# CONGRESSIONAL BUDGET OFFICE
# COST ESTIMATE

September 26, 2013

## H.R. 2189
### A bill to improve the processing of disability claims by the Department of Veterans Affairs, and for other purposes

*As ordered reported by the House Committee on Veterans' Affairs on August 1, 2013*

## SUMMARY


H.R. 2189 would modify several programs administered by the Department of Veterans Affairs (VA) including those providing disability compensation and pensions to veterans. Also, the bill would require VA to establish a commission to review the backlog of claims for disability compensation and the process for appealing the denial of such claims, and would require the commission to submit a number of reports to the Congress.

CBO estimates that enacting H.R. 2189 would decrease net direct spending by $412 million over the 2014-2018 period and by $471 million over the 2014-2023 period. Because enacting the legislation would affect direct spending, pay-as-you-go procedures apply. CBO also estimates that implementing H.R. 2189 would have a discretionary cost of $126 million over the 2014-2018 period, assuming appropriation of the necessary amounts.

H.R. 2189 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act (UMRA) by preempting state licensing laws governing health care professionals in some circumstances. CBO estimates that the costs of the intergovernmental mandate would be small and would not exceed the threshold established in UMRA ($75 million in 2013, adjusted annually for inflation). The bill contains no private-sector mandates as defined in UMRA.

## ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 2189 is shown in the following table. The costs of this legislation fall within budget functions 700 (veterans benefits and services) and 550 (health).

**TABLE 1. ESTIMATED BUDGETARY EFFECTS OF H.R. 2189**

| | By Fiscal Year, in Millions of Dollars | | | | | |
|---|---|---|---|---|---|---|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2014-2018 |
| **CHANGES IN DIRECT SPENDING[a]** | | | | | | |
| Estimated Budget Authority | 0 | 12 | -3 | -199 | -243 | -432 |
| Estimated Outlays | 0 | 12 | -3 | -199 | -223 | -412 |
| **CHANGES IN SPENDING SUBJECT TO APPROPRIATION** | | | | | | |
| Estimated Authorization Level | 4 | 44 | 51 | 19 | 8 | 126 |
| Estimated Outlays | 4 | 44 | 51 | 19 | 8 | 126 |

Notes: Components may not sum to totals because of rounding.

* = less than $500,000.

a. In addition to the changes in direct spending shown above, enacting H.R. 2189 would have effects beyond 2018 (see Table 2). CBO estimates that over the 2014-2023 period, H.R. 2189 would decrease net direct spending by $471 million.

## BASIS OF ESTIMATE

For this estimate, CBO assumes H.R. 2189 will be enacted near the start of fiscal year 2014, that the estimated authorizations will be appropriated near the start of each fiscal year, and that outlays will follow historical spending patterns for similar and existing programs.

### Direct Spending

H.R. 2189 would make several changes to programs administered by VA including disability compensation and pensions. CBO estimates that enacting H.R. 2189 would decrease net direct spending by $471 million over the 2014-2023 period (see Table 2).

**TABLE 2. ESTIMATED EFFECTS ON DIRECT SPENDING UNDER H.R. 2189**

| | Outlays, in Millions of Dollars, by Fiscal Year | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2014-2018 | 2014-2023 |
| **CHANGES IN DIRECT SPENDING** | | | | | | | | | | | | |
| Pensions for Veterans in Medicaid-Approved Nursing Homes | 0 | 0 | 0 | -195 | -218 | -20 | 0 | 0 | 0 | 0 | -413 | -433 |
| Asset Look-Back for Disability Pensions | 0 | -1 | -3 | -4 | -5 | -5 | -5 | -5 | -5 | -5 | -13 | -38 |
| Immediate Payments of Adjudicated Claims | 0 | 13 | * | * | * | * | * | * | * | -16 | 14 | 0 |
| Total Changes | 0 | 12 | -3 | -199 | -223 | -25 | -5 | -5 | -5 | -21 | -412 | -471 |

Notes: Components may not sum to totals because of rounding.

* = less than $500,000.

