

local law or regulation regarding financial solvency, the Secretary of Defense or the administering Secretaries shall require an independent audit of the prime contractor of each contract that is entered into pursuant to this chapter and covered by the preemption. The audit shall be performed by the Defense Contract Audit Agency.

(c) STATE DEFINED.—In this section, the term “State” includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each possession of the United States.

(Added Pub. L. 100-180, div. A, title VII, §725(a)(1), Dec. 4, 1987, 101 Stat. 1116; amended Pub. L. 103-160, div. A, title VII, §715(a), Nov. 30, 1993, 107 Stat. 1690; Pub. L. 109-163, div. A, title X, §1057(a)(2), Jan. 6, 2006, 119 Stat. 3440.)

#### Editorial Notes

##### AMENDMENTS

2006—Subsec. (c). Pub. L. 109-163 struck out “Territory and” before “possession”.

1993—Pub. L. 103-160 amended section generally. Prior to amendment, section read as follows:

“(a) The provisions of any contract under this chapter which relate to the nature and extent of coverage of benefits (including payments with respect to benefits) shall preempt any law of a State or local government, or any regulation issued under such a law, which relates to health insurance or plans to the extent that such law or regulation is inconsistent with such contractual provisions.

“(b) In this section, the term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and each territory and possession of the United States.”

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-160, div. A, title VII, §715(b), Nov. 30, 1993, 107 Stat. 1691, provided that: “Section 1103 of title 10, United States Code, as amended by subsection (a), shall apply with respect to any contract entered into under chapter 55 of such title before, on, or after the date of the enactment of this Act [Nov. 30, 1993].”

##### EFFECTIVE DATE

Pub. L. 100-180, div. A, title VII, §725(b), Dec. 4, 1987, 101 Stat. 1117, provided that: “Section 1103 of such title, as added by subsection (a), shall apply with respect to any contract entered into after October 1, 1987.”

##### APPLICABILITY OF PREEMPTION PROVISIONS TO CERTAIN CONTRACTS

Pub. L. 102-396, title IX, §9032, Oct. 6, 1992, 106 Stat. 1908, as amended by Pub. L. 103-50, ch. III, §301, July 2, 1993, 107 Stat. 250, provided in part “That the preemption provisions of section 1103(a) of title 10, United States Code, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to all contracts entered into pursuant to this general provision, the California and Hawaii recompetition contract, and Solicitation Number MDA 906-92-R-0004 and shall preempt any and all State and local laws and regulations which relate to health insurance or health care plans”.

##### APPLICABILITY TO CONTRACTS ENTERED INTO PURSUANT TO SOLICITATION NUMBER MDA-903-87-R-0047

Pub. L. 100-463, title VIII, §8078(b), Oct. 1, 1988, 102 Stat. 2270-30, provided that preemption provisions of 10

U.S.C. 1103 shall apply to contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt State and local laws or regulations which relate to health insurance or prepaid health care plans. Similar provisions were contained in the following prior appropriation act:

Pub. L. 100-202, §101(b) [title VIII, §8104(b)], Dec. 22, 1987, 101 Stat. 1329-43, 1329-81.

#### § 1104. Sharing of health-care resources with the Department of Veterans Affairs

(a) SHARING OF HEALTH-CARE RESOURCES.—Health-care resources of the Department of Defense shall be shared with health-care resources of the Department of Veterans Affairs in accordance with section 8111 of title 38 or under section 1535 of title 31.

(b) REIMBURSEMENT FROM CHAMPUS FUNDS.—Pursuant to an agreement entered into under section 8111 of title 38 or section 1535 of title 31, the Secretary of a military department may reimburse the Secretary of Veterans Affairs from funds available for that military department for the payment of medical care provided under section 1079 or 1086 of this title.

(c) CHARGES.—The Secretary of Defense may prescribe by regulation a premium, deductible, copayment, or other charge for health care provided to covered beneficiaries under this chapter pursuant to an agreement entered into by the Secretary of a military department under section 8111 of title 38 or section 1535 of title 31.

(d) PROVISION OF SERVICES DURING WAR OR NATIONAL EMERGENCY.—Members of the armed forces on active duty during and immediately following a period of war, or during and immediately following a national emergency involving the use of the armed forces in armed conflict, may be provided health-care services by the Department of Veterans Affairs in accordance with section 8111A of title 38.

(Added Pub. L. 101-189, div. A, title VII, §722(a), Nov. 29, 1989, 103 Stat. 1477; amended Pub. L. 102-484, div. A, title X, §1052(14), Oct. 23, 1992, 106 Stat. 2499; Pub. L. 103-35, title II, §201(c)(1), May 31, 1993, 107 Stat. 98; Pub. L. 107-314, div. A, title VII, §721(b), Dec. 2, 2002, 116 Stat. 2595.)

#### Editorial Notes

##### AMENDMENTS

2002—Subsec. (a). Pub. L. 107-314 substituted “shall” for “may”.

1993—Subsecs. (a) to (c). Pub. L. 103-35, §201(c)(1)(A), substituted “section 8111 of title 38” for “section 8011 of title 38”.

Subsec. (d). Pub. L. 103-35, §201(c)(1)(B), substituted “section 8111A of title 38” for “section 8011A of title 38”.

1992—Subsecs. (a) to (c). Pub. L. 102-484, §1052(14)(A), substituted “section 8011 of title 38” for “section 5011 of title 38”.

