

Editorial Notes**AMENDMENTS**

1992—Subsec. (a)(2). Pub. L. 102-573, § 102(b)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “have demonstrated the capability to successfully complete courses of study in schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions.”

Subsec. (b)(1). Pub. L. 102-573, § 102(b)(2), inserted before period at end “on a full-time basis (or the part-time equivalent thereof, as determined by the Secretary)”.

Subsec. (b)(2). Pub. L. 102-573, § 102(b)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “Pregraduate education of any grantee leading to a baccalaureate degree in an approved premedicine, predentistry, preosteopathy, preveterinary medicine, preoptometry, or prepodiatry curriculum, such scholarship not to exceed four years.”

Subsec. (c). Pub. L. 102-573, § 102(b)(4), struck out “full time” after “while attending school”.

Subsec. (e). Pub. L. 102-573, § 102(b)(5), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

“(1) \$3,000,000 for fiscal year 1989,

“(2) \$3,700,000 for fiscal year 1990,

“(3) \$4,400,000 for fiscal year 1991, and

“(4) \$5,100,000 for fiscal year 1992.”

1988—Subsec. (c). Pub. L. 100-713, § 102(b), inserted “of a grantee while attending school full time” after “expenses”.

Subsecs. (d), (e). Pub. L. 100-713, § 102(a), added subsecs. (d) and (e) and struck out former subsec. (d) which read as follows: “There are authorized to be appropriated for the purpose of this section: \$800,000 for fiscal year 1978, \$1,000,000 for fiscal year 1979, and \$1,300,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section \$3,510,000 for the fiscal year ending September 30, 1981, \$4,000,000 for the fiscal year ending September 30, 1982, \$4,620,000 for the fiscal year ending September 30, 1983, and \$5,300,000 for the fiscal year ending September 30, 1984.”

1980—Subsec. (b). Pub. L. 96-537, § 3(b)(1), substituted provisions specifying in pars. (1) and (2), purposes for which scholarship grants could be made, for provisions that the scholarship grant shall be for a period not to exceed two academic years, which years shall be for compensatory preprofessional education of the grantee.

Subsec. (d). Pub. L. 96-537, § 3(b)(2), substituted provisions authorizing appropriation of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriations of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

§ 1613a. Indian health professions scholarships**(a) General authority**

In order to provide health professionals to Indians, Indian tribes, tribal organizations, and urban Indian organizations, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full or part time in appropriately accredited schools and pursuing courses of study in the health professions. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 2541 of title 42, except as provided in subsection (b) of this section.

(b) Recipients; active duty service obligation

(1) The Secretary, acting through the Service, shall determine who shall receive scholarships

under subsection (a) and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full or part time in a course of study referred to in subsection (a) of this section.

(3)(A) The active duty service obligation under a written contract with the Secretary under section 2541 of title 42 that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—

(i) in the Indian Health Service;

(ii) in a program conducted under a contract entered into under the Indian Self-Determination Act [25 U.S.C. 5321 et seq.];

(iii) in a program assisted under subchapter IV of this chapter;¹

(iv) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians; or²

(B) At the request of any individual who has entered into a contract referred to in subparagraph (A) and who receives a degree in medicine (including osteopathic or allopathic medicine), dentistry, optometry, podiatry, or pharmacy, the Secretary shall defer the active duty service obligation of that individual under that contract, in order that such individual may complete any internship, residency, or other advanced clinical training that is required for the practice of that health profession, for an appropriate period (in years, as determined by the Secretary), subject to the following conditions:

(i) No period of internship, residency, or other advanced clinical training shall be counted as satisfying any period of obligated service that is required under this section.

(ii) The active duty service obligation of that individual shall commence not later than 90 days after the completion of that advanced clinical training (or by a date specified by the Secretary).

(iii) The active duty service obligation will be served in the health profession of that individual, in a manner consistent with clauses (i) through (v) of subparagraph (A).

(C) A recipient of an Indian Health Scholarship may, at the election of the recipient, meet the active duty service obligation described in subparagraph (A) by service in a program specified in that subparagraph that—

(i) is located on the reservation of the tribe in which the recipient is enrolled; or

(ii) serves the tribe in which the recipient is enrolled.

(D) Subject to subparagraph (C), the Secretary, in making assignments of Indian Health Scholarship recipients required to meet the ac-

¹ So in original. Probably should be followed by “or”.

² So in original. The “; or” probably should be a period.

tive duty service obligation described in subparagraph (A), shall give priority to assigning individuals to service in those programs specified in subparagraph (A) that have a need for health professionals to provide health care services as a result of individuals having breached contracts entered into under this section.

(4) In the case of an individual receiving a scholarship under this section who is enrolled part time in an approved course of study—

(A) such scholarship shall be for a period of years not to exceed the part-time equivalent of 4 years, as determined by the Secretary;

(B) the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—

(i) the part-time equivalent of one year for each year for which the individual was provided a scholarship (as determined by the Secretary); or

(ii) two years; and

(C) the amount of the monthly stipend specified in section 254(g)(1)(B) of title 42 shall be reduced pro rata (as determined by the Secretary) based on the number of hours such student is enrolled.

