

## As amended by COST of War Act

### 38 U.S.C. §1710. Eligibility for hospital, nursing home, and domiciliary care

(a)(1) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services which the Secretary determines to be needed-

(A) to any veteran for a service-connected disability; and

(B) to any veteran who has a service-connected disability rated at 50 percent or more.

(2) The Secretary (subject to paragraph (4)) shall furnish hospital care and medical services, and may furnish nursing home care, which the Secretary determines to be needed to any veteran-

(A) who has a compensable service-connected disability rated less than 50 percent or, with respect to nursing home care during any period during which the provisions of [section 1710A\(a\) of this title](#) are in effect, a compensable service-connected disability rated less than 70 percent;

(B) whose discharge or release from active military, naval, or air service was for a disability that was incurred or aggravated in the line of duty;

(C) who is in receipt of, or who, but for a suspension pursuant to [section 1151 of this title](#) (or both a suspension and the receipt of retired pay), would be entitled to disability compensation, but only to the extent that such veteran's continuing eligibility for such care is provided for in the judgment or settlement provided for in such section;

(D) who is a former prisoner of war, who was awarded the medal of honor under [section 7271, 8291, or 9271 of title 10](#) or [section 491<sup>1</sup> of title 14](#), or who was awarded the Purple Heart;

(E) who is a veteran of the Mexican border period or of World War I;

(F) who was exposed to a toxic substance, radiation, or other conditions, as provided in subsection (e); or

(G) who is unable to defray the expenses of necessary care as determined under [section 1722\(a\) of this title](#).

(3) In the case of a veteran who is not described in paragraphs (1) and (2), the Secretary may, to the extent resources and facilities are available and subject to the provisions of subsections (f) and (g), furnish hospital care, medical services, and nursing home care which the Secretary determines to be needed.

(4) The requirement in paragraphs (1) and (2) that the Secretary furnish hospital care and medical services, the requirement in [section 1710A\(a\) of this title](#) that the Secretary provide nursing home care, the requirement in [section 1710B of this title](#) that the Secretary provide a program of extended care services, and the requirement in [section 1745 of this title](#) to provide nursing home care and prescription medicines to veterans with service-connected disabilities in State homes shall be effective in any fiscal year only to the extent and in the amount provided in advance in appropriations Acts for such purposes.

(5) During any period during which the provisions of [section 1710A\(a\) of this title](#) are not in effect, the Secretary may furnish nursing home care which the Secretary determines is needed to any veteran described in paragraph (1), with the priority for such care on the same basis as if provided under that paragraph.

(b)(1) The Secretary may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Secretary determines is needed for the purpose of the furnishing of medical services to the veteran.

(2) This subsection applies in the case of the following veterans:

(A) Any veteran whose annual income (as determined under [section 1503 of this title](#)) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under [section 1521\(d\) of this title](#).

(B) Any veteran who the Secretary determines has no adequate means of support.

(c) While any veteran is receiving hospital care or nursing home care in any Department facility, the Secretary may, within the limits of Department facilities, furnish medical services to correct or treat any non-service-connected disability of such veteran, in addition to treatment incident to the disability for which such veteran is hospitalized, if the veteran is willing, and the Secretary finds such services to be reasonably necessary to protect the health of such veteran. The Secretary may furnish dental services

and treatment, and related dental appliances, under this subsection for a non-service-connected dental condition or disability of a veteran only (1) to the extent that the Secretary determines that the dental facilities of the Department to be used to furnish such services, treatment, or appliances are not needed to furnish services, treatment, or appliances for dental conditions or disabilities described in [section 1712\(a\) of this title](#), or (2) if (A) such non-service-connected dental condition or disability is associated with or aggravating a disability for which such veteran is receiving hospital care, or (B) a compelling medical reason or a dental emergency requires furnishing dental services, treatment, or appliances (excluding the furnishing of such services, treatment, or appliances of a routine nature) to such veteran during the period of hospitalization under this section.

(d) In no case may nursing home care be furnished in a hospital not under the direct jurisdiction of the Secretary except as provided in [section 1720 of this title](#).

(e)(1)(A) A Vietnam-era herbicide-exposed veteran is eligible (subject to paragraph (2)) for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such exposure.

(B) A radiation-exposed veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disease suffered by the veteran that is-

(i) a disease listed in [section 1112\(c\)\(2\) of this title](#); or

(ii) any other disease for which the Secretary, based on the advice of the Advisory Committee on Environmental Hazards, determines that there is credible evidence of a positive association between occurrence of the disease in humans and exposure to ionizing radiation.

(C) Subject to paragraph (2) of this subsection, a veteran who served on active duty between August 2, 1990, and November 11, 1998, in the Southwest Asia theater of operations during the Persian Gulf War is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any disability, notwithstanding that there is insufficient medical evidence to conclude that such disability may be associated with such service.

(D) Subject to paragraphs (2) and (3), a veteran who served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998, is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such condition is attributable to such service.

(E) Subject to paragraph (2), a veteran who participated in a test conducted by the Department of Defense Deseret Test Center as part of a program for chemical and biological warfare testing from 1962 through 1973 (including the program designated as "Project Shipboard Hazard and Defense (SHAD)" and related land-based tests) is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such testing.

