

119TH CONGRESS  
1ST SESSION

# S. 2145

To amend title 38, United States Code, and the Social Security Act to permit recovery from the Department of Veterans Affairs of costs from Medicare Advantage and Medicare prescription drug plans and to modify the authority for recovery by the United States of reasonable charges for certain care or services furnished to veterans for non-service-connected disabilities, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 23, 2025

Ms. WARREN (for herself, Mr. BLUMENTHAL, and Mr. CASSIDY) introduced the following bill; which was read twice and referred to the Committee on Veterans' Affairs

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## A BILL

To amend title 38, United States Code, and the Social Security Act to permit recovery from the Department of Veterans Affairs of costs from Medicare Advantage and Medicare prescription drug plans and to modify the authority for recovery by the United States of reasonable charges for certain care or services furnished to veterans for non-service-connected disabilities, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Guarantee Utilization  
3 of All Reimbursements for Delivery of Veterans’ Health  
4 Care Act” or the “GUARD Veterans’ Health Care Act”.

5 **SEC. 2. COST-RECOVERY FROM MEDICARE ADVANTAGE  
6 AND MEDICARE PRESCRIPTION DRUG PLANS.**

7 (a) COST RECOVERY.—

8 (1) IN GENERAL.—Subchapter III of chapter  
9 17 of title 38, United States Code, is amended by  
10 inserting after section 1729B the following new sec-  
11 tion:

12 **“§ 1729C. Cost-recovery from Medicare Advantage  
13 and Medicare prescription drug plans**

14 “(a) IN GENERAL.—Notwithstanding sections  
15 1814(c), 1835(d), and 1862(a)(3) of the Social Security  
16 Act (42 U.S.C. 1395f(c), 1395n(d), and 1395y(a)(3)), if  
17 the Secretary provides under this chapter any health care  
18 item or service (including for a service-connected disability  
19 or a non-service-connected disability) covered under the  
20 Medicare program under title XVIII of the Social Security  
21 Act (42 U.S.C. 1395 et seq.), including outpatient and  
22 inpatient care, prescription drugs, medical devices, lab  
23 testing, and items or services delivered in post-acute and  
24 long-term care settings, to any individual who is enrolled  
25 in a Medicare Advantage plan, including an MA–PD plan,  
26 offered by a MA organization under part C of such title

1 or a prescription drug plan offered by a PDP sponsor  
2 under part D of such title, such organization or sponsor  
3 shall, to the extent such item or service is covered under  
4 such Medicare Advantage plan or prescription drug plan,  
5 reimburse the Secretary for such item or service regardless  
6 of any additional documentation, utilization management,  
7 or other administrative requirement the plan may impose  
8 on the item or service.

9 “(b) RECOVERY OF AMOUNTS.—

10 “(1) IN GENERAL.—The Secretary shall recover  
11 amounts required to be reimbursed under subsection  
12 (a) through the use of procedures under section  
13 1729 of this title to the same extent as those proce-  
14 dures are used to recover amounts authorized to be  
15 recovered under that section.

16 “(2) AMOUNT AND PROCESS.—Except as pro-  
17 vided in paragraph (1), recovery under that para-  
18 graph of amounts reimbursed under subsection (a)  
19 shall be in such an amount, and occur in accordance  
20 with such procedures, as the Secretary shall pre-  
21 scribe for purposes of this section.

22 “(c) APPLICATION.—The provisions of subsection (a)  
23 shall apply to Medicare Advantage and prescription drug  
24 plan years beginning on or after January 1, 2026.

1       “(d) TREATMENT OF AMOUNTS.—Amounts reim-  
 2       bursed to the Secretary under subsection (a) shall be de-  
 3       posited in the Department of Veterans Affairs Medical  
 4       Care Collections Fund under section 1729A of this title.”.