Subsec. (d). Pub. L. 102-484, §1052(14)(B), substituted “section 8011A of title 38” for “section 5011A of title 38”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-314 effective Oct. 1, 2003, see section 721(c) of Pub. L. 107-314, set out as a note under section 8111 of Title 38, Veterans' Benefits.

**§ 1104a. Shared medical facilities with Department of Veterans Affairs**

(a) AGREEMENTS.—Secretary of Defense may enter into agreements with the Secretary of Veterans Affairs for the planning, design, and construction, or the leasing, of facilities to be operated as shared medical facilities.

(b) TRANSFER OF FUNDS BY SECRETARY OF DEFENSE.—(1) The Secretary of Defense may transfer to the Secretary of Veterans Affairs amounts as follows:

(A) For the construction of a shared medical facility, amounts not in excess of the amount authorized under subsection (a)(2) of section 2805 of this title, if—

(i) the amount of the share of the Department of Defense for the estimated cost of the project does not exceed the amount authorized under such subsection; and

(ii) the other requirements of such section have been met with respect to funds identified for transfer.

(B) For the planning, design, and construction, or the leasing, of space for a shared medical facility, amounts appropriated for the Defense Health Program.

(2) The authority to transfer funds under this section is in addition to any other authority to transfer funds available to the Secretary of Defense.

(3) Section 2215 of this title does not apply to a transfer of funds under this subsection.

(c) TRANSFER OF FUNDS TO SECRETARY OF DEFENSE.—(1) Any amount transferred to the Secretary of Defense by the Secretary of Veterans Affairs for necessary expenses for the planning, design, and construction, or the leasing, of a shared medical facility, if the amount of the share of the Department of Defense for the cost of such project does not exceed the amount specified in section 2805(a)(2) of this title, may be credited to accounts of the Department of Defense available for the construction of a shared medical facility.

(2) Any amount transferred to the Secretary of Defense by the Secretary of Veterans Affairs for the purpose of the planning and design, or the leasing, of space for a shared medical facility may be credited to accounts of the Department of Defense available for such purposes, and may be used for such purposes.

(3) Using accounts credited with transfers from the Secretary of Veterans Affairs under paragraph (1), the Secretary of Defense may carry out unspecified minor military construction projects, if the share of the Department of Defense for the cost of such project does not exceed the amount specified in section 2805(a)(2) of this title.

(d) MERGER OF AMOUNTS TRANSFERRED.—Any amount transferred to the Secretary of Veterans Affairs under subsection (b) and any amount transferred to the Secretary of Defense under subsection (c) shall be merged with and available for the same purposes and the same period as the appropriation or fund to which transferred.

(e) APPROPRIATION IN ADVANCE.—Amounts may be transferred pursuant to the authority under this section only to the extent and in the

amounts provided in advance in appropriations Acts.

(f) SHARED MEDICAL FACILITY DEFINED.—In this section, the term “shared medical facility”—

(1) means a building or buildings, or a campus, intended to be used by both the Department of Veterans Affairs and the Department of Defense for the provision of health care services, whether under the jurisdiction of the Secretary of Veterans Affairs or the Secretary of Defense, and whether or not located on a military installation or on real property under the jurisdiction of the Secretary of Veterans Affairs; and

(2) includes any necessary building and auxiliary structure, garage, parking facility, mechanical equipment, abutting and covered sidewalks, and accommodations for attending personnel.

(Added Pub. L. 117–81, div. A, title VII, § 714(a)(1), Dec. 27, 2021, 135 Stat. 1785; amended Pub. L. 117–168, title VII, § 706(a), Aug. 10, 2022, 136 Stat. 1800.)

**Editorial Notes**

**AMENDMENTS**

2022—Subsecs. (a), (b)(1)(B), (c)(1). Pub. L. 117–168, § 706(a)(1), inserted “, or the leasing,” after “design, and construction”.

Subsec. (c)(2). Pub. L. 117–168, § 706(a)(2), inserted “, or the leasing,” after “design”.

**§ 1105. Specialized treatment facility program**

(a) PROGRAM AUTHORIZED.—The Secretary of Defense may conduct a specialized treatment facility program pursuant to regulations prescribed by the Secretary of Defense. The Secretary shall consult with the other administering Secretaries in prescribing regulations for the program and in conducting the program.

(b) FACILITIES AUTHORIZED TO BE USED.—Under the specialized treatment facility program, the Secretary may designate health care facilities of the uniformed services and civilian health care facilities as specialized treatment facilities.

(c) WAIVER OF NONEMERGENCY HEALTH CARE RESTRICTION.—Under the specialized treatment facility program, the Secretary may waive, with regard to the provision of a particular service, the 40-mile radius restriction set forth in section 1079(a)(6) of this title if the Secretary determines that the use of a different geographical area restriction will result in a more cost-effective provision of the service.

(d) CIVILIAN FACILITY SERVICE AREA.—For purposes of the specialized treatment facility program, the service area of a civilian health care facility designated pursuant to subsection (b) shall be comparable in size to the service areas of facilities of the uniformed services.

(e) ISSUANCE OF NONAVAILABILITY OF HEALTH CARE STATEMENTS.—A covered beneficiary who resides within the service area of a specialized treatment facility designated under the specialized treatment facility program may be required to obtain a nonavailability of health care statement in the case of a specialized service offered by the facility in order for the covered bene-