**Pensions for Veterans in Medicaid-Approved Nursing Homes.** Section 204 would extend the expiration date of a provision of current law that sets a $90 per month limit on pensions paid to any veteran who does not have a spouse or child and who is receiving Medicaid benefits in a Medicaid-approved nursing home; that provision also applies to any survivor of a veteran who is receiving such coverage. That limit on pension benefits would be extended through September 30, 2018, and would reduce such benefits for 22 months, with the last affected payment being disbursed in October 2018.

Using data provided by VA, CBO estimates that about 15,000 veterans and 19,000 survivors would be affected by this provision and that the average monthly savings to VA would be about $1,825 per veteran and $1,140 per survivor. (Those projections account for inflation, mortality rates, and new nursing home patients.) On that basis, CBO estimates that enacting the provision would reduce VA spending by $490 million in 2017 and about $1.1 billion over the 2017-2019 period. Higher Medicaid payments to nursing homes would offset some of those savings. We estimate that those costs would total $654 million. The net reduction in direct spending resulting from this provision would total $195 million in 2017 and $433 million over the 2017-2019 period, with no effects after 2019.

**Asset Look-Back for Disability Pensions.** Section 202 would authorize VA to conduct a review of the financial records of individuals applying for veterans' or survivors' pension benefits in 2015 or later. The review would cover the three years preceding each application. This look-back would determine if applicants disposed of any assets or resources for less than fair market value to become eligible for pension benefits. Based on information from VA and the Government Accountability Office about the income and resources of most pension applicants, CBO expects that less than 1 percent of all eligible veterans or survivors would have disposed of assets that would disqualify them from eligibility within the three-year window. Therefore, CBO estimates that in 2015, about 100 veterans and 70 survivors who will apply over the course of that year would be disqualified from eligibility because of the review and that a similar trend would continue in subsequent years. Such individuals would be disqualified, on average, for three years.

CBO estimates an average veteran's pension rate will be about $9,800 in 2015 and an average survivor's pension rate will be about $6,300 in that year. After accounting for inflation and mortality, CBO estimates that enacting section 202 would decrease direct spending by $38 million over the 2015-2023 period. The administrative costs to conduct these reviews are discussed below in the "Spending Subject to Appropriation" section of the estimate.

**Immediate Payments of Adjudicated Claims.** Section 203 would require VA to pay a disability benefit to a veteran as claims are decided if the veteran files claims for more than one disability at the same time. That requirement to make partial payments would be in force during the eight-year period from 2015 through 2022. Under current law, VA has the authority to make such partial payments for multiple claims should it be able to quickly decide one of the claims, but that authority is rarely used.

Once adjudicated, VA benefits are paid retroactively from the date of the initial application. That is, veterans usually receive an initial lump-sum payment that covers the months since their application was submitted. Thus, section 203 would have the effect of shifting some payments to an earlier fiscal year by paying some veterans a part of their benefit earlier than they would otherwise receive it. However, those early payments would be fully offset by savings in the following year when the retroactive payments would normally be made.

Based on information from VA, and assuming trends similar to those observed in previous years, CBO expects about 260,000 veterans will apply for disability benefits for the first time in 2015. CBO assumes that veterans who begin receiving payments at a disability rating of 50 percent or greater (about 90,000 veterans) would probably have applied to be compensated for more than one disability. Of those, CBO estimates that about 20 percent would have a claim that could be adjudicated quickly, and that two-thirds of those—about 12,300—would then be paid one year earlier than under current law. Assuming an average rating of 10 percent ($134 per month) for the quickly adjudicated claims, and an average of eight months of benefits, CBO estimates that enacting section 203 would increase direct spending by $13 million in 2015. However, that new spending in 2015 would be offset by an equal reduction in spending in 2016. In each subsequent year, a similar effect would be seen—increased spending in one year followed by decreased spending in the following year. CBO adjusts the amount of the accelerated spending each year to account for inflation and population growth.

The requirement under section 203 would end in 2022. Paying some claims early in 2022 would yield about $16 million in savings in 2023. Therefore, CBO estimates that enacting section 203 would cost $14 million over the 2015-2018 period, but would have a net direct spending effect of zero over the 2015-2023 period.

