

Public Law 92-585

AN ACT

October 27, 1972
[S. 3858]

To amend the Public Health Service Act to improve the program of medical assistance to areas with health manpower shortages, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Emergency Health Personnel Act Amendments of 1972".

SEC. 2. (a) Section 329(a) of the Public Health Service Act is amended to read as follows:

"SEC. 329. (a) There is established, within the Service, the National Health Service Corps (hereinafter in this section referred to as the 'Corps') which shall consist of those officers of the Regular and Reserve Corps of the Service and such other personnel as the Secretary may designate and which shall be utilized by the Secretary to improve the delivery of health care and services to persons residing in areas which have critical health manpower shortages."

(b) Section 329(b) of such Act is amended to read as follows:

"(b)(1) The Secretary shall (A) designate those areas which he determines have critical health manpower shortages, (B) provide assistance to persons seeking assignment of Corps personnel to such designated areas to provide under this section health care and services for persons residing in such areas, and (C) conduct such information programs in such designated areas as may be necessary to inform the public and private health entities serving those areas of the assistance available under this section.

"(2) (A) The Secretary may assign personnel of the Corps to provide, under regulations prescribed by the Secretary, health care and services for persons residing in an area designated by the Secretary under paragraph (1) if—

"(i) the State health agency of each State in which such area is located or the local public health agency or any other public or nonprofit private health entity in such area requests such assignment, and

"(ii) the (I) local government of such area, and (II) the State and district medical, dental, or other appropriate health societies (as the case may be), certify to the Secretary that such assignment of Corps personnel is needed for such area.

If with respect to any proposed assignment of Corps personnel to an area the requirements of clauses (i) and (ii) of the preceding sentence are met except for the certification by the State and district medical, dental, or other appropriate health societies required by clause (ii) and if the Secretary finds from all the facts presented that such certification has clearly been arbitrarily and capriciously withheld, the Secretary may, after consultation with appropriate medical, dental, or other health societies, assign such personnel to such area. Corps personnel shall be assigned under this section on the basis of the extent of an area's need for health care and services and without regard to the ability of the residents of an area to pay for health care and services.

"(B) In providing health care and services under this section, Corps personnel shall utilize the techniques, facilities, and organizational forms most appropriate for the area and shall, to the maximum extent feasible, provide such care and services (i) to all persons in such area regardless of the ability of such persons to pay for the care and services, and (ii) in connection with (I) direct health care programs carried out by the Service; (II) any direct health care program carried out in whole or in part with Federal financial assistance; or (III) any

Emergency Health
Personnel Act
Amendments of
1972.

84 Stat. 1868;
85 Stat. 462.

42 USC 254b.
National Health
Service Corps,
establishment.

Personnel,
assignment.

Facilities,
utilization.

other health care activity which is in furtherance of the purposes of this section.

“(C) Any person who receives health care or services provided under this section shall be charged for such care or service on a fee-for-service or other basis at a rate established by the Secretary, pursuant to regulations, to recover the reasonable cost of providing such care or service; except that if such person is determined under regulations of the Secretary to be unable to pay such charge, the Secretary shall provide for the furnishing of such care or service at a reduced rate or without charge. If a Federal agency, an agency of a State or local government, or other third party would be responsible for all or part of the cost of the care or service provided under this section if such care or service had not been provided under this section, the Secretary shall collect, on a fee-for-service or other basis, from such agency or third party the portion of such cost for which it would be so responsible. Any funds collected by the Secretary under this subparagraph shall be deposited in the Treasury as miscellaneous receipts and shall be disregarded in determining (i) the amounts of appropriations to be requested under subsection (h), and (ii) the amounts to be made available from appropriations made under such subsection to carry out this section.”

(c) Section 329(c) of such Act is amended (1) by striking out “Service” and inserting in lieu thereof “Corps” and (2) by inserting at the end thereof the following: “The Secretary may reimburse applicants for positions in the Corps for actual expenses incurred in traveling to and from their place of residence to an area in which they would be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.”