5               (2) CLERICAL AMENDMENT.—The table of sec-  
 6       tions at the beginning of such chapter is amended  
 7       by inserting after the item relating to section 1729B  
 8       the following new item:

“1729C. Cost-recovery from Medicare Advantage and Medicare prescription  
 drug plans.”.

9               (b) MEDICARE CONFORMING AMENDMENTS.—

10              (1) PART A.—Section 1814(c) of the Social Se-  
 11       curity Act (42 U.S.C. 1395f(c)) is amended by in-  
 12       serting “and section 1729C of title 38, United  
 13       States Code” after “section 1880”.

14              (2) PART B.—Section 1835(d) of the Social Se-  
 15       curity Act (42 U.S.C. 1395n(d)) is amended by in-  
 16       serting “and section 1729C of title 38, United  
 17       States Code” after “section 1880”.

18              (3) EXCLUSIONS FROM COVERAGE.—Section  
 19       1862(a)(3) of the Social Security Act (42 U.S.C.  
 20       1395y(a)(3)) is amended by inserting “in the case of  
 21       items and services and prescription drugs for which  
 22       reimbursement is made under section 1729C of title  
 23       38, United States Code,” after “section 1880(e),”.

1 **SEC. 3. MODIFICATION OF AUTHORITY FOR RECOVERY BY**  
2 **UNITED STATES OF REASONABLE CHARGES**  
3 **FOR CERTAIN CARE OR SERVICES FUR-**  
4 **NISHED TO VETERANS FOR NON-SERVICE-**  
5 **CONNECTED DISABILITIES.**

6 Section 1729 of title 38, United States Code, is  
7 amended—

8 (1) in subsection (a)—

9 (A) by amending paragraph (1) to read as  
10 follows:

11 “(1)(A) Subject to the provisions of this section, the  
12 United States has the right to recover or collect the rea-  
13 sonable charges for care or services that the United States  
14 is required by law to furnish or pay for under this chapter  
15 for a non-service-connected disability.

16 “(B) The United States has the right to recover or  
17 collect from a third party the reasonable charges for care  
18 or services furnished as described in subparagraph (A) to  
19 the extent that the recipient or provider of the care or  
20 services would be eligible to receive payment from a third  
21 party.

22 “(C) The right to recover or collect reasonable  
23 charges for care or services under this section shall apply  
24 to any and all causes of action or recovery rights in tort  
25 or under any policy, plan, or contract providing benefits  
26 for health care or injury, which accrue to the individual

1 to whom the care or services were furnished, or to the  
2 legal representatives of the individual, as a result of the  
3 non-service-connected disability that necessitated the care  
4 or services.”; and

5 (B) in paragraph (2)—

6 (i) in subparagraph (D), by striking  
7 “; or” and inserting a semicolon;

8 (ii) in subparagraph (E)(2), by strik-  
9 ing the period at the end and inserting “;  
10 or”; and

11 (iii) by adding at the end the fol-  
12 lowing new subparagraph:

13 “(F) that is incurred by an individual who is  
14 entitled to care (or payment of expenses of care)  
15 under circumstances creating a tort liability upon a  
16 third party.”;

17 (2) in subsection (b), by amending paragraph  
18 (2) to read as follows:

19 “(2)(A) The United States may take any action nec-  
20 essary to enforce the subrogation interests of the United  
21 States under this section, including by intervening or join-  
22 ing in an action or proceeding.

23 “(B) A proceeding under this section may not be  
24 brought after the end of the six-year period beginning on  
25 the last day on which the care or services for which recov-

1 ery is sought are furnished. Notwithstanding the previous  
2 sentence, subject to section 2415 of title 28, and except  
3 as otherwise provided by law, any action for money dam-  
4 ages under this section brought by the United States or  
5 an officer or agency thereof that is founded upon a tort  
6 shall be barred unless the complaint is filed within three  
7 years after the right of action first accrues.”;

8 (3) in subsection (c)(1), by inserting “or pen-  
9 alty” after “claim”;

10 (4) by redesignating subsections (h) and (i) as  
11 subsections (l) and (m), respectively;

