

# **CHAPTER 56—DEPARTMENT OF DEFENSE MEDICARE-ELIGIBLE RETIREE HEALTH CARE FUND**

Sec.	
1111.	Establishment and purpose of Fund; definitions; authority to enter into agreements.
1112.	Assets of Fund.
1113.	Payments from the Fund.
1114.	Board of Actuaries.
1115.	Determination of contributions to the Fund.
1116.	Payments into the Fund.
1117.	Investment of assets of Fund.

## **Editorial Notes**

### **AMENDMENTS**

2001—Pub. L. 107-107, div. A, title VII, §711(e)(3), Dec. 28, 2001, 115 Stat. 1167, inserted “; authority to enter into agreements” after “definitions” in item 1111.

## **§ 1111. Establishment and purpose of Fund; definitions; authority to enter into agreements**

(a) There is established on the books of the Treasury a fund to be known as the Department of Defense Medicare-Eligible Retiree Health Care Fund (hereinafter in this chapter referred to as the “Fund”), which shall be administered by the Secretary of the Treasury. The Fund shall be used for the accumulation of funds in order to finance on an actuarially sound basis liabilities of the uniformed services under uniformed services retiree health care programs for medicare-eligible beneficiaries.

(b) In this chapter:

(1) The term “uniformed services retiree health care programs” means the provisions of this title or any other provision of law creating an entitlement to or eligibility for health care for a member or former member of a participating uniformed service who is entitled to retired or retainer pay, and an eligible dependent under such program.

(2) The term “eligible dependent” means a dependent described in section 1076(a)(2) (other than a dependent of a member on active duty), 1076(b), 1086(c)(2), or 1086(c)(3) of this title.

(3) The term “medicare-eligible”, with respect to any person, means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

(4) The term “participating uniformed service” means the Army, Navy, Air Force, Marine Corps, and Space Force, and any other uniformed service that is covered by an agreement entered into under subsection (c).

(5) The term “members of the uniformed services on active duty” does not include a cadet at the United States Military Academy, the United States Air Force Academy, or the Coast Guard Academy or a midshipman at the United States Naval Academy.

(c) The Secretary of Defense shall enter into an agreement with each other administering Secretary (as defined in section 1072(3) of this title) for participation in the Fund by a uniformed service under the jurisdiction of that Secretary. The agreement shall require that Secretary to determine contributions to the Fund on behalf of the members of the uniformed service under the jurisdiction of that Secretary in a manner comparable to the determination

with respect to contributions to the Fund made by the Secretary of Defense under section 1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a).

(Added Pub. L. 106-398, §1 [div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-179; amended Pub. L. 107-107, div. A, title VII, §711(a), (b)(1), (e)(1), (2), title X, §1048(a)(12), Dec. 28, 2001, 115 Stat. 1164-1166, 1223; Pub. L. 107-314, div. A, title VII, §704(b), Dec. 2, 2002, 116 Stat. 2584; Pub. L. 108-375, div. A, title VII, §725(c)(1), Oct. 28, 2004, 118 Stat. 1992; Pub. L. 109-364, div. A, title V, §592(a), Oct. 17, 2006, 120 Stat. 2233; Pub. L. 116-283, div. A, title IX, §924(b)(1)(I), Jan. 1, 2021, 134 Stat. 3820.)

## **Editorial Notes**

### **REFERENCES IN TEXT**

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Part A of title XVIII of the Act is classified generally to part A (§1395c et seq.) of subchapter XVIII of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

### **AMENDMENTS**

2021—Subsec. (b)(4). Pub. L. 116-283 substituted “Marine Corps, and Space Force” for “and Marine Corps”.

2006—Subsec. (a). Pub. L. 109-364, §592(a)(1), substituted “of the uniformed services” for “of the Department of Defense”.

Subsec. (b)(5). Pub. L. 109-364, §592(a)(2), added par. (5).

2004—Subsec. (c). Pub. L. 108-375 substituted “1115(b) of this title, and such contributions shall be paid into the Fund as provided in section 1116(a)” for “1116 of this title, and such administering Secretary may make such contributions”.

2002—Subsec. (c). Pub. L. 107-314 substituted “shall enter into an agreement with each other administering Secretary” for “may enter into an agreement with any other administering Secretary” in first sentence and “The” for “Any such” in second sentence.

2001—Pub. L. 107-107, §711(e)(2), inserted “; authority to enter into agreements” after “definitions” in section catchline.

Subsec. (a). Pub. L. 107-107, §1048(a)(12), substituted “hereinafter” for “hereafter”.

Pub. L. 107-107, §711(e)(1), substituted “uniformed services retiree health care programs” for “Department of Defense retiree health care programs”.

Subsec. (b). Pub. L. 107-107, §711(a), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “In this chapter:

“(1) The term ‘Department of Defense retiree health care programs for medicare-eligible beneficiaries’ means the provisions of this title or any other provision of law creating entitlement to health care for a medicare-eligible member or former member of the uniformed services entitled to retired or retainer pay, or a medicare-eligible dependent of a member or former member of the uniformed services entitled to retired or retainer pay.

“(2) The term ‘medicare-eligible’ means entitled to benefits under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.).

“(3) The term ‘dependent’ means a dependent (as such term is defined in section 1072 of this title) described in section 1076(b)(1) of this title.”

