

Guarantee Utilization of All Reimbursements for Delivery of (GUARD) Veterans' Health Care Act

Background

For years, private insurers offering Medicare Advantage (MA) and Medicare Part D plans have benefited from a loophole that allows them to pocket [duplicative taxpayer payments](#) for enrolled veterans while the Veterans Health Administration (VHA) shoulders the cost of care. Under current law, the VHA provides upfront reimbursement to providers for covered health care services and items. When a veteran is dually enrolled in other insurance, the VHA may [recover the cost](#) from the third party. While the VHA covers most care that veterans receive, some veterans elect to enroll in additional coverage through private MA plans so that they're covered if they elect to see providers without a VHA referral. Due to a [longstanding statutory prohibition](#) on the VHA billing Medicare, a prohibition that predates the establishment of MA and Medicare Part D, these plans benefit from duplicative payments.

The Centers for Medicare and Medicaid Services (CMS) [pay these MA insurers upfront](#) capitated payments to cover the entire cost of enrollees' health care, even though the VHA ultimately pays for the majority of veterans' care. This effectively results in taxpayers paying twice for this care, while the VHA loses important resources that should be reinvested into improving and expanding veterans' health care services.

Just in 2020, CMS paid [MA insurers \\$1.3 billion](#) to cover veterans who *never used their benefits*, meaning these MA plans pocketed the full payment while the VHA covered the entire cost of care. The longstanding prohibition on recouping these costs from Medicare has created significant waste of taxpayer dollars to the benefit of large health insurance conglomerates. Ultimately, taxpayers could [save an estimated \\$12.1 billion](#) per year if the VHA were allowed to seek reimbursement from private MA insurers, rather than footing the entire bill while these companies pocket the excess payments. Insurers have recognized the lucrative benefit of enrolling veterans and are now [aggressively marketing to our veterans](#) with rebranded plan names and cash rebates. Dual enrollment in MA plans [grew by 63%](#) from 2011 to 2020.

The GUARD Veterans' Health Care Act

The *GUARD Veterans' Health Care Act* would close this loophole by allowing the VHA to seek reimbursement from private MA and Part D plans, preventing them from collecting CMS payments without covering veterans' care. This bill:

- **Allows VHA to recover payments for any health care items or services provided to veterans dually enrolled in an MA or Medicare Prescription Drug (Part D) plan.** The VHA will be empowered to seek reimbursement from any organization covering a veteran through a private MA or Part D plan, preventing "double payment" for this care. Plans are prohibited from imposing any additional documentation, utilization management, or other administrative requirement on these items and services.
- **Strengthens the VHA's ability to recover payment from third party insurers for care furnished to veterans.** Establishes enforcement authority and the ability to collect civil monetary penalties when any insurer or other third party is found to be primarily responsible for covering the cost of care and fails to reimburse the VHA for items and services rendered to veterans. This provision implements a legislative proposal within the VHA's [FY24 budget request](#).