

member or former member became eligible for retired pay under this section.

“(2) In this subsection, the term ‘Survivor Benefit Plan’ means the plan established under subchapter II of chapter 73 of title 10, United States Code.”

§ 1144. Employment assistance, job training assistance, and other transitional services: Department of Labor

(a) IN GENERAL.—(1) The Secretary of Labor, in conjunction with the Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs, shall establish and maintain a program to furnish counseling, assistance in identifying employment and training opportunities, help in obtaining such employment and training, and other related information and services to members of the armed forces under the jurisdiction of the Secretary concerned who are being separated from active duty and the spouses of such members. Such services shall be provided to a member within the time periods provided under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide pre-separation counseling to a member described in paragraph (4)(A) of such section.

(2) The Secretary of Defense, the Secretary of Homeland Security, and the Secretary of Veterans Affairs shall cooperate with the Secretary of Labor in establishing and maintaining the program under this section.

(3) The Secretaries referred to in paragraph (1) shall enter into a detailed agreement to carry out this section.

(b) ELEMENTS OF PROGRAM.—In establishing and carrying out a program under this section, the Secretary of Labor shall do the following:

(1) Provide information concerning employment and training assistance, including (A) labor market information, (B) civilian work place requirements and employment opportunities, (C) instruction in resumé preparation, and (D) job analysis techniques, job search techniques, and job interview techniques.

(2) In providing information under paragraph (1), use experience obtained from implementation of the pilot program established under section 408 of Public Law 101-237.

(3) Provide information concerning Federal, State, and local programs, and programs of military and veterans’ service organizations, that may be of assistance to such members after separation from the armed forces, including, as appropriate, the information and services to be provided under section 1142 of this title.

(4) Inform such members that the Department of Defense and the Department of Homeland Security are required under section 1143(a) of this title to provide proper certification or verification of job skills and experience acquired while on active duty that may have application to employment in the civilian sector for use in seeking civilian employment and in obtaining job search skills.

(5) Provide information and other assistance to such members in their efforts to obtain loans and grants from the Small Business Administration and other Federal, State, and local agencies.

(6) Provide information about the geographic areas in which such members will relocate after separation from the armed forces, including, to the degree possible, information about employment opportunities, the labor market, and the cost of living in those areas (including, to the extent practicable, the cost and availability of housing, child care, education, and medical and dental care).

(7) Work with military and veterans’ service organizations and other appropriate organizations in promoting and publicizing job fairs for such members.

(8) Provide information regarding the public and community service jobs program carried out under section 1143a of this title.

(c) PARTICIPATION.—The Secretary of Defense and the Secretary of Homeland Security shall encourage and otherwise promote maximum participation by members of the armed forces eligible for assistance under the program carried out under this section.

(d) USE OF PERSONNEL AND ORGANIZATIONS.—In carrying out the program established under this section, the Secretaries may—

(1) provide, as the case may be, for the use of disabled veterans outreach program specialists, local veterans’ employment representatives, and other employment service personnel funded by the Department of Labor to the extent that the Secretary of Labor determines that such use will not significantly interfere with the provision of services or other benefits to eligible veterans and other eligible recipients of such services or benefits;

(2) use military and civilian personnel of the Department of Defense and the Department of Homeland Security;

(3) use personnel of the Veterans Benefits Administration of the Department of Veterans Affairs and other appropriate personnel of that Department;

(4) use representatives of military and veterans’ service organizations;

(5) enter into contracts with public or private entities; and

(6) take other necessary action to develop and furnish the information and services to be provided under this section.

(Added Pub. L. 101-510, div. A, title V, § 502(a)(1), Nov. 5, 1990, 104 Stat. 1553; amended Pub. L. 102-190, div. A, title X, § 1061(a)(6), Dec. 5, 1991, 105 Stat. 1472; Pub. L. 102-484, div. D, title XLIV, §§ 4462(c), 4469, Oct. 23, 1992, 106 Stat. 2740, 2752; Pub. L. 103-337, div. A, title V, § 543(b), Oct. 5, 1994, 108 Stat. 2769; Pub. L. 107-103, title III, § 302(b), Dec. 27, 2001, 115 Stat. 992; Pub. L. 107-107, div. A, title X, § 1048(e)(1), Dec. 28, 2001, 115 Stat. 1227; Pub. L. 107-296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314.)