(d) Section 329(d) of such Act is amended—

(1) by striking out “Service” in the first sentence and inserting in lieu thereof “Corps”, and by inserting before the period at the end of such sentence the following: “, except that if such area is being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary shall, in addition to such other arrangements as the Secretary may make to insure the availability in such area of care and services by Corps personnel, arrange for the utilization of such hospital or facility by Corps personnel in providing care and services in such area but only to the extent that such utilization will not impair the delivery of care and treatment through such hospital or facility to persons who are entitled to care and treatment through such hospital or facility”;

(2) by striking out “If there are no such facilities in such area” in the second sentence and inserting in lieu thereof “If there are no health facilities in or serving such area”;

(3) by adding after the second sentence the following new sentence: “In providing such care and services, the Secretary may (A) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies, and (B) secure the temporary services of nurses and allied health professionals.”; and

(4) by inserting “(1)” after “(d)” and by adding at the end the following:

“(2) The Secretary shall conduct at medical and nursing schools and other schools of the health professions and training centers for the allied health professions, recruiting programs for the Corps. Such

Charges.

Applicants,
travel expenses.
84 Stat. 1868.
42 USC 254b.

Recruiting pro-
grams.

programs shall include the wide dissemination of written information on the Corps and visits to such schools by personnel of the Corps."

84 Stat. 1868.
42 USC 254b.

(e) Section 329(f) of such Act is amended (1) by striking out "Service" in paragraphs (1) and (3) and inserting in lieu thereof "Corps", and (2) by striking out "to select commissioned officers of the Service and other personnel" in paragraph (2) and inserting in lieu thereof "to select personnel of the Corps".

(f) Subsection (g) of section 329 of such Act is redesignated as subsection (h) and the following new subsection is inserted after subsection (f) of such section:

Report to Congress.

"(g) The Secretary shall report to Congress no later than May 15 of each year—

"(1) the number of areas designated under subsection (b) in the calendar year preceding the year in which the report is made as having critical health manpower shortages and the number of areas which the Secretary estimates will be so designated in the calendar year in which the report is made;

"(2) the number and types of Corps personnel assigned in such preceding calendar year to areas designated under subsection (b), the number and types of additional Corps personnel which the Secretary estimates will be assigned to such areas in the calendar year in which the report is submitted, and the need (if any) for additional personnel for the Corps; and

"(3) the number of applications filed in such preceding calendar year for assignment of Corps personnel under this section and the action taken on each such application."

Appropriation.

(g) Subsection (h) of section 329 of such Act (as so redesignated by subsection (f) of this section) is amended by striking out "and" after "1972;" and by inserting immediately before the period at the end the following "; and \$25,000,000 for the fiscal year ending June 30, 1974".

(h) Section 329 of such Act is amended by adding at the end thereof the following new subsection:

"State."

"(i) For purposes of this section, the term 'State' includes Guam, American Samoa, and the Trust Territory of the Pacific Islands."

Transfer of facilities, requirements.

SEC. 3. (a) The Secretary may not close or transfer control of a hospital or other health care delivery facility of the Public Health Service unless—

(1) he transmits to each House of Congress, on the same day and while each House is in session, a detailed explanation (meeting the requirements of subsection (b)) for the proposed closing or transfer, and

(2) a period of ninety calendar days of continuous session of Congress has elapsed after the date on which such explanation is transmitted.

For purposes of paragraph (2), continuity of session is broken only by an adjournment of Congress sine die, and the days on which either House is not in session because an adjournment of more than three days to a day certain are excluded in the computation of the ninety-day period.

(b) Each explanation submitted under subsection (a) for closing or transferring control of a hospital or other health care delivery facility of the Public Health Service shall—

(1) contain (A) assurances that persons entitled to treatment and care at the hospital or other facility proposed to be closed or transferred and persons for whom care and treatment at such hospital or other facility is authorized will, after the proposed closing or transfer, continue to be provided equivalent care and treatment through such hospital or other facility or under a new

arrangement, and (B) an estimate of the cost of providing such care and treatment to such persons after the proposed closing or transfer; and

(2) the comments (if any) made by each—

(A) section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) the area in which the hospital or other facility is located or which is served by the hospital or other facility, and

(B) section 314(b) area-wide health planning agency whose section 314(b) plan covers (in whole or in part) such area,

after the Secretary has provided each such agency a reasonable opportunity to review and comment on the proposed closing or transfer.