Subsec. (c). Pub. L. 107-107, §711(b)(1), added subsec. (c).

## **Statutory Notes and Related Subsidiaries**

### **EFFECTIVE DATE OF 2006 AMENDMENT**

Pub. L. 109-364, div. A, title V, §592(c), Oct. 17, 2006, 120 Stat. 2234, provided that: “The amendments made

by this section [amending this section and section 1115 of this title] shall take effect with respect to payments under chapter 56 of title 10, United States Code, beginning with fiscal year 2008.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-375, div. A, title VII, §725(d), Oct. 28, 2004, 118 Stat. 1992, provided that: “The amendments made by this section [amending this section and sections 1115 and 1116 of this title] shall take effect on October 1, 2005.”

#### EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-107, div. A, title VII, §711(f), Dec. 28, 2001, 115 Stat. 1167, provided that: “The amendments made by this section [amending this section and sections 1112, 1113, 1115, and 1116 of this title] shall take effect as if included in the enactment of chapter 56 of title 10, United States Code, by section 713(a)(1) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106-398; 114 Stat. 1654A-179).”

#### PAYMENT OF CONTRIBUTIONS FOR THE UNIFORMED SERVICE OF THE PUBLIC HEALTH SERVICE

Pub. L. 108-7, div. F, title II, Feb. 20, 2003, 117 Stat. 261, provided in part: “That notwithstanding any other provision of law, contributions authorized by 10 U.S.C. 1111 for the Uniformed Service of the Public Health Service shall be paid in fiscal year 2003 and thereafter from the Department of Health and Human Services’ Retirement Pay and Medical Benefits for Commissioned Officers account without charges billed to the Indian Health Service”.

### § 1112. Assets of Fund

There shall be deposited into the Fund the following, which shall constitute the assets of the Fund:

- (1) Amounts paid into the Fund under section 1116 of this title.
- (2) Any amount appropriated to the Fund.
- (3) Any return on investment of the assets of the Fund.
- (4) Amounts paid into the Fund pursuant to section 1111(c) of this title.

(Added Pub. L. 106-398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-180; amended Pub. L. 107-107, div. A, title VII, §711(b)(2), Dec. 28, 2001, 115 Stat. 1165.)

#### Editorial Notes

##### AMENDMENTS

2001—Par. (4). Pub. L. 107-107 added par. (4).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-107 effective as if included in the enactment of this chapter by Pub. L. 106-398, see section 711(f) of Pub. L. 107-107, set out as a note under section 1111 of this title.

### § 1113. Payments from the Fund

(a) There shall be paid from the Fund amounts payable for the costs of all uniformed service retiree health care programs for the benefit of members or former members of a participating uniformed service who are entitled to retired or retainer pay and are medicare eligible, and eligible dependents who are medicare eligible.

(b) The assets of the Fund are hereby made available for payments under subsection (a).

(c)(1) In carrying out subsection (a), the Secretary of Defense may transfer periodically from the Fund to applicable appropriations of the Department of Defense, or to applicable appropriations of other departments or agencies, such amounts as the Secretary determines necessary to cover the costs chargeable to those appropriations for uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible. Such transfers may include amounts necessary for the administration of such programs. Amounts so transferred shall be merged with and be available for the same purposes and for the same time period as the appropriation to which transferred. Upon a determination that all or part of the funds transferred from the Fund are not necessary for the purposes for which transferred, such amounts may be transferred back to the Fund. This transfer authority is in addition to any other transfer authority that may be available to the Secretary.

(2) A transfer from the Fund under paragraph (1) may not be made to an appropriation after the end of the second fiscal year after the fiscal year that the appropriation is available for obligation. A transfer back to the Fund under paragraph (1) may not be made after the end of the second fiscal year after the fiscal year for which the appropriation to which the funds were originally transferred is available for obligation.

(d) The Secretary of Defense shall by regulation establish the method or methods for calculating amounts to be transferred under subsection (c). Such method or methods may be based (in whole or in part) on a proportionate share of the volume (measured as the Secretary determines appropriate) of health care services provided or paid for under uniformed service retiree health care programs for beneficiaries under those programs who are medicare-eligible in relation to the total volume of health care services provided or paid for under Department of Defense health care programs.

(e) The regulations prescribed by the Secretary under subsection (d) shall be provided to the Comptroller General not less than 60 days before such regulations become effective. The Comptroller General shall, not later than 30 days after receiving such regulations, report to the Secretary of Defense and Congress on the adequacy and appropriateness of the regulations.

(f) If the Secretary of Defense enters into an agreement with another administering Secretary pursuant to section 1111(c), the Secretary of Defense may take the actions described in subsections (c), (d), and (e) on behalf of the beneficiaries and programs of the other participating uniformed service.

(Added Pub. L. 106-398, §1 [[div. A], title VII, §713(a)(1)], Oct. 30, 2000, 114 Stat. 1654, 1654A-180; amended Pub. L. 107-107, div. A, title VII, §711(c), Dec. 28, 2001, 115 Stat. 1165.)

#### Editorial Notes

##### AMENDMENTS

2001—Subsec. (a). Pub. L. 107-107, §711(c)(1), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “There shall be paid from the Fund