilot program should be contin-
7 ued or adopted throughout the Department; and

8 (3) indicates whether the Secretary requests ac-
9 tion by Congress to make the pilot program perma-
10 nent.

11 (h) REPORT BY INSPECTOR GENERAL.—

12 (1) IN GENERAL.—Not later than three years
13 after the initiation of the pilot program under sub-
14 section (a)(1), the Inspector General of the Depart-
15 ment of Veterans Affairs shall submit to the Sec-
16 retary, the Committee on Veterans' Affairs of the
17 Senate, and the Committee on Veterans' Affairs of
18 the House of Representatives a report on the pilot
19 program.

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

22 (A) the quality of care provided to veterans
23 at facilities participating in the pilot program,
24 measured pursuant to the method determined
25 under subsection (e);

1 (B) the oversight of such facilities, as con-
2 ducted by the Department, the Centers for
3 Medicare & Medicaid Services, State agencies,
4 and other relevant entities; and

5 (C) such other matters as the Inspector
6 General considers appropriate.

7 (3) FOLLOW-UP.—Not later than 90 days after
8 the submittal of the report required by paragraph
9 (1), the Secretary shall submit to the Committee on
10 Veterans' Affairs of the Senate and the Committee
11 on Veterans' Affairs of the House of Representatives
12 a plan to address the deficiencies identified in the
13 report, if any.

14 (i) DEFINITIONS.—In this section:

15 (1) ASSISTED LIVING SERVICES.—The term
16 “assisted living services” means services of a facility
17 in providing room, board, and personal care for and
18 supervision of residents for their health, safety, and
19 welfare.

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

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

24 (ii) is eligible to receive nursing home level
25 care paid for by the Department pursuant to

1 section 1710A of title 38, United States Code;

2 or

3 (iii) requires a higher level of care than the
4 domiciliary care provided by the Department
5 but does not meet the requirements for nursing
6 home level care provided by the Department
7 pursuant to such section; and

8 (B)(i) is eligible for assisted living services,
9 as determined by the Secretary; or

10 (ii) meets such additional criteria for eligi-
11 bility for the pilot program under subsection
12 (a)(1) as the Secretary may establish.

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

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