For purposes of paragraph (2), the term "section 314(a) State health planning agency" means the agency of a State which administers or supervises the administration of a State's health planning functions under a State plan approved under section 314(a) (referred to in paragraph (2) as a "section 314(a) plan"), and the term "section 314(b) area-wide health planning agency" means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (referred to in paragraph (2) as a "section 314(b) plan").

SEC. 4. Section 741(f)(1)(C) of the Public Health Service Act is amended by striking out "agreement with the Secretary to practice his profession for a period of at least two years in an area in a State determined by the Secretary" and inserting in lieu thereof "agreement with the Secretary to practice his profession (as a member of the National Health Service Corps or otherwise) for a period of at least two years in an area in a State designated under section 329(b) or otherwise determined by the Secretary".

SEC. 5. Title II of the Public Health Service Act is amended by adding after section 224 the following new section:

"PUBLIC HEALTH AND NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP TRAINING PROGRAM

"SEC. 225. (a) The Secretary shall establish the Public Health and National Health Service Corps Scholarship Training Program (hereinafter in this section referred to as the 'Program') to obtain trained physicians, dentists, nurses, and other health-related specialists for the National Health Service Corps and other units of the Service.

"(b) To be eligible for acceptance and continued participation in the Program, each applicant must—

"(1) be accepted for enrollment, or be enrolled, as a full-time student in an accredited (as determined by the Secretary) educational institution in the United States, or its territories or possessions;

"(2) pursue an approved course of study, and maintain an acceptable level of academic standing, leading to a degree in medicine, dentistry, or other health-related specialty, as determined by the Secretary;

"(3) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be selected for civilian service in the National Health Service Corps; and

"(4) agree in writing to serve, as prescribed by subsection (e) of this section, in the Commissioned Corps of the Service or as a civilian member of the National Health Service Corps.

80 Stat. 1181;
84 Stat. 1304.
42 USC 246.

Definitions.

85 Stat. 449.
42 USC 294a.

Ante, p. 1290.

58 Stat. 683;
81 Stat. 539;
84 Stat. 1870.
42 USC 202.

Establishment.

Acceptance and participation, requirements.

Payments.

“(c) Each participant in the Program will be authorized a scholarship for each approved academic year of training, not to exceed four years, in an amount prescribed by the Secretary and payable in monthly installments. The scholarship shall not exceed an amount equal to the basic pay and allowances of a commissioned officer on active duty in pay grade O-1 with less than two years of service, plus an amount to cover the reasonable cost of books, supplies, equipment, student medical expenses, and other necessary educational expenses which are not otherwise paid as a part of the basic tuition payment.

37 USC 203
note.

Contract authority.

“(d) The Secretary may contract with an accredited educational institution for the payment of tuition and other education expenses, not otherwise covered under subsection (c) of this section, for persons participating in the Program. If necessary, persons participating in the Program may be reimbursed for the actual cost of tuition and other educational expenses authorized in this subsection, in lieu of a contract with the educational institution.

Obligations.

“(e) A person participating in the Program shall be obligated to serve on active duty as a commissioned officer in the Service or as a civilian member of the National Health Service Corps following completion of academic training, for a period of time prescribed by the Secretary which will not be less than one year of service on active duty for each academic year of training received under the Program. At least one-half of the period of service required by the preceding sentence must be spent providing health care and services (1) in an area designated under section 329(b), (2) as a member of the Indian Health Service or the Federal Health Programs Service and in an area (determined under section 329 or otherwise) to have a health manpower shortage, or (3) in connection with any program, designated by the Secretary, for the provision of health care and services in such an area. For persons receiving a degree from a school of medicine, osteopathy, or dentistry, the commencement of a period of obligated service can be deferred for the period of time required to complete internship and residency training. For persons receiving degrees in other health professions the obligated service period will commence upon completion of their academic training. Periods of internship or residency shall not be creditable in satisfying an active duty service obligation under this subsection unless the internship or residency is served in a facility of the Service or other facility of the National Health Service Corps.