(F) Subject to paragraph (2), a veteran who served on active duty in the Armed Forces at Camp Lejeune, North Carolina, for not fewer than 30 days during the period beginning on August 1, 1953, and ending on December 31, 1987, is eligible for hospital care and medical services under subsection (a)(2)(F) for any of the following illnesses or conditions, notwithstanding that there is insufficient medical evidence to conclude that such illnesses or conditions are attributable to such service:

- (i) Esophageal cancer.
- (ii) Lung cancer.
- (iii) Breast cancer.
- (iv) Bladder cancer.
- (v) Kidney cancer.
- (vi) Leukemia.
- (vii) Multiple myeloma.
- (viii) Myelodysplastic syndromes.
- (ix) Renal toxicity.
- (x) Hepatic steatosis.
- (xi) Female infertility.

- (xii) Miscarriage.
- (xiii) Scleroderma.
- (xiv) Neurobehavioral effects.
- (xv) Non-Hodgkin's lymphoma.

(G) Subject to paragraph (2), any veteran who participated in a toxic exposure risk activity while serving on active duty, active duty for training, or inactive duty training is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness, notwithstanding that there is insufficient medical evidence to conclude that such illness is attributable to such toxic exposure risk activity.

(H)(i) Subject to paragraph (2), a covered veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness.

(ii) For purposes of this subparagraph, a covered veteran is a veteran who—

(I) is eligible for inclusion in the Airborne Hazards and Open Burn Pit Registry; or

(II) has been identified by the Secretary of Defense to have been possibly exposed, inside or outside the United States, during active duty, active duty for training, or inactive duty training, to an open burn pit.

(iii) In this subparagraph:

(I) The term 'Airborne Hazards and Open Burn Pit Registry' means the registry established by the Secretary under section 201 of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527 note).

(II) The term 'open burn pit' has the meaning given that term in section 201(c) of the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012 (Public Law 112–260; 38 U.S.C. 527).

(I) Subject to paragraph (2), a veteran is eligible for hospital care, medical services, and nursing home care under subsection (a)(2)(F) for any illness if the veteran was awarded any of the following:

(i) The Afghanistan Campaign Medal.

(ii) The Armed Forces Expeditionary Medal.

(iii) The Global War on Terrorism Expeditionary Medal.

(iv) The Inherent Resolve Campaign Medal.

(v) The Iraqi Campaign Medal.

(vi) The Southwest Asia Service Medal

(2)(A) In the case of a veteran described in paragraph (1)(A), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to-

(i) a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than an exposure described in paragraph (4)(A)(ii); or

(ii) a disease for which the National Academy of Sciences, in a report issued in accordance with section 3 of the Agent Orange Act of 1991, has determined that there is limited or suggestive evidence of the lack of a positive association between occurrence of the disease in humans and exposure to a herbicide agent.

(B) In the case of a veteran described in subparagraph (C), (D), (E), ~~(F)~~, (G), (H), or (I) of paragraph (1), hospital care, medical services, and nursing home care may not be provided under subsection (a)(2)(F) with respect to a disability that is found, in accordance with guidelines issued by the Under Secretary for Health, to have resulted from a cause other than the service, ~~or testing,~~ or activity described in such subparagraph.

(3) In the case of care for a veteran described in paragraph (1)(D), hospital care, medical services, and nursing home care may be provided under or by virtue of subsection (a)(2)(F) only during the following periods:

(A) Except as provided by subparagraph (B), with respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, or air service after January 27, 2003, the five-year period beginning on the date of such discharge or release.

(B) With respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, or air service after January 1, 2009, and before January 1, 2011, but did not

enroll to receive such hospital care, medical services, or nursing home care pursuant to such paragraph during the five-year period described in subparagraph (A), the one-year period beginning on the date of the enactment of the Clay Hunt Suicide Prevention for American Veterans Act.

(C) With respect to a veteran described in paragraph (1)(D) who is discharged or released from the active military, naval, or air service on or before January 27, 2003, and did not enroll in the patient enrollment system under [section 1705 of this title](#) on or before such date, the three-year period beginning on January 27, 2008.

(4) For purposes of this subsection-

(A) The term "Vietnam-era herbicide-exposed veteran" means a veteran ~~(i) who served on active duty in the Republic of Vietnam (including offshore of such Republic as described in section 1116A(d) of this title) during the period beginning on January 9, 1962, and ending on May 7, 1975, and (i) performed covered service, as defined in section 1116(c) of this title; or~~

~~(ii) who~~ the Secretary finds may have been exposed during such service to dioxin or was exposed during such service to a toxic substance found in a herbicide or defoliant used for military purposes during such period.

(B) The term "radiation-exposed veteran" has the meaning given that term in [section 1112\(c\)\(3\) of this title](#).

(5) When the Secretary first provides care for veterans using the authority provided in paragraph (1)(D), the Secretary shall establish a system for collection and analysis of information on the general health status and health care utilization patterns of veterans receiving care under that paragraph. Not later than 18 months after first providing care under such authority, the Secretary shall submit to Congress a report on the experience under that authority. The Secretary shall include in the report any recommendations of the Secretary for extension of that authority.

