

year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.

“SEC. 202. REQUIREMENT FOR IMPROVEMENT IN SERVICES FOR VETERANS.

“A proposed agreement authorized by section 201 that is entered into by the head of a Department of Veterans Affairs medical facility may take effect only if the Under Secretary for Health of the Department of Veterans Affairs finds, and certifies to the Secretary of Veterans Affairs, that implementation of the agreement—

- “(1) will result in the improvement of services to eligible veterans at that facility; and
- “(2) will not result in the denial of, or a delay in providing, access to care for any veteran at that facility.

“SEC. 203. EXPANDED SHARING AGREEMENTS WITH DEPARTMENT OF DEFENSE.

“Under an agreement under section 201, guidelines under section 8111(b) of title 38, United States Code, may be modified to provide that, notwithstanding any other provision of law, any person who is a covered beneficiary under chapter 55 of title 10 and who is furnished care or services by a facility of the Department of Veterans Affairs under an agreement entered into under section 8111 of that title, or who is described in section 1713 [now 1781] of title 38, United States Code, and who is furnished care or services by a facility of the Department of Defense, may be authorized to receive such care or services—

- “(1) without regard to any otherwise applicable requirement for the payment of a copayment or deductible; or
- “(2) subject to a requirement to pay only part of any such otherwise applicable copayment or deductible, as specified in the guidelines.

“[SEC. 204. Repealed. Pub. L. 104-262, title III, § 302(b)(1), Oct. 9, 1996, 110 Stat. 3193.]

“SEC. 205. CONSULTATION WITH VETERANS SERVICE ORGANIZATIONS.

“In carrying out this title, the Secretary of Veterans Affairs shall consult with organizations named in or approved under section 5902 of title 38, United States Code.

“SEC. 206. ANNUAL REPORT.

“(a) IN GENERAL.—For each of fiscal years 1993 through 1996, the Secretary of Defense and the Secretary of Veterans Affairs shall include in the annual report of the Secretaries under section 8111(f) of title 38, United States Code, a description of the Secretaries' implementation of this section.

“(b) ADDITIONAL MATTERS FOR FISCAL YEAR 1996 REPORT.—In the report under subsection (a) for fiscal year 1996, the Secretaries shall include the following:

- “(1) An assessment of the effect of agreements entered into under section 201 on the delivery of health care to eligible veterans.
- “(2) An assessment of the cost savings, if any, associated with provision of services under such agreements to retired members of the Armed Forces, dependents of members or former members of a uniformed service, and beneficiaries under section 1713 [now 1781] of title 38, United States Code.
- “(3) Any plans for administrative action, and any recommendations for legislation, that the Secretaries consider appropriate to include in the report.

“SEC. 207. AUTHORITY TO BILL HEALTH-PLAN CONTRACTS.

“(a) RIGHT TO RECOVER.—In the case of a primary beneficiary (as described in section 201(a)(2)(B)) who has coverage under a health-plan contract, as defined in section 1729(i)(1)(A) of title 38, United States Code, and who is furnished care or services by a Department medical facility pursuant to this title, the United States shall have the right to recover or collect charges

for such care or services from such health-plan contract to the extent that the beneficiary (or the provider of the care or services) would be eligible to receive payment for such care or services from such health-plan contract if the care or services had not been furnished by a department or agency of the United States. Any funds received from such health-plan contract shall be credited to funds that have been allotted to the facility that furnished the care or services.

“(b) ENFORCEMENT.—The right of the United States to recover under such a beneficiary's health-plan contract shall be enforceable in the same manner as that provided by subsections (a)(3), (b), (c)(1), (d), (f), (h), and (i) of section 1729 of title 38, United States Code.”

CONGRESSIONAL FINDINGS

Pub. L. 97-174, § 2(a), May 4, 1982, 96 Stat. 70, provided that: “The Congress makes the following findings:

“(1) There are opportunities for greater sharing of the health-care resources of the Veterans' Administration and the Department of Defense which would, if achieved, be beneficial to both veterans and members of the Armed Forces and could result in reduced costs to the Government by minimizing duplication and underuse of health-care resources.

“(2) Present incentives to encourage such sharing of health-care resources are inadequate.

“(3) Such sharing of health-care resources can be achieved without a detrimental effect on the primary health-care beneficiaries of the Veterans' Administration and the Department of Defense.”

Executive Documents

EXECUTIVE ORDER NO. 13214

Ex. Ord. No. 13214, May 28, 2001, 66 F.R. 29447, which established President's Task Force to Improve Health Care Delivery for Our Nation's Veterans, was revoked by Ex. Ord. No. 13316, § 3(h), Sept. 17, 2003, 68 F.R. 55256, eff. Sept. 30, 2003.

