

117TH CONGRESS
1ST SESSION

S. 202

To ensure that veterans receive timely and effective emergency treatment during the COVID–19 emergency, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 3, 2021

Mrs. SHAHEEN introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

A BILL

To ensure that veterans receive timely and effective emergency treatment during the COVID–19 emergency, 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 “Emergency Care for
5 Veterans During COVID Act”.

6 **SEC. 2. EMERGENCY TREATMENT FOR VETERANS DURING**
7 **COVID–19 EMERGENCY PERIOD.**

8 (a) EMERGENCY TREATMENT.—Notwithstanding
9 section 1725 or 1728 of title 38, United States Code, or
10 any other provision of law administered by the Secretary

1 of Veterans Affairs pertaining to furnishing emergency
2 treatment to veterans at non-Department facilities, during
3 the period of a covered public health emergency, the Sec-
4 retary of Veterans Affairs shall furnish to an eligible vet-
5 eran emergency treatment at a non-Department facility in
6 accordance with this section.

7 (b) AUTHORIZATION NOT REQUIRED.—The Sec-
8 retary may not require an eligible veteran to seek author-
9 ization by the Secretary for emergency treatment fur-
10 nished to the veteran pursuant to subsection (a).

11 (c) PAYMENT RATES.—

12 (1) DETERMINATION.—The rate paid for emer-
13 gency treatment furnished to eligible veterans pursu-
14 ant to subsection (a) shall be equal to the rate paid
15 by the United States to a provider of services (as de-
16 fined in section 1861(u) of the Social Security Act
17 (42 U.S.C. 1395x(u))) or a supplier (as defined in
18 section 1861(d) of such Act (42 U.S.C. 1395x(d)))
19 under the Medicare program under title XI or title
20 XVIII of the Social Security Act (42 U.S.C. 1301 et
21 seq.), including section 1834 of such Act (42 U.S.C.
22 1395m), for the same treatment.

23 (2) FINALITY.—A payment in the amount pay-
24 able under paragraph (1) for emergency treatment
25 furnished to an eligible veteran pursuant to sub-

1 section (a) shall be considered payment in full and
2 shall extinguish the liability of the veteran to the
3 provider of such treatment, unless the provider re-
4 jects the payment and refunds to the United States
5 such amount by not later than 30 days after receiv-
6 ing the payment.

7 (d) CLAIMS PROCESSED BY THIRD-PARTY ADMINIS-
8 TRATORS.—

9 (1) REQUIREMENT.—Not later than 30 days
10 after the date of the enactment of this Act, the Sec-
11 retary shall seek to award a contract to one or more
12 entities, or to modify an existing contract, to process
13 claims for payment for emergency treatment fur-
14 nished to eligible veterans pursuant to subsection
15 (a).

16 (2) PROMPT PAYMENT STANDARD.—Section
17 1703D of title 38, United States Code, shall apply
18 with respect to claims for payment for emergency
19 treatment furnished to eligible veterans pursuant to
20 subsection (a).

21 (e) PRIMARY PAYER.—

22 (1) IN GENERAL.—The Secretary shall be the
23 primary payer with respect to emergency treatment
24 furnished to eligible veterans pursuant to subsection
25 (a) and with respect to the transportation of a vet-

1 eran by ambulance in connection with such emer-
2 gency treatment.

3 (2) RECOVERY OF REASONABLE CHARGES.—In
4 any case in which an eligible veteran is furnished
5 emergency treatment pursuant to subsection (a) for
6 a non-service-connected disability described in sub-
7 section (a)(2) of section 1729 of title 38, United
8 States Code, the Secretary shall recover or collect
9 reasonable charges for such treatment from a
10 health-plan contract described in subsection (i) of
11 such section in accordance with such section.

12 (f) APPLICATION.—This section shall apply to emer-
13 gency treatment furnished to eligible veterans during the
14 period of a covered public health emergency, regardless of
15 whether the treatment was furnished before the date of
16 the enactment of this Act.

17 (g) DEFINITIONS.—In this section:

18 (1) The term “covered public health emer-
19 gency” means the declaration—

20 (A) of a public health emergency, based on
21 an outbreak of COVID–19, by the Secretary of
22 Health and Human Services under section 319
23 of the Public Health Service Act (42 U.S.C.
24 247d); or

1 (B) of a domestic emergency, based on an
2 outbreak of COVID–19, by the President, the
3 Secretary of Homeland Security, or a State or
4 local authority.

5 (2) The term “eligible veteran” means a vet-
6 eran enrolled in the system of patient enrollment of
7 the Department of Veterans Affairs established
8 under section 1705(a) of title 38, United States
9 Code.

10 (3) The term “emergency treatment” means
11 medical care or services rendered in a medical emer-
12 gency of such nature that a prudent layperson rea-
13 sonably expects that delay in seeking immediate
14 medical attention would be hazardous to life or
15 health.

16 (4) The term “non-Department facility” has
17 the meaning given that term in section 1701 of title
18 38, United States Code.

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