Ante, p. 1290.

Liability.

“(f) (1) If, for any reason, a person fails to complete an active duty service obligation under this section, he shall be liable for the payment of an amount equal to the cost of tuition and other education expenses, and scholarship payments, paid under this section, plus interest at the maximum legal prevailing rate. Any amount which the United States is entitled to recover under this paragraph shall, within the three-year period beginning on the date the United States becomes entitled to recover such amount, be paid to the United States.

“(2) When a person undergoing training in the Program is academically dismissed or voluntarily terminates academic training, he shall be liable for repayment to the Government for an amount equal to the cost of tuition and other educational expenses paid to or for him from Federal funds plus any scholarship payments which he received under the program.

Waiver.

“(3) The Secretary shall by regulation provide for the waiver or suspension of any obligation under paragraph (1) or (2) applicable to any individual whenever compliance by such individual is impossible or would involve extreme hardship to such individual and if enforcement of such obligation with respect to any individual would be against equity and good conscience.

“(g) Notwithstanding any other provision of law, persons undergoing academic training under the Program shall not be counted against any employment ceiling affecting the Department of Health, Education, and Welfare.

Employment ceiling, exception.

“(h) The Secretary shall issue regulations governing the implementation of this section.

Regulations.

“(i) To carry out the Program, there is authorized to be appropriated \$3,000,000 for the fiscal year ending June 30, 1974.”

Appropriation.

Approved October 27, 1972.

Public Law 92-586

AN ACT

October 27, 1972
[H. R. 7093]

To provide for the disposition of judgment funds of the Osage Tribe of Indians of Oklahoma.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior is authorized and directed to distribute per capita to all persons whose names appear on the roll of the Osage Tribe of Indians approved by the Secretary of the Interior April 11, 1908, pursuant to the Act of June 28, 1906 (34 Stat. 539), all funds which were appropriated by the Act of January 8, 1971 (84 Stat. 1981), in satisfaction of a judgment that was obtained by the Osage Nation of Indians in the Indian Claims Commission against the United States in dockets numbered 105, 106, 107, and 108, together with interest thereon, except the sum of \$1,000,000 and any funds that revert to the Osage Tribe and except the amount allowed for attorney fees and expenses and the cost of distribution.

Indians.
Osage Tribe,
Okla.
Judgment funds,
disposition.

(b) The sum of \$1,000,000 plus any funds that revert to the Osage Tribe may be advanced, expended, invested, or reinvested for the purpose of financing an education program or other socioeconomic programs of benefit to the Osage Tribe of Indians of Oklahoma, such programs to be administered as authorized by the Secretary of the Interior.

Education program.

(c) The Secretary of the Interior may make appropriate withdrawals from the judgment funds and interest thereon, using interest funds first, to pay costs incident to carrying out the provisions of this Act.

Fund withdrawals.

SEC. 2. (a) Except as provided in subsections (b) and (c) of this section, a share or proportional share payable to a living original Osage allottee shall be paid to such allottee.

Distribution.

(b) A share of a deceased Osage allottee having died prior to or after the passage of this Act shall be distributed to his heirs of Osage Indian blood pursuant to an order determining heirs by the Secretary of the Interior or a court of competent jurisdiction of the State of Oklahoma, and such distributions by the Secretary of the Interior shall be final and conclusive. In the event the heirs of Osage Indian blood of an Osage Indian having died prior to or after the passage of this Act have not been determined by the Secretary of the Interior or a court of competent jurisdiction of the State of Oklahoma, such share shall be distributed to the heirs of Osage Indian blood upon the filing of proof of death and inheritance in accordance with the Oklahoma law of intestate succession in a form satisfactory to the Secretary of the Interior whose findings and determinations upon such proof shall be final and conclusive: *Provided*, That when a person of Osage Indian blood receives an amount totaling less than \$20 from one or more shares of one or more Osage allottees, that amount shall not be distributed to the individual, but will revert to the Osage Tribe.

Exception.