§ 8111A. Furnishing of health-care services to members of the Armed Forces during a war or national emergency

(a)(1) During and immediately following a period of war, or a period of national emergency declared by the President or the Congress that involves the use of the Armed Forces in armed conflict, the Secretary may furnish hospital care, nursing home care, and medical services to members of the Armed Forces on active duty.

(2)(A) During and immediately following a disaster or emergency referred to in subparagraph (B), the Secretary may furnish hospital care and medical services to members of the Armed Forces on active duty responding to or involved in that disaster or emergency.

(B) A disaster or emergency referred to in this subparagraph is any disaster or emergency as follows:

(i) A major disaster or emergency declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(ii) A disaster or emergency in which the National Disaster Medical System established pursuant to section 2812 of the Public Health Service Act (42 U.S.C. 300hh)¹ is activated by the Secretary of Health and Human Services under that section or as otherwise authorized by law.

(3) The Secretary may give a higher priority to the furnishing of care and services under this

¹ See References in Text note below.

section than to the furnishing of care and services to any other group of persons eligible for care and services in medical facilities of the Department with the exception of veterans with service-connected disabilities.

(4) For the purposes of this section, the terms "hospital care", "nursing home care", and "medical services" have the meanings given such terms by sections 1701(5), 101(28), and 1701(6) of this title, respectively, and the term "medical services" includes services under sections 1782 and 1783 of this title.

(b)(1) During a period in which the Secretary is authorized to furnish care and services to members of the Armed Forces under subsection (a) of this section, the Secretary, to the extent authorized by the President and subject to the availability of appropriations or reimbursements under subsection (c) of this section, may enter into contracts with private facilities for the provision during such period by such facilities of hospital care and medical services described in paragraph (2) of this subsection.

(2) Hospital care and medical services referred to in paragraph (1) of this subsection are—

(A) hospital care and medical services authorized under this title for a veteran and necessary for the care or treatment of a condition for which the veteran is receiving medical services at a Department facility under subsection (a) of section 1710 of this title, in a case in which the delay involved in furnishing such care or services at such Department facility or at any other Department facility reasonably accessible to the veteran would, in the judgment of the Under Secretary for Health, be likely to result in a deterioration of such condition; and

(B) hospital care for a veteran who—

(i) is receiving hospital care under section 1710 of this title; or

(ii) is eligible for hospital care under such section and requires such care in a medical emergency that poses a serious threat to the life or health of the veteran;

if Department facilities are not capable of furnishing or continuing to furnish the care required because of the furnishing of care and services to members of the Armed Forces under subsection (a) of this section.

(c)(1) The cost of any care or services provided by the Department under subsection (a) of this section shall be reimbursed to the Department by the Department of Defense at such rates as may be agreed upon by the Secretary and the Secretary of Defense based on the cost of the care or services provided.

(2) Amounts received under this subsection shall be credited to funds allotted to the Department facility that provided the care or services.

(d)(1) The Secretary of Veterans Affairs and the Secretary of Defense shall jointly review plans for the implementation of this section not less often than annually.

(2) Whenever a modification to such plans is agreed to, the Secretaries shall jointly submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on such modification. Any such report shall be submitted within 30 days after the modification is agreed to.

(e) The Secretary shall prescribe regulations to govern any exercise of the authority of the Secretary under subsections (a) and (b) of this section and of the Under Secretary for Health under subsection (b)(2)(A) of this section.

(Added Pub. L. 97-174, §4(a), May 4, 1982, 96 Stat. 74, §5011A; renumbered §8111A, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; amended Pub. L. 102-54, §14(f)(4), June 13, 1991, 105 Stat. 287; Pub. L. 102-83, §§4(a)(3), (4), (b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 104-262, title I, §101(e)(5), Oct. 9, 1996, 110 Stat. 3181; Pub. L. 106-419, title IV, §403(b), Nov. 1, 2000, 114 Stat. 1864; Pub. L. 107-135, title II, §208(e)(7), Jan. 23, 2002, 115 Stat. 2464; Pub. L. 107-287, §4(b), Nov. 7, 2002, 116 Stat. 2029; Pub. L. 109-444, §8(a)(8), Dec. 21, 2006, 120 Stat. 3313; Pub. L. 109-461, title X, §§1004(a)(8), 1006(b), Dec. 22, 2006, 120 Stat. 3466, 3468; Pub. L. 111-275, title X, §1001(p)(1), Oct. 13, 2010, 124 Stat. 2897.)

Editorial Notes

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (a)(2)(B)(i), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

Section 2812 of the Public Health Service Act, referred to in subsec. (a)(2)(B)(ii), is classified to section 300hh-11 of Title 42, The Public Health and Welfare.

AMENDMENTS

2010—Subsec. (a)(2)(B)(ii). Pub. L. 111-275 substituted "section 2812 of the Public Health Service Act (42 U.S.C. 300hh)" for "section 2811(b) of the Public Health Service Act (42 U.S.C. 300hh-11(b))" and struck out "paragraph (3)(A) of" before "that section".