REFERENCES IN TEXT

Section 408 of Public Law 101-237, referred to in subsec. (b)(2), is set out as a note under section 4100 of Title 38, Veterans’ Benefits.

AMENDMENTS

2002—Subsecs. (a)(1), (2), (b)(4), (c), (d)(2). Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(1). Pub. L. 107-103, in second sentence, substituted “within the time periods provided

under paragraph (3) of section 1142(a) of this title, except that the Secretary concerned shall not provide pre-separation counseling to a member described in paragraph (4)(A) of such section” for “during the 180-day period before the member is separated from active duty”.

Subsec. (a)(3). Pub. L. 107–107, §1048(e)(1)(A), struck out at end “The agreement shall be entered into no later than 60 days after the date of the enactment of this section.”

Subsec. (e). Pub. L. 107–107, §1048(e)(1)(B), struck out heading and text of subsec. (e). Text read as follows:

“(1) There is authorized to be appropriated to the Department of Labor to carry out this section \$11,000,000 for fiscal year 1993 and \$8,000,000 for each of fiscal years 1994 and 1995.

“(2) There is authorized to be appropriated to the Department of Veterans Affairs to carry out this section \$6,500,000 for each of fiscal years 1993, 1994, and 1995.”

1994—Subsec. (a)(1). Pub. L. 103–337, §543(b)(1), inserted “, the Secretary of Transportation,” after “Secretary of Defense” and substituted “concerned” for “of a military department”.

Subsec. (a)(2). Pub. L. 103–337, §543(b)(2), inserted “, the Secretary of Transportation,” after “Secretary of Defense”.

Subsec. (b)(4). Pub. L. 103–337, §543(b)(3), substituted “Department of Defense and the Department of Transportation are” for “Department of Defense is”.

Subsec. (c). Pub. L. 103–337, §543(b)(4), inserted “and the Secretary of Transportation” after “Secretary of Defense”.

Subsec. (d)(2). Pub. L. 103–337, §543(b)(5), inserted “and the Department of Transportation” after “Department of Defense”.

1992—Subsec. (b)(8). Pub. L. 102–484, §4462(c), added par. (8).

Subsec. (e)(1). Pub. L. 102–484, §4469(1), substituted “\$11,000,000 for fiscal year 1993 and \$8,000,000 for each of fiscal years 1994 and 1995” for “\$4,000,000 for fiscal year 1991 and \$9,000,000 for each of fiscal years 1992 and 1993”.

Subsec. (e)(2). Pub. L. 102–484, §4469(2), substituted “\$6,500,000 for each of fiscal years 1993, 1994, and 1995” for “\$1,000,000 for fiscal year 1991 and \$4,000,000 for each of fiscal years 1992 and 1993”.

1991—Subsec. (b)(1). Pub. L. 102–190, §1061(a)(6)(A), substituted “resumé” for “resume” in cl. (C).

Subsec. (b)(3). Pub. L. 102–190, §1061(a)(6)(B), substituted “veterans’ service organizations” for “veterans service organization” and “armed forces” for “Armed Forces”.

Subsec. (b)(6). Pub. L. 102–190, §1061(a)(6)(C), substituted “those areas” for “such area”.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107–296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107–296, set out as a note under section 101 of this title.

IMPLEMENTATION REPORTS

Section 502(c) of Pub. L. 101–510 provided that:

“(1) Not later than 90 days after the date of the enactment of this Act [Nov. 5, 1990], the Secretary of Labor shall submit to Congress a report setting forth the agreement entered into to carry out section 1144 of title 10, United States Code, as added by subsection (a). The report shall include a detailed description of the responsibilities of the Secretary of Labor, the Secretary of Defense, and the Secretary of Veterans Affairs in carrying out that section and of the steps that have been taken to carry out those responsibilities.

