

116TH CONGRESS  
2D SESSION

# S. 3888

To ensure that veterans receive timely and effective health care under the Veterans Community Care Program and Veterans Care Agreements during the COVID–19 emergency, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

JUNE 3, 2020

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

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## A BILL

To ensure that veterans receive timely and effective health care under the Veterans Community Care Program and Veterans Care Agreements 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. COMMUNITY CARE FOR VETERANS DURING**  
4 **COVID–19 EMERGENCY.**

5 (a) VETERANS COMMUNITY CARE PROGRAM AND  
6 VETERANS CARE AGREEMENTS.—

7 (1) ELIGIBILITY FOR COVID–19 CARE.—During  
8 the period of a covered public health emergency, the

1 Secretary of Veterans Affairs shall furnish COVID–  
2 19 care, regardless of whether such care is for a  
3 service-connected disability—

4 (A) under section 1703 of title 38, United  
5 States Code, to any veteran described in sub-  
6 section (b) of such section; and

7 (B) under section 1703A of such title, to  
8 any individual described in subsection (l) of  
9 such section.

10 (2) PREAUTHORIZATION FOR CERTAIN SERV-  
11 ICES NOT REQUIRED.—

12 (A) IN GENERAL.—During the period of a  
13 covered public health emergency, in carrying  
14 out section 1703(a)(3) of title 38, United  
15 States Code, the Secretary of Veterans Affairs  
16 shall treat medical care and services described  
17 in subparagraph (B) as being authorized by the  
18 Secretary under such section, regardless of  
19 whether the Secretary is notified of such care  
20 by any deadline otherwise required by the Sec-  
21 retary for purposes of such section.

22 (B) MEDICAL CARE AND SERVICES DE-  
23 SCRIBED.—The medical care and services de-  
24 scribed in this subparagraph are the following:

25 (i) COVID–19 care.

1 (ii) Emergency medical care and serv-  
2 ices.

3 (b) EMERGENCY TREATMENT.—

4 (1) RULE.—During the period of a covered  
5 public health emergency, the Secretary of Veterans  
6 Affairs shall administer claims for payments relating  
7 to emergency COVID–19 care as follows:

8 (A) If the community care provider that  
9 furnished the care is an eligible provider under  
10 section 1703 of title 38, United States Code,  
11 the Secretary shall administer the claim pursu-  
12 ant to that section.

13 (B) If the community care provider has en-  
14 tered into a Veterans Care Agreement under  
15 section 1703A of such title, the Secretary shall  
16 administer the claim pursuant to that section.

17 (C) If the community care provider is not  
18 described in subparagraph (A) or (B), the Sec-  
19 retary shall administer the claim pursuant to  
20 section 1725 or 1728 of such title, as the case  
21 may be.

22 (2) SCOPE OF TREATMENT.—During the period  
23 of a covered public health emergency, emergency  
24 COVID–19 care furnished to veterans shall be  
25 deemed to be emergency treatment for purposes of

1 sections 1725 and 1728 of title 38, United States  
2 Code, regardless of whether—

3 (A) such care meets the requirements of  
4 subparagraphs (A) and (B) of subsection (f)(1)  
5 of such section 1725; or

6 (B) such care is furnished after the vet-  
7 eran can be transferred, or is accepted for a  
8 transfer, to a facility of the Department of Vet-  
9 erans Affairs or other Federal facility as de-  
10 scribed in clauses (i) and (ii) of subparagraph  
11 (C) of such subsection.

12 (3) ENROLLMENT REQUIREMENTS.—During  
13 the period of a covered public health emergency, in  
14 carrying out section 1725 of title 38, United States  
15 Code, the Secretary shall determine whether a vet-  
16 eran who receives emergency COVID–19 care is an  
17 active Department health care participant under  
18 subsection (b) of such section without regard to  
19 whether the veteran meets the requirement in para-  
20 graph (2)(B) of such subsection.

21 (4) SUBMISSION OF CLAIMS.—During the pe-  
22 riod of a covered public health emergency, subsection  
23 (b) of section 1703D of title 38, United States Code,  
24 shall apply with respect to community care providers  
25 furnishing emergency COVID–19 care to veterans

1       pursuant to sections 1725 and 1728 of title 38,  
2       United States Code.

3       (c) PRIMARY PAYER.—

4           (1) IN GENERAL.—During the period of a cov-  
5       ered public health emergency, notwithstanding sec-  
6       tion 1725 of title 38, United States Code, or any  
7       other provision of law, the Secretary of Veterans Af-  
8       fairs shall be the primary payer with respect to  
9       COVID–19 care furnished to veterans, including  
10      with respect to the transportation of a veteran by  
11      ambulance.

12          (2) REIMBURSEMENT.—The Secretary may  
13      seek reimbursement from any third party that would  
14      otherwise be liable for COVID–19 care furnished to  
15      a veteran or obligated to provide or to pay the ex-  
16      penses of such care, including pursuant to a health-  
17      plan contract.

18      (d) APPLICATION.—This section shall apply to med-  
19      ical care or services furnished during the period of a cov-  
20      ered public health emergency, regardless of whether such  
21      care or services were furnished before the date of the en-  
22      actment of this Act.

23      (e) DEFINITIONS.—In this section:

24          (1) The term “community care provider” has  
25      the meaning given the term “health care entity or

1 provider” in section 1703D(i) of title 38, United  
2 States Code.

3 (2) The term “covered public health emer-  
4 gency” means the declaration—

5 (A) of a public health emergency, based on  
6 an outbreak of COVID–19, by the Secretary of  
7 Health and Human Services under section 319  
8 of the Public Health Service Act (42 U.S.C.  
9 247d); or

10 (B) of a domestic emergency, based on an  
11 outbreak of COVID–19, by the President, the  
12 Secretary of Homeland Security, or a State or  
13 local authority.

14 (3) The term “COVID–19 care” means medical  
15 care or services furnished to a veteran by a commu-  
16 nity care provider pursuant to chapter 17 of title 38,  
17 United States Code, or any other law administered  
18 by the Secretary of Veterans Affairs, for the diag-  
19 nosis or treatment of COVID–19.

20 (4) The term “health-plan contract” and “third  
21 party” have the meanings given those terms in sec-  
22 tion 1725 of title 38, United States Code.

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