12 (5) by inserting after subsection (f) the fol-  
13 lowing new subsections:

14 “(g)(1) Not later than 45 days after receipt of a  
15 claim to recover or collect the reasonable charges for care  
16 or services described in subsection (a), or in the case of  
17 a tort, not later than 45 days after settlement, judgment,  
18 award, liability determination, or resolution relating to the  
19 cause of action, a third party shall—

20 “(A) pay a clean claim for reimbursement in ac-  
21 cordance with this section;

22 “(B) pay the amount agreed to in writing by  
23 the Department; or

24 “(C) provide notice of the date the third party  
25 received the claim and include a statement that—

1           “(i) the third party refuses to reimburse  
2           all or part of the claim and specify each reason  
3           for the refusal to pay; or

4           “(ii) additional information is necessary to  
5           determine if all or part of the claim will be re-  
6           imbursed and what specific additional informa-  
7           tion is necessary.

8           “(2) Paragraph (1) shall not apply to a claim if there  
9           is a good faith dispute about the legitimacy of the claim.

10          “(3)(A) If any third party fails to comply with para-  
11          graph (1), such third party shall be required to pay inter-  
12          est to the United States at the rate established by the  
13          Secretary of the Treasury under section 3717 of title 31  
14          per month on the amount of the claim that remains un-  
15          paid at the end of the 45-day period specified in such  
16          paragraph.

17          “(B) The interest paid pursuant to subparagraph (A)  
18          shall be included in any late reimbursement from a third  
19          party without requiring the Secretary to make any addi-  
20          tional claim for such interest.

21          “(4)(A) Upon receiving a request for additional infor-  
22          mation by a third party pursuant to paragraph (1)(C)(ii),  
23          the Secretary shall provide the additional information, if  
24          determined relevant by the Secretary, not later than 45

1 days after receipt of the request for additional informa-  
2 tion.

3 “(B) Failure to furnish relevant information within  
4 the time required under subparagraph (A) shall not invali-  
5 date or reduce any claim in connection with such informa-  
6 tion.

7 “(C)(i) Not later than 15 days after receipt of addi-  
8 tional relevant information under subparagraph (A), a  
9 third party shall pay a clean claim in accordance with this  
10 subsection or send a written or electronic notice that—

11 “(I) such third party refuses to reimburse all or  
12 part of the claim; and

13 “(II) specifies each reason for refusal to pay.

14 “(ii) Any third party that fails to comply with clause  
15 (i) shall pay interest to the United States on any amount  
16 of the claim that remains unpaid at the rate established  
17 by the Secretary of the Treasury under section 3717 of  
18 title 31.

19 “(5) A third party shall not be entitled to request  
20 a refund to correct a payment error to the Department  
21 if the request by the third party for such payment correc-  
22 tion is submitted more than 18 months after the date that  
23 the Department received payment from the third party.

1       “(6) Any claim by the Department under this section  
2 shall not be subject to non-Department claims processes,  
3 policies, or forms.

4       “(h) The recovery rights of the United States under  
5 this section are not limited to the amounts paid to non-  
6 Department providers and are not subject to non-Depart-  
7 ment fee schedules or non-Department reimbursement  
8 rates, including those administered under workers’ com-  
9 pensation plans or automobile accident reparations insur-  
10 ance.

11       “(i)(1) A third party shall—

12               “(A) determine whether a recipient of care or  
13 services covered by this section (including a recipient  
14 whose claim is unresolved) has received benefits  
15 under this chapter; and

16               “(B) submit the information described in para-  
17 graph (2) with respect to the recipient to the Sec-  
18 retary in a form and manner (including frequency)  
19 specified by the Secretary.

20       “(2) The information required to be submitted under  
21 this paragraph with respect to a recipient of care or serv-  
22 ices is—

23               “(A) the identity of the recipient; and

24               “(B) such other information as the Secretary  
25 shall specify in order to enable the Secretary to

1       make an appropriate determination concerning co-  
2       ordination of benefits, including any applicable re-  
3       covery claim.