“(2) Not later than one year after the date of the enactment of this Act, the Secretary of Labor shall submit to Congress a report containing a detailed evaluation of the program carried out under that section to the date of the submission of the report.

“(3) The reports under paragraphs (1) and (2) shall be prepared in consultation with the Secretary of Defense and the Secretary of Labor.”

§ 1145. Health benefits

(a) TRANSITIONAL HEALTH CARE.—(1) For the time period described in paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member) shall be entitled to receive—

(A) medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

(2) This subsection applies to the following members of the armed forces:

(A) A member who is involuntarily separated from active duty.

(B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.

(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation.

(3) Transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty.

(4)(A) The Secretary concerned shall require a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) to undergo a physical examination immediately before that separation. The physical examination shall be conducted in accordance with regulations prescribed by the Secretary of Defense.

(B) Notwithstanding subparagraph (A), if a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) has otherwise undergone a physical examination within 12 months before the scheduled date of separation from active duty, the requirement for a physical examination under subparagraph (A) may be waived in accordance with regulations prescribed under this paragraph. Such regulations shall require that such a waiver may be granted only with the consent of the member and with the concurrence of the member’s unit commander.

(5)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (4), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

(B) Assistance provided to a member under paragraph (1) shall include the following:

(i) Information regarding, and any appropriate referral for, the care, treatment, and

other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

(II) any other care, treatment, and services.

(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.

(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member—

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(5) The amount paid by a member who purchases a conversion health policy from the Sec-

retary of Defense under paragraph (4) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(c) HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

(d) DEFINITION.—In this section, the term "conversion health policy" means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

(e) COAST GUARD.—The Secretary of Homeland Security shall implement this section for the members of the Coast Guard and their dependents.

(Added Pub. L. 101-510, div. A, title V, §502(a)(1), Nov. 5, 1990, 104 Stat. 1555; amended Pub. L. 102-484, div. D, title XLIV, §4407(a), Oct. 23, 1992, 106 Stat. 2707; Pub. L. 103-160, div. A, title V, §561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title V, §542(a)(4), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105-261, div. A, title V, §561(h), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, §1 [[div. A], title V, §571(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A-134; Pub. L. 107-107, div. A, title VII, §736(a), (b), Dec. 28, 2001, 115 Stat. 1172; Pub. L. 107-296, title XVII, §1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107-314, div. A, title VII, §706(a), (b), Dec. 2, 2002, 116 Stat. 2585; Pub. L. 108-375, div. A, title VII, §706(a)(1), (3), (b), Oct. 28, 2004, 118 Stat. 1983; Pub. L. 109-163, div. A, title VII, §749, Jan. 6, 2006, 119 Stat. 3364.)

AMENDMENTS

2006—Subsec. (a)(5). Pub. L. 109-163 added par. (5).

2004—Subsec. (a)(1). Pub. L. 108-375, §706(a)(3), struck out "applicable" before "time period" in introductory provisions.

Subsec. (a)(3). Pub. L. 108-375, §706(a)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is separated as follows:

"(A) For members separated with less than six years of active service, 60 days.

“(B) For members separated with six or more years of active service, 120 days.”

Subsec. (a)(4). Pub. L. 108-375, § 706(b), added par. (4). 2002—Subsec. (a)(1). Pub. L. 107-314, § 706(a), amended Pub. L. 107-107, § 736(a)(1). See 2001 Amendment note below.

Subsec. (e). Pub. L. 107-314, § 706(b), amended Pub. L. 107-107, § 736(b)(2). See 2001 Amendment note below.

Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(1). Pub. L. 107-107, § 736(a)(1), as amended by Pub. L. 107-314, § 706(a), in introductory provisions, substituted “paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member)” for “paragraph (2), a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001 (and the dependents of the member)”.

Subsec. (a)(2). Pub. L. 107-107, § 736(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 107-107, § 736(a)(2), (4), redesignated par. (2) as (3) and struck out “involuntarily” before “separated” wherever appearing.

Subsec. (c)(1). Pub. L. 107-107, § 736(b)(1), struck out “during the period beginning on October 1, 1990, and ending on December 31, 2001” after “armed forces”.