**Benefits for Coastwise Merchant Mariners.** Section 302 would extend eligibility for burial benefits and medals, ribbons, or decorations to merchant mariners who have the documents to prove they served off of the coast of the United States between December 7, 1941, and December 31, 1946.

Based on information from VA and the U.S. Coastwise Merchant Seamen's Association, CBO estimates that the survivors of roughly 300 eligible merchant mariners would apply for a burial marker and a ribbon or medallion in 2014 at a cost of about $200 per request. Because most of the eligible population is deceased, CBO expects the number of applications would decline steadily in subsequent years. Thus, CBO estimates that section 302 would have an insignificant impact on direct spending.

**Spending Subject to Appropriation**

H.R. 2189 would extend VA's authority to contract with non-VA physicians to conduct disability exams and require VA to provide several reports to the Congress regarding the disability claims process. CBO estimates that implementing H.R. 2189 would cost $126 million over the 2014-2018 period, subject to appropriation of the necessary amounts (see Table 3).

**Disability Examinations by Contract Physicians.** Section 201 would extend the pilot program that allows VA to use contract physicians to perform medical disability examinations to December 31, 2016, and would expand the pilot program to include five additional facilities. Under current law, that authority will expire on December 31, 2013, and is permitted at 10 facilities. However, the provision would not take effect until October 1, 2014 (the beginning of fiscal year 2015). Based on information from VA, CBO estimates that, in 2012, VA used the current authority to have about 36,000 exams completed by contract physicians at a cost of about $800 per exam. Under section 201, we expect VA would complete 54,000 exams each year over the 2015-2017 period.

In the absence of such authority, VA physicians who would otherwise be providing other types of health care to veterans will perform the exams, at no additional cost to VA. Thus, taking inflation into account, CBO estimates that implementing section 201 would cost $97 million over the 2015-2018 period, assuming appropriation of the necessary amounts.

**Asset Look-Back for Disability Pensions**. Section 202 would authorize VA to conduct a review of the financial records of all applicants for pensions. The review would cover the three years preceding each application. This look-back would determine if applicants disposed of any assets or resources for less than fair market value in order to become eligible for pension benefits. Individuals who were found to have disposed of such assets would be ineligible to receive pensions for up to three years, depending on the value of the assets involved. This provision would only affect those individuals applying for veterans' or survivors' pension benefits starting in 2015.

**TABLE 3. ESTIMATED EFFECTS ON SPENDING SUBJECT TO APPROPRIATION UNDER H.R. 2189**

| | By Fiscal Year, in Millions of Dollars | | | | | |
|---|---|---|---|---|---|---|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2014-2018 |
| Disability Exams by Contract Physicians | | | | | | |
| Estimated Authorization Level | 0 | 43 | 43 | 11 | 0 | 97 |
| Estimated Outlays | 0 | 43 | 43 | 11 | 0 | 97 |
| Asset Look-Back for Disability Pensions | | | | | | |
| Estimated Authorization Level | 0 | 0 | 7 | 7 | 7 | 21 |
| Estimated Outlays | 0 | 0 | 7 | 7 | 7 | 21 |
| Evaluation of Disability Claims Backlog | | | | | | |
| Estimated Authorization Level | 2 | 0 | 0 | 0 | 0 | 2 |
| Estimated Outlays | 2 | 0 | 0 | 0 | 0 | 2 |
| Reports | | | | | | |
| Estimated Authorization Level | 1 | * | * | * | * | 2 |
| Estimated Outlays | 1 | * | * | * | * | 2 |
| Other Provisions | | | | | | |
| Estimated Authorization Level | 1 | 1 | 1 | 1 | 1 | 4 |
| Estimated Outlays | 1 | 1 | 1 | 1 | 1 | 4 |
| Total Changes | | | | | | |
| Estimated Authorization Level | 4 | 44 | 51 | 19 | 8 | 126 |
| Estimated Outlays | 4 | 44 | 51 | 19 | 8 | 126 |

Notes: Components may not sum to totals because of rounding.

* = less than $500,000.