4       “(3) A third party shall submit the information re-  
5       quired under paragraph (1)(B) with respect to a recipient  
6       of care or services covered by this section (including a re-  
7       cipient whose claim is unresolved) not later than 30 days,  
8       or such other time period as prescribed by the Secretary,  
9       after the date on which the third party knows or has rea-  
10      son to know that the recipient has received benefits under  
11      this chapter.

12      “(4) A third party shall not distribute proceeds of  
13      a settlement, judgment, award, or other payment in con-  
14      nection with a recipient of care or services covered by this  
15      section (including a recipient whose claim is unresolved),  
16      regardless of whether there has been a determination or  
17      admission of liability, without satisfaction of a claim by  
18      the Department.

19      “(j)(1) A third party that fails to comply with the  
20      requirements under this section, including any regulations  
21      prescribed to implement this section, with respect to any  
22      individual receiving care furnished or paid for by the De-  
23      partment as described in this section, shall be subject to  
24      a civil penalty in an amount published on a website of  
25      the Department for each day of noncompliance with re-

1 spect to each claim violation. A civil penalty under this  
2 paragraph shall be in addition to any other penalties pre-  
3 scribed by law.

4       “(2)(A) A third party that willfully fails or refuses  
5 to pay a clean claim under this section, including any reg-  
6 ulations prescribed to implement this section, with respect  
7 to any individual receiving care furnished or paid for by  
8 the Department as described in this section, shall be sub-  
9 ject to paying the higher of triple the amount of the claim  
10 or an amount not to exceed \$50,000, which may be ad-  
11 justed for inflation, for each claim violation.

12       “(B) A penalty under subparagraph (A) is in addition  
13 to any other penalty under this subsection and any other  
14 penalty prescribed by law.

15       “(C) Before enforcing any penalty under this para-  
16 graph with respect to a third party, the Secretary shall  
17 provide to the third party written notice of the amount  
18 due and a 30-day opportunity to pay the clean claim, in-  
19 cluding penalties, interests, and costs.

20       “(3) Notwithstanding any other applicable civil or  
21 criminal remedies, the United States shall have a cause  
22 of action for damages (which shall be in an amount double  
23 the amount otherwise provided) in the case of a third  
24 party that fails to provide payment, or appropriate reim-  
25 bursement, for the reasonable value of the care or services

1 furnished, to be furnished, paid for, or to be paid for in  
2 accordance with a clean claim.

3 “(k) Notwithstanding any other provision of law, the  
4 Secretary may implement this paragraph by prescribing  
5 regulations, program instructions, or otherwise.”; and

6 (6) in subsection (m), as redesignated by para-  
7 graph (4)—

8 (A) in paragraph (3)—

9 (i) in subparagraph (C), by striking “;  
10 or” and inserting a semicolon;

11 (ii) in subparagraph (D), by striking  
12 the period at the end and inserting a semi-  
13 colon; and

14 (iii) by adding at the end the fol-  
15 lowing new subparagraphs:

16 “(E) a person or entity responsible in tort  
17 for damages incurred as a result of negligence;  
18 or

19 “(F) a person or entity responsible for  
20 payment of medical expenses other than under  
21 a health-plan contract, including medical ex-  
22 penses coverage, medical payments coverage, or  
23 underinsured motorist coverage.”; and

24 (B) by adding at the end the following new  
25 paragraphs:

1           “(4) The term ‘clean claim’ means a claim to  
2 recover or collect reasonable charges under sub-  
3 section (a) that can be processed without obtaining  
4 additional information.

5           “(5) The term ‘non-service-connected disability’  
6 includes—

7                   “(A) a non-service-connected disability, in-  
8 jury, illness, health care need, or condition; and

9                   “(B) an aggravation or exacerbation of a  
10 service-connected disability.”.

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