(f)(1) The Secretary may not furnish hospital care or nursing home care (except if such care constitutes hospice care) under this section to a veteran who is eligible for such care under subsection (a)(3) of this section unless the veteran agrees to pay to the United States the applicable amount determined under paragraph (2) or (4) of this subsection.

(2) A veteran who is furnished hospital care or nursing home care under this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such care shall be liable to the United States for an amount equal to-

(A) the lesser of-

- (i) the cost of furnishing such care, as determined by the Secretary; or
- (ii) the amount determined under paragraph (3) of this subsection; and

(B) before September 30, 2022, an amount equal to \$10 for every day the veteran receives hospital care and \$5 for every day the veteran receives nursing home care.

(3)(A) In the case of hospital care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is-

- (i) the amount of the inpatient Medicare deductible, plus
- (ii) one-half of such amount for each 90 days of care (or fraction thereof) after the first 90 days of such care during such 365-day period.

(B) In the case of nursing home care furnished during any 365-day period, the amount referred to in paragraph (2)(A)(ii) of this subsection is the amount of the inpatient Medicare deductible for each 90 days of such care (or fraction thereof) during such 365-day period.

(C)(i) Except as provided in clause (ii) of this subparagraph, in the case of a veteran who is admitted for nursing home care under this section after being furnished, during the preceding 365-day period, hospital care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of hospital care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such nursing home care until-

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made, whichever occurs first.

(ii) In the case of a veteran who is admitted for nursing home care under this section after being furnished, during any 365-day period, hospital care for which the veteran has paid an amount under

subparagraph (A)(ii) of this paragraph and who has not been furnished 90 days of hospital care in connection with such payment, the amount of the liability of the veteran under paragraph (2) of this subsection with respect to the number of days of such nursing home care which, when added to the number of days of such hospital care, is 90 or less, is the difference between the inpatient Medicare deductible and the amount paid under such subparagraph until-

(I) the veteran has been furnished, beginning with the first day of such hospital care furnished in connection with such payment, a total of 90 days of hospital care and nursing home care; or

(II) the end of the 365-day period applicable to the hospital care for which payment was made, whichever occurs first.

(D) In the case of a veteran who is admitted for hospital care under this section after having been furnished, during the preceding 365-day period, nursing home care for which the veteran has paid the amount of the inpatient Medicare deductible under this subsection and who has not been furnished 90 days of nursing home care in connection with such payment, the veteran shall not incur any liability under paragraph (2) of this subsection with respect to such hospital care until-

(i) the veteran has been furnished, beginning with the first day of such nursing home care furnished in connection with such payment, a total of 90 days of nursing home care and hospital care; or

(ii) the end of the 365-day period applicable to the nursing home care for which payment was made, whichever occurs first.

(E) A veteran may not be required to make a payment under this subsection for hospital care or nursing home care furnished under this section during any 90-day period in which the veteran is furnished medical services under paragraph (3) of subsection (a) to the extent that such payment would cause the total amount paid by the veteran under this subsection for hospital care and nursing home care furnished during that period and under subsection (g) for medical services furnished during that period to exceed the amount of the inpatient Medicare deductible in effect on the first day of such period.

(F) A veteran may not be required to make a payment under this subsection or subsection (g) for any days of care in excess of 360 days of care during any 365-calendar-day period.

(4) In the case of a veteran covered by this subsection who is also described by [section 1705\(a\)\(7\) of this title](#), the amount for which the veteran shall be liable to the United States for hospital care under this subsection shall be an amount equal to 20 percent of the total amount for which the veteran would otherwise be liable for such care under subparagraphs (2)(B) and (3)(A) but for this paragraph.

(5) For the purposes of this subsection, the term "inpatient Medicare deductible" means the amount of the inpatient hospital deductible in effect under section 1813(b) of the Social Security Act ([42 U.S.C. 1395e\(b\)](#)) on the first day of the 365-day period applicable under paragraph (3) of this subsection.

(g)(1) The Secretary may not furnish medical services (except if such care constitutes hospice care) under subsection (a) of this section (including home health services under [section 1717 of this title](#)) to a veteran who is eligible for hospital care under this chapter by reason of subsection (a)(3) of this section unless the veteran agrees to pay to the United States in the case of each outpatient visit the applicable amount or amounts established by the Secretary by regulation.

(2) A veteran who is furnished medical services under subsection (a) of this section and who is required under paragraph (1) of this subsection to agree to pay an amount to the United States in order to be furnished such services shall be liable to the United States, in the case of each visit in which such services are furnished to the veteran, for an amount which the Secretary shall establish by regulation.

(3) This subsection does not apply with respect to the following:

(A) Home health services under [section 1717 of this title](#) to the extent that such services are for improvements and structural alterations.

(B) Education on the use of opioid antagonists to reverse the effects of overdoses of specific medications or substances.

(h) Nothing in this section requires the Secretary to furnish care to a veteran to whom another agency of Federal, State, or local government has a duty under law to provide care in an institution of such government.