Based on information from VA on the time needed to process a pension claim, CBO estimates that VA would eventually hire about 70 employees to maintain the current processing times. VA reports that under this provision, most of the additional employees would be hired at the beginning of fiscal year 2016. At an average cost of about $100,000 per employee, CBO estimates that implementing section 501 would cost $21 million over the 2015-2018 period. The savings from reduced spending for pension benefits are discussed in the "Direct Spending" section of this estimate.

**Evaluation of the Disability Claims Backlog**. Section 101 would establish a commission tasked with creating a plan to eliminate the disability claims backlog, improve the disability claims process, and reduce the number of appeals filed for disapproved claims. The commission would have 21 members plus a paid staff and would exist for about seven months. The commission would be required to submit interim reports and a final report within 180 days of the commission's first meeting. Based on the costs of similar commissions, CBO estimates that implementing section 101 would cost about $2 million over the 2014-2018 period, subject to appropriation of the necessary amounts.

**Reports.** H.R. 2189 would require VA to complete several reports by various deadlines. CBO estimates that those provisions, collectively, would cost about $2 million over the 2014-2018 period, assuming appropriation of the necessary amounts.

**Other provisions.** H.R. 2189 also contains numerous provisions that individually would have an insignificant impact on spending subject to appropriation. However, CBO estimates that those provisions, collectively, would cost about $4 million over the 2014-2018 period, mostly for additional administrative activities, assuming availability of the necessary amounts.

- Section 103 would require VA to enter into agreements with the Social Security Administration and Department of Defense to ensure that the transfer of requested disability or medical records that VA uses to make disability determinations would occur within 30 days of the VA's request for such records.

- Section 104 would require VA to establish a training process for newly hired claims processors. According to VA, it has already begun the process of establishing new claims processor training programs. Most of the requirements of section 104 would align with VA's new training program.

- Section 106 would require VA to establish a system of priorities for processing claims.

- Section 107 would require VA to include a page on the agency's website listing information about pending and completed claims.

- Section 109 would require VA to post information at its regional facilities and on its website about the average processing times for various types of claims submitted by veterans.

- Section 203 would require VA to begin paying certain adjudicated claims upon completion if the veteran files a claim for more than one claim.

- Section 302 would require VA to process claims for coastwise merchant mariners for burial benefits.

## PAY-AS-YOU-GO CONSIDERATIONS

The Statutory Pay-As-You-Go Act of 2010 establishes budget-reporting and enforcement procedures for legislation affecting direct spending or revenues. The net changes in outlays that are subject to those pay-as-you-go procedures are shown in the following table.

**CBO Estimate of Pay-As-You-Go Effects for H.R. 2189 as ordered reported by the House Committee on Veterans' Affairs on August 1, 2013**

| | By Fiscal Year, in Millions of Dollars | | | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 2013 | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 | 2013-2018 | 2013-2023 |
| **NET INCREASE OR DECREASE (-) IN THE DEFICIT** | | | | | | | | | | | | | |
| Statutory Pay-As-You-Go Impact | 0 | 0 | 12 | -3 | -199 | -223 | -25 | -5 | -5 | -5 | -21 | -412 | -471 |

## ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

The bill would authorize physicians, under a contract with the Department of Veterans Affairs, to perform medical exams in any location and in any state as long as the physician is licensed by another state to practice medicine. That provision would preempt state licensing laws and impose an intergovernmental mandate as defined in UMRA. While states could lose a small amount of revenue from fewer license fees, the bill would impose no other duty that would result in additional spending. CBO estimates that the cost of complying with the mandate would be well below the threshold established in UMRA ($75 million in 2013, adjusted annually for inflation).

## ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 2189 contains no private-sector mandates as defined in UMRA.

## PREVIOUS CBO ESTIMATE

On May 16, 2013, CBO transmitted a cost estimate for H.R. 1412, the Improving Job Opportunities for Veterans Act of 2013, as ordered reported by the House Committee on Veterans' Affairs on May 8, 2013. Section 204 of H.R. 2189 would extend a provision from November 30, 2016, to September 30, 2018, whereas section 4 of H.R. 1412 would extend the provision for a month to December 31, 2016. The differences in estimated savings reflect the differences in the expiration dates.

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