(5)(A) An individual who has, on or after October 29, 1992, entered into a written contract with the Secretary under this section and who—

(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary),

(ii) is dismissed from such educational institution for disciplinary reasons,

(iii) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract before the completion of such training, or

(iv) fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(B) If for any reason not specified in subparagraph (A) an individual breaches his written contract by failing either to begin such individual's service obligation under this section or to complete such service obligation, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula specified in subsection (I) of section 1616a of this title in the manner provided for in such subsection.

(C) Upon the death of an individual who receives an Indian Health Scholarship, any obligation of that individual for service or payment that relates to that scholarship shall be canceled.

(D) The Secretary shall provide for the partial or total waiver or suspension of any obligation of service or payment of a recipient of an Indian Health Scholarship if the Secretary determines that—

(i) it is not possible for the recipient to meet that obligation or make that payment;

(ii) requiring that recipient to meet that obligation or make that payment would result in extreme hardship to the recipient; or

(iii) the enforcement of the requirement to meet the obligation or make the payment would be unconscionable.

(E) Notwithstanding any other provision of law, in any case of extreme hardship or for other good cause shown, the Secretary may waive, in whole or in part, the right of the United States to recover funds made available under this section.

(F) Notwithstanding any other provision of law, with respect to a recipient of an Indian Health Scholarship, no obligation for payment may be released by a discharge in bankruptcy under title 11, unless that discharge is granted after the expiration of the 5-year period beginning on the initial date on which that payment is due, and only if the bankruptcy court finds that the nondischarge of the obligation would be unconscionable.

(c) Placement Office

The Secretary shall, acting through the Service, establish a Placement Office to develop and implement a national policy for the placement, to available vacancies within the Service, of Indian Health Scholarship recipients required to meet the active duty service obligation prescribed under section 254m of title 42 without regard to any competitive personnel system, agency personnel limitation, or Indian preference policy.

(Pub. L. 94-437, title I, §104, as added Pub. L. 100-713, title I, §104(a), Nov. 23, 1988, 102 Stat. 4786; amended Pub. L. 102-573, title I, §§102(c), 103, Oct. 29, 1992, 106 Stat. 4531, 4532; Pub. L. 104-313, §2(b), Oct. 19, 1996, 110 Stat. 3820.)

Editorial Notes

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(3)(A)(ii), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to subchapter I (§5321 et seq.) of chapter 46 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of this title and Tables.

PRIOR PROVISIONS

A prior section 104 of Pub. L. 94-437, title I, Sept. 30, 1976, 90 Stat. 1403, amended former section 234 of Title 42, The Public Health and Welfare.

AMENDMENTS

1996—Subsec. (b)(3)(A). Pub. L. 104-313, §2(b)(1)(A), substituted “The active duty service obligation under a written contract with the Secretary under section 254l of title 42 that an individual has entered into under that section shall, if that individual is a recipient of an Indian Health Scholarship, be met in full-time practice, by service—” for “The active duty service obligation prescribed under section 254m of title 42 shall be met by a recipient of an Indian Health Scholarship by service—” in introductory provisions, struck out “or” at end of cl. (iii), and substituted “; or” for period at end of cl. (iv).

Subsec. (b)(3)(B). Pub. L. 104-313, §2(b)(1)(C), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(3)(C). Pub. L. 104-313, §2(b)(1)(D), substituted “described in subparagraph (A) by service in a

program specified in that subparagraph” for “prescribed under section 254m of title 42 by service in a program specified in subparagraph (A)”.

Pub. L. 104-313, §2(b)(1)(B), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(3)(D). Pub. L. 104-313, §2(b)(1)(E), substituted “Subject to subparagraph (C),” for “Subject to subparagraph (B),” and “described in subparagraph (A)” for “prescribed under section 254m of title 42”.

Pub. L. 104-313, §2(b)(1)(B), redesignated subpar. (C) as (D).

Subsec. (b)(4)(B). Pub. L. 104-313, §2(b)(2)(A), substituted “the period of obligated service described in paragraph (3)(A) shall be equal to the greater of—” for “the period of obligated service specified in section 254(f)(1)(B)(iv) of title 42 shall be equal to the greater of—” in introductory provisions.

Subsec. (b)(4)(C). Pub. L. 104-313, §2(b)(2)(B), made technical amendment to reference in original act which appears in text as reference to section 254(g)(1)(B) of title 42.

Subsec. (b)(5)(C) to (F). Pub. L. 104-313, §2(b)(3), added subpars. (C) to (F).

1992—Subsec. (a). Pub. L. 102-573, §102(c)(1)(C), substituted “accredited schools and pursuing courses of study in the health professions” for “accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, allied health professions, and social work”.

