

tion [amending this section and sections 101, 8131 and 8132 of this title].

“(2) REPORT TO CONGRESS.—Not later than 90 days after completing consultations under paragraph (1), the Secretary shall submit to the appropriate committees of Congress a report recommending legislative action that the Secretary considers appropriate to modify the State home program described in such paragraph in light of those consultations.

“(3) MODIFICATIONS.—Not later than 180 days after completing consultations under paragraph (1), the Secretary shall make any modifications to regulations implementing the State home program, for which legislative action is not necessary, as the Secretary considers appropriate in light of those consultations.

“(e) TECHNICAL SUPPORT AND ASSISTANCE.—The Secretary of Veterans Affairs shall provide technical support and assistance to Indian tribes in carrying out the State home program at State homes operated by Indian tribes pursuant to the amendments made by this section.

“(f) DEFINITIONS.—In this section:

“(1) APPROPRIATE COMMITTEES OF CONGRESS.—The term ‘appropriate committees of Congress’ means—

“(A) the Committee on Veterans’ Affairs and the Committee on Indian Affairs of the Senate; and

“(B) the Committee on Veterans’ Affairs and the Subcommittee for Indigenous Peoples of the United States of the Committee on Natural Resources of the House of Representatives.

“(2) INDIAN TRIBE.—The term ‘Indian tribe’ has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304).

“(3) STATE HOME.—The term ‘State home’ has the meaning given that term in section 101(19) of title 38, United States Code.

“(4) STATE HOME PROGRAM.—The term ‘State home program’ means the program of the Department of Veterans Affairs for which payments are made under subchapter V of chapter 17 of title 38, United States Code, and assistance is provided under subchapter III of chapter 81 of such title.”

**WAIVER OF REQUIREMENTS OF DEPARTMENT OF VETERANS AFFAIRS FOR RECEIPT OF PER DIEM PAYMENTS FOR DOMICILIARY CARE AT STATE HOMES AND MODIFICATION OF ELIGIBILITY FOR SUCH PAYMENTS**

Pub. L. 116-315, title III, §3007, Jan. 5, 2021, 134 Stat. 4996, provided that:

“(a) WAIVER OF REQUIREMENTS.—Notwithstanding section 1741 of title 38, United States Code (as amended by subsection (b)), the Secretary of Veterans Affairs shall modify section 51.51(b) of title 38, Code of Federal Regulations (or successor regulations), to provide the Secretary the authority to waive the requirements under such section 51.51(b) for a veteran to be eligible for per diem payments for domiciliary care at a State home if—

“(1) the veteran has met not fewer than four of the requirements set forth in such section; or

“(2) such waiver would be in the best interest of the veteran.

“(b) MODIFICATION OF ELIGIBILITY.—[Amended this section.]

“(c) STATE HOME DEFINED.—In this section, the term ‘State home’ has the meaning given that term in section 101(19) of title 38, United States Code.”

**TREATMENT OF STATE HOMES DURING PUBLIC HEALTH EMERGENCY**

Pub. L. 116-136, div. B, title X, §20005, Mar. 27, 2020, 134 Stat. 586, provided that:

“(a) WAIVER OF OCCUPANCY RATE REQUIREMENTS.—During a public health emergency, occupancy rate requirements for State homes for purposes of receiving per diem payments set forth in section 51.40(c) of title 38, Code of Federal Regulations, or successor regulations, shall not apply.

“(b) WAIVER OF VETERAN PERCENTAGE REQUIREMENTS.—During a public health emergency, the veteran percentage requirements for State homes set forth in section 51.210(d) of title 38, Code of [Federal] Regulations, or successor regulations, and in agreements for grants to construct State homes, shall not apply.

“(c) PROVISION OF MEDICINE, EQUIPMENT, AND SUPPLIES.—

“(1) IN GENERAL.—During a public health emergency, the Secretary of Veterans Affairs may provide to State homes medicines, personal protective equipment, medical supplies, and any other equipment, supplies, and assistance available to the Department of Veterans Affairs.

“(2) PROVISION OF EQUIPMENT.—Personal protective equipment may be provided under paragraph (1) through the All Hazards Emergency Cache of the Department of Veterans Affairs or any other source available to the Department.

