

Congress of the United States

Washington, DC 20515

August 5, 2024

Dr. Lester Martinez-Lopez
Assistant Secretary of Defense for Health Affairs
1200 Defense, Pentagon
Washington, D.C. 20301

Dear Assistant Secretary Martinez-Lopez,

Tens of thousands of Americans owe medical debt for care that they received in military hospitals or at other military health care treatment facilities.¹ Over three years ago, section 702 of FY 2021 National Defense Authorization Act (NDAA) provided the Department of Defense (DoD) expanded authority to waive medical costs in cases where a civilian will suffer financial harm from the cost of the care and the care “enhanced the medical readiness of the health care providers who furnished the care.”² Congress clarified this waiver process for patients “at risk of financial harm” and instructed DoD to create a sliding fee discount program through section 716 in the FY23 NDAA.³ These changes were designated to go into effect on June 21, 2023, or 180 days after the NDAA was passed.⁴ However, a year after this deadline has passed, DoD has not promulgated regulations to effectuate these essential relief programs. We write to urge the DoD to issue a final rule to waive medical costs for qualified civilians who receive care at military treatment facilities (MTFs) and work with other federal agencies to prevent waived bills from generating inappropriate and burdensome tax liabilities.

In 2022, a constituent of Mr. Castro’s was transported via ambulance to Brooke Army Medical Center (BAMC) after suffering from a stroke. After a two month stay at BAMC, he was discharged and consequently received a medical bill for nearly \$1,000,000. As a father who is solely dependent on Supplemental Security Income, the constituent had no ability to pay the DoD. Unfortunately, he was stuck navigating a byzantine bureaucratic process by himself unaware of any avenues for financial relief. In July 2023, the constituent asked Mr. Castro to help him resolve his medical bill.

The process to waive his medical bill would not have been possible without the intervention of Mr. Castro’s office, and even then it involved a six-month long process. In response to the request for a waiver, the Defense Health Agency (DHA) consulted with several federal agencies to confirm that DoD had authority to waive civilians’ medical debts, authority that was granted in plain language by section 716 of the NDAA.⁵ When the patient’s bill was finally waived, the

¹ Government Accountability Office, “Defense Health Care: Actions Needed to Improve Billing and Collection of Debt for Civilian Emergency Care,” July 7, 2022, p. 44, <https://www.gao.gov/assets/d22104770.pdf>.

² Congress.gov, “Conference Report to Accompany H.R. 6395,” December 3, 2020, p. 1654, <https://www.congress.gov/116/crpt/hrpt617/CRPT-116hrpt617.pdf>.

³ Pub. L. 117–263, div. A, title VII, § 716(b), Dec. 23, 2022, 136 Stat. 2661.

⁴ *Id.*

⁵ *Id.*

IRS considered the amount waived as income, and, as a result, he incurred a tax obligation of at least \$300,000—an amount he cannot be reasonably expected to pay. We urge DHA to implement a simpler waiver and sliding scale discount fee process that will allow it to waive all or some of a patients' bills at the time of treatment without incurring tax obligations.

The Joint Committee on Taxation recently estimated that forgoing taxes on this type of waived debt would cost the U.S. government only \$12 million over ten years.⁶ This cost is insignificant to the government but can be the difference between stability and financial ruin for affected families.

While the DHA health care system is primarily designed to serve the military community, thousands of civilian patients also receive care at MTFs every year.⁷ In Texas, a special agreement between Bexar County and BAMC allows the military hospital to treat emergency patients.⁸ The Army in turn trains medical professionals on these patients and serves as one of the two Level I trauma centers in San Antonio. Despite this arrangement, DHA has largely failed to streamline MTF billing processes to meet the needs of the civilian patients it treats. Over the last several years, our offices have worked to resolve cases of constituents who received five-, six- and seven-figure medical bills and faced threats of wage garnishment after trauma care at military facilities.

As we have written before, DoD has a number of authorities to waive these fees without creating an unfair tax penalty on patients.⁹ If the DoD waives medical bills through a process that the Internal Revenue Service treats as income, patients would incur substantial tax obligations and leave them in the same place where they were at the beginning of the process: owing a large amount of money to the government with no real means to pay it.

DHA has taken some steps to waive civilian medical bills but further relief for civilians is overdue. Until this rule is implemented, the Senate version of the National Defense Authorization Act for FY 2025 requires the Secretary to hold in abeyance any claims until the final rule or interim final rule is in effect.¹⁰ DoD should also exercise its authority to not charge civilians.¹¹ We urge the DoD to simplify its billing process and work with federal agencies to reach an understanding that the DHA has the authority to waive any fees incurred at military treatment facilities at the time of treatment. By doing so, the DHA can reduce financial burdens on civilian patients and avoid causing them unnecessary emotional distress while ensuring compliance with the law.