Subsec. (e). Pub. L. 107-107, § 736(b)(2), as amended by Pub. L. 107-314, § 706(b), substituted “the members of the Coast Guard and their dependents” for “the Coast Guard” in second sentence and struck out first sentence which read as follows: “The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the period beginning on October 1, 1994, and ending on December 31, 2001.”

2000—Subsecs. (a)(1), (c)(1), (e). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsecs. (a)(1), (c)(1). Pub. L. 105-261, § 561(h)(1), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (e). Pub. L. 105-261, § 561(h)(2), substituted “during the period beginning on October 1, 1994, and ending on September 30, 2001” for “during the five-year period beginning on October 1, 1994”.

1994—Subsec. (e). Pub. L. 103-337 added subsec. (e).

1993—Subsecs. (a)(1), (c)(1). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.

1992—Subsec. (b)(1). Pub. L. 102-484, § 4407(a)(1), inserted at end “A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.”

Subsec. (b)(2)(A). Pub. L. 102-484, § 4407(a)(2), substituted “18-month period” for “one-year period”.

Subsec. (b)(4) to (6). Pub. L. 102-484, § 4407(a)(3), added pars. (4) to (6).

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title VII, § 706(c), Dec. 2, 2002, 116 Stat. 2585, provided that: “The amendments made by this section [amending this section] shall take effect as of December 28, 2001, and as if included in the National Defense Authorization Act for Fiscal Year 2002 [Pub. L. 107-107] as enacted.”

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103-337, set out as a note under section 1141 of this title.

APPLICATION OF AMENDMENTS BY PUB. L. 102-484 TO EXISTING CONTRACTS

For provisions relating to the application of the amendments by section 4407 of Pub. L. 102-484 to con-

version health policies provided under subsec. (b) of this section and in effect on Oct. 23, 1992, see section 4407(c) of Pub. L. 102-484, set out as a note under section 1086a of this title.

TRANSITIONAL PROVISION

Section 4408(b) of Pub. L. 102-484 provided that: “The Secretary of Defense shall provide a period for the enrollment for health benefits coverage under this section [enacting section 1078a of this title and provisions set out as notes under this section and section 1086a of this title] by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before the October 1, 1994, implementation date of section 1078a of such title, as added by subsection (a).”

TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES

For provisions prohibiting purchase of, and allowing cancellation of, conversion health policies under subsec. (b) of this section on or after Oct. 1, 1994, see section 4408(c) of Pub. L. 102-484, set out as a note under section 1086a of this title.

TEMPORARY EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS

Pub. L. 108-136, div. A, title VII, § 704, Nov. 24, 2003, 117 Stat. 1527, which provided during the period beginning on Nov. 24, 2003, and ending on Dec. 31, 2004, for the extension of transitional health care benefits to 180 days for members separated from active duty, was repealed by Pub. L. 108-375, div. A, title VII, § 706(a)(2)(A), Oct. 28, 2004, 118 Stat. 1983.

Pub. L. 108-106, title I, § 1117, Nov. 6, 2003, 117 Stat. 1218, which provided during the period beginning on Nov. 6, 2003, and ending on Sept. 30, 2004, for the extension of transitional health care benefits to 180 days for members separated from active duty, was repealed by Pub. L. 108-375, div. A, title VII, § 706(a)(2)(B), Oct. 28, 2004, 118 Stat. 1983.

§ 1146. Commissary and exchange benefits

The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary of Transportation shall implement this provision for Coast Guard members involuntarily separated during the period beginning on October 1, 1994, and ending on December 31, 2001.

(Added Pub. L. 101-510, div. A, title V, § 502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103-160, div. A, title V, § 561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title V, § 542(a)(5), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105-261, div. A, title V, § 561(i), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, § 1 [[div. A], title V, § 571(i)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135.)

AMENDMENTS

2000—Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001” in two places.

1998—Pub. L. 105-261 substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990” and “during the period beginning on October 1, 1994, and ending on September 30, 2001” for “during the five-year period beginning on October 1, 1994”.