“(d) DEFINITIONS.—In this section:

“(1) PERSONAL PROTECTIVE EQUIPMENT.—The term ‘personal protective equipment’ means any protective equipment required to prevent the wearer from contracting COVID-19, including gloves, N-95 respirator masks, gowns, goggles, face shields, or other equipment required for safety.

“(2) PUBLIC HEALTH EMERGENCY.—The term ‘public health emergency’ means an emergency with respect to COVID-19 declared by a Federal, State, or local authority.

“(3) STATE HOME.—The term ‘State home’ has the meaning given that term in section 101(19) of title 38, United States Code.”

[For definition of “public health emergency” as used in section 20005 of Pub. L. 116-136, set out above, see section 20003 of Pub. L. 116-136, set out as a note under section 303 of this title.]

**PAYMENTS TO STATES FOR NURSING HOME CARE**

Pub. L. 88-450, §3(b), Aug. 19, 1964, 78 Stat. 501, provided that: “No payment shall be made to any State home solely by reason of the amendment made by this section [amending this section] on account of nursing home care furnished any veteran except where such care is furnished the veteran by the State home for the first time after the effective date of this section [Jan. 1, 1965].”

**§ 1742. Inspections of such homes; restrictions on beneficiaries**

(a) The Secretary may inspect any State home at such times as the Secretary deems necessary. No payment or grant may be made to any home under this subchapter unless such home is determined by the Secretary to meet such standards as the Secretary shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 1720(b) of this title.

(b) The Secretary may ascertain the number of persons on account of whom payments may be made under this subchapter on account of any State home, but shall have no authority over the management or control of any State home.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146, §642; Pub. L. 94-581, title I, §107(a), title II, §210(a)(16), Oct. 21, 1976, 90 Stat. 2847, 2863; renumbered §1742 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406.)

**Editorial Notes**

**PRIOR PROVISIONS**

Prior section 1742 was renumbered section 3542 of this title.

## AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 642 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “1720(b)” for “620(b)”.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator” wherever appearing.

Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted “Secretary” for “Administrator”.

1976—Subsec. (a). Pub. L. 94-581 substituted “as the Administrator deems necessary” for “as he deems necessary” in existing provisions and inserted provision that no payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

**§ 1743. Applications**

Payments on account of any veteran cared for in a State home shall be made under this subchapter only from the date the Secretary receives a request for determination of such veteran's eligibility; however, if such request is received by the Secretary within ten days after care of such veteran begins, payments shall be made on account of such veteran from the date care began.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1147, §643; Pub. L. 97-251, §7, Sept. 8, 1982, 96 Stat. 716; renumbered §1743 and amended Pub. L. 102-83, §4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

**Editorial Notes**

## PRIOR PROVISIONS

Prior section 1743 was renumbered section 3543 of this title.

## AMENDMENTS

1991—Pub. L. 102-83 renumbered section 643 of this title as this section and substituted “Secretary” for “Administrator” in two places.

1982—Pub. L. 97-251 struck out “of any war” after “Payments on account of any veteran”.

**§ 1744. Hiring and retention of nurses: payments to assist States**

(a) **PAYMENT PROGRAM.**—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.

(b) **ELIGIBLE RECIPIENTS.**—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that fiscal year—

(1) receives per diem payments under this subchapter for that fiscal year; and

(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.

(c) **USE OF FUNDS RECEIVED.**—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

(d) **LIMITATIONS ON AMOUNT OF PAYMENT.**—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other employee incentive program for which the payment is made.

(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

(e) **APPLICATIONS.**—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other employee incentive program described in subsection (c) for which the payment is sought.

(f) **SOURCE OF FUNDS.**—Payments under this section shall be made from funds available for other payments under this subchapter.

(g) **DISBURSEMENT.**—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

(h) **USE OF CERTAIN RECEIPTS.**—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.

(i) **ANNUAL REPORT FROM PAYMENT RECIPIENTS.**—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous fiscal year in accordance with this subsection.

(j) **REGULATIONS.**—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.