⁶ Letter from Joint Committee on Taxation to Senator Elizabeth Warren, June 6, 2024, Appendix A.

⁷ Government Accountability Office, "Defense Health Care: Actions Needed to Improve Billing and Collection of Debt for Civilian Emergency Care," July 7, 2022, p. 45, <https://www.gao.gov/assets/d22104770.pdf>.

⁸ Joint Base San Antonio, "BAMC celebrates 25th anniversary of Level I trauma mission," Lori Newman, December 16, 2022, <https://www.jbsa.mil/News/News/Article/3248088/bamc-celebrates-25th-anniversary-of-level-i-trauma-mission/>.

⁹ Letter from Representative Joaquin Castro and Senator Elizabeth Warren to Dr. Lester Martinez-Lopez and Lieutenant General Telita Crosland, March 6, 2023, p. 3, <https://www.warren.senate.gov/imo/media/doc/2023.03.06%20Letter%20to%20DoD%20on%20implementing%20medical%20debt%20waiver%20authority.pdf>.

¹⁰ National Defense Authorization Act for Fiscal Year 2025, Section 722, https://www.armed-services.senate.gov/imo/media/doc/fy25_ndaa_bill_text.pdf.

¹¹ 10 U.S.C. 1079b(a).

To address our concerns about DoD's practices for adjudicating civilian debt, please provide answers to the following questions by August 20th, 2024:

- 1) Does the DHA anticipate issuing an Interim Final Rule (IFR) to implement Section 716 before December 2024?
- 2) Has the DHA Office of General Counsel issued a decision memorandum regarding the processing of medical bills for civilians who were treated before June 2023?
- 3) How many civilian patients currently owe medical bills at MTFs, and what is the total amount of debt they owe? Please provide any demographic information if known.
- 4) Since January 2024, how many civilian patients have incurred medical bills at MTFs, and what was the total amount of debt they incurred? Please provide any demographic information if known.
- 5) How many civilians have had their medical bills discharged by the Department of Defense? Please provide any demographic information if known.


Sincerely,



Joaquin Castro
Member of Congress



Greg Casar
Member of Congress



Elizabeth Warren
United States Senator

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Congress of the United States

JOINT COMMITTEE ON TAXATION
502 FORD HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6453
(202) 225-3621
<http://www.jct.gov>

June 6, 2024

Honorable Elizabeth Warren
United States Senate
SH-309
Washington, D.C. 20510

Dear Senator Warren:

This letter is a response to your request from January 23, 2024, for a revenue estimate of a proposal to exclude from gross income the amount of certain discharged medical indebtedness. A taxpayer who has indebtedness discharged generally has income in the amount discharged unless an exclusion from gross income is allowed under Internal Revenue Code (“Code”) section 108. We understand that under present law the IRS would treat a fee waiver under section 1079b(b) of Title 10 of the U.S. Code as a discharge of indebtedness for which no exclusion from gross income under Code section 108 is allowed, and we understand that the IRS would require the Department of Defense to report the discharge on Form 1099-C, Cancellation of Debt, to the IRS and to the individual whose fee is waived.¹

The proposal that you have asked us to estimate excludes the amount of a fee waiver under Title 10, section 1079b(b) from gross income. One version of your proposal amends the Code to provide this exclusion (for the discharge of indebtedness that this version of the proposal refers to as “qualified medical indebtedness”). A substantively identical version of your proposal does not amend the Code; it provides the same exclusion by reference to the Code.

Your proposal is effective for indebtedness discharged on or after December 23, 2022. For purposes of our estimate, we assume that the proposal is enacted on September 30, 2024. We estimate that the proposal would have the following effects on Federal fiscal year budget receipts:

¹ Title 10, section 1079b(b) authorizes the Director of the Defense Health Agency to issue, in a situation described in that provision, a waiver for a fee that would otherwise be charged to a civilian for costs of trauma care and other medical care provided to the civilian at a military medical treatment facility. The Director may issue a fee waiver when the provision of the care enhances the knowledge, skills, and abilities of health care providers (as determined by the Director).

Congress of the United States

JOINT COMMITTEE ON TAXATION

Washington, DC 20515-6453

Honorable Elizabeth Warren
United States Senate

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Fiscal Years
[Millions of Dollars]

<u>2024</u>	<u>2025</u>	<u>2026</u>	<u>2027</u>	<u>2028</u>	<u>2029</u>	<u>2030</u>	<u>2031</u>	<u>2032</u>	<u>2033</u>	<u>2034</u>	<u>2024-29</u>	<u>2024-34</u>
---	-1	-1	-1	-1	-1	-1	-1	-1	-1	-1	-5	-12

NOTE: Details do not add to totals due to rounding.

I hope this information is helpful to you. Please let me know if we may be of further assistance in this matter.

Sincerely,



Thomas A. Barthold