Pub. L. 102-573, §102(c)(1)(A), (B), substituted “Indians, Indian tribes, tribal organizations, and urban Indian organizations” for “Indian communities” and “full or part time” for “full time”.

Subsec. (b)(2). Pub. L. 102-573, §102(c)(2)(A), substituted “full or part time” for “full time” and “course of study” for “health profession school”.

Subsec. (b)(3). Pub. L. 102-573, §102(c)(2)(B), designated existing provisions as subpar. (A), redesignated former subpars. (A) to (D) as cls. (i) to (iv), respectively, and added subpars. (B) and (C).

Subsec. (b)(4). Pub. L. 102-573, §102(c)(2)(C), added par. (4).

Subsec. (b)(5). Pub. L. 102-573, §103, added par. (5).

Subsec. (c). Pub. L. 102-573, §102(c)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “For purposes of this section, the term ‘Indian’ has the same meaning given that term by subsection (c) of section 1603 of this title, including all individuals described in clauses (1) through (4) of that subsection.”

Subsec. (d). Pub. L. 102-573, §102(c)(4), struck out subsec. (d) which authorized appropriations for fiscal years 1989 to 1992.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1992 AMENDMENT

Pub. L. 102-573, title I, §102(d), Oct. 29, 1992, 106 Stat. 4532, provided that: “The amendments made by subsection (c)(1)(C) and subsection (c)(2)(B) [amending this section] shall apply with respect to scholarships granted under section 104 of the Indian Health Care Improvement Act [this section] after the date of the enactment of this Act [Oct. 29, 1992].”

§ 1614. Indian health service extern programs

(a) Employment of scholarship grantees during nonacademic periods

Any individual who receives a scholarship grant pursuant to section 1613a of this title shall be entitled to employment in the Service during any nonacademic period of the year. Periods of employment pursuant to this subsection shall not be counted in determining the fulfillment of the service obligation incurred as a condition of the scholarship grant.

(b) Employment of medical and other students during nonacademic periods

Any individual enrolled in a course of study in the health professions may be employed by the Service during any nonacademic period of the year. Any such employment shall not exceed one hundred and twenty days during any calendar year.

(c) Employment without regard to competitive personnel system or agency personnel limitation; compensation

Any employment pursuant to this section shall be made without regard to any competitive personnel system or agency personnel limitation and to a position which will enable the individual so employed to receive practical experience in the health profession in which he or she is engaged in study. Any individual so employed shall receive payment for his or her services comparable to the salary he or she would receive if he or she were employed in the competitive system. Any individual so employed shall not be counted against any employment ceiling affecting the Service or the Department of Health and Human Services.

(Pub. L. 94-437, title I, §105, Sept. 30, 1976, 90 Stat. 1404; Pub. L. 95-83, title III, §307(n)(2), Aug. 1, 1977, 91 Stat. 393; Pub. L. 96-537, §3(c), Dec. 17, 1980, 94 Stat. 3174; Pub. L. 100-713, title I, §103, Nov. 23, 1988, 102 Stat. 4786; Pub. L. 102-573, title I, §§102(e), 117(b)(2), title IX, §902(2)(B), Oct. 29, 1992, 106 Stat. 4532, 4544, 4591.)

Editorial Notes

AMENDMENTS

1992—Subsec. (a). Pub. L. 102-573, §102(e)(1), substituted “section 1613a of this title” for “section 254r of title 42”.

Subsec. (b). Pub. L. 102-573, §102(e)(2), substituted “course of study in the health professions” for “school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, public health, nursing, or allied health professions”.

Subsec. (c). Pub. L. 102-573, §902(2)(B), substituted “Department of Health and Human Services” for “Department of Health, Education, and Welfare”.

Subsec. (d). Pub. L. 102-573, §117(b)(2), struck out subsec. (d) which authorized appropriations for fiscal years 1989 to 1992.

1988—Subsec. (d). Pub. L. 100-713 amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “There are authorized to be appropriated for the purpose of this section: \$600,000 for fiscal year 1978, \$800,000 for fiscal year 1979, and \$1,000,000 for fiscal year 1980. There are authorized to be appropriated to carry out this section \$990,000 for the fiscal year ending September 30, 1981, \$1,140,000 for the fiscal year ending September 30, 1982, \$1,310,000 for the fiscal year ending September 30, 1983, and \$1,510,000 for the fiscal year ending September 30, 1984.”

1980—Subsec. (d). Pub. L. 96-537 substituted provisions authorizing appropriations of specific amounts for fiscal years ending Sept. 30, 1981, Sept. 30, 1982, Sept. 30, 1983, and Sept. 30, 1984, for provisions authorizing appropriation of such amounts as may be specifically authorized by an act enacted after Sept. 30, 1976.

1977—Subsec. (a). Pub. L. 95-83 substituted reference to “section 294y-1 of title 42” for reference to “section 104” meaning section 104 of Pub. L. 94-437, which added section 234(i)(2) of Title 42, The Public Health and Welfare.