2006—Subsec. (a)(2)(B)(i). Pub. L. 109-461, §1006(b), provided that as of the enactment of Pub. L. 109-461, the amendments made by Pub. L. 109-444 were deemed for all purposes not to have taken effect and that Pub. L. 109-444 ceased to be in effect. See Amendment notes below and section 1006(b) of Pub. L. 109-461, set out as a Coordination of Provisions With Pub. L. 109-444 note under section 101 of this title.

Pub. L. 109-461, §1004(a)(8), substituted "Robert T." for "Robert B.".

Pub. L. 109-444, which substituted "Robert T." for "Robert B.", was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

2002—Subsec. (a). Pub. L. 107-287 redesignated second sentence of par. (1) as par. (3), added par. (2), and redesignated former par. (2) as (4).

Subsec. (a)(2). Pub. L. 107-135 inserted "and the term 'medical services' includes services under sections 1782 and 1783 of this title" before period at end.

2000—Subsec. (f). Pub. L. 106-419 struck out subsec. (f) which read as follows: "Within thirty days after a declaration of a period of war or national emergency described in subsection (a) of this section (or as soon after the end of such thirty-day period as is reasonably practicable), the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the Secretary's allocation of facilities and personnel in order to provide priority hospital care, nursing home care, and medical services under this section to members of the Armed Forces. Thereafter, with respect to any fiscal year in which the authority in subsection (b) of this section to enter into contracts with private facilities has been used, the Sec-

retary shall report within ninety days after the end of such fiscal year to those committees regarding the extent of, and the circumstances under which, such authority was used."

1996—Subsec. (b)(2)(A). Pub. L. 104-262 substituted "subsection (a) of section 1710" for "subsection (f) of section 1712".

1992—Subsecs. (b)(2)(A), (e). Pub. L. 102-405 substituted "Under Secretary for Health" for "Chief Medical Director".

1991—Pub. L. 102-40 renumbered section 5011A of this title as this section.

Subsec. (a). Pub. L. 102-83, § 5(c)(1), substituted "1701(5)" for "601(5)" and "1701(6)" for "601(6)" in par. (2).

Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in par. (1).

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" in par. (1).

Subsec. (b). Pub. L. 102-83, § 5(c)(1), substituted "1712" for "612" in par. (2)(A) and "1710" for "610" in par. (2)(B)(i).

Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in par. (1).

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" wherever appearing in par. (2).

Pub. L. 102-54, § 14(f)(4)(A), amended subsec. (b)(2)(A) as in effect immediately before the enactment of Pub. L. 102-40 by striking out "or (g)" after "subsection (f)".

Subsec. (c). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in par. (1).

Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration" wherever appearing.

Subsec. (d). Pub. L. 102-54, § 14(f)(4)(B), amended section as in effect immediately before the enactment of Pub. L. 102-40 by adding subsec. (d) and striking out former subsec. (d) which read as follows:

"(1) Not later than six months after the date of the enactment of this section, the Administrator and the Secretary of Defense shall enter into an agreement to plan and establish procedures and guidelines for the implementation of this section. Not later than one year after the date of the enactment of this section, the Administrator and the Secretary shall complete plans for such implementation and shall submit such plans to the Committees on Veterans' Affairs and on Armed Services of the Senate and House of Representatives.

"(2) The Administrator and the Secretary of Defense shall jointly review such plans not less often than annually thereafter and shall report to such committees any modification in such plans within thirty days after the modification is agreed to."

Subsecs. (e), (f). Pub. L. 102-83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" and "Secretary's" for "Administrator's" wherever appearing.

Statutory Notes and Related Subsidiaries

TRANSFER OF FUNCTIONS

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System, including the functions of the Secretary of Homeland Security and the Under Secretary for Emergency Preparedness and Response relating thereto, to the Secretary of Health and Human Services, see title III of Pub. L. 109-295, set out in part as a note under section 300hh-11 of Title 42, The Public Health and Welfare, and section 301(b) of Pub. L. 109-417, set out as a note under section 300hh-11 of Title 42.

For transfer of functions, personnel, assets, and liabilities of the National Disaster Medical System of the Department of Health and Human Services, including the functions of the Secretary of Health and Human Services and the Assistant Secretary for Public Health Emergency Preparedness [now Assistant Secretary for Preparedness and Response] relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see former section 313(5) and sec-

tions 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

CONGRESSIONAL FINDINGS

Pub. L. 97-174, § 2(b), May 4, 1982, 96 Stat. 70, provided that: "The Congress makes the following further findings:

"(1) During and immediately after a period of war or national emergency involving the use of the Armed Forces of the United States in armed conflict, the Department of Defense might not have adequate health-care resources to care for military personnel wounded in combat and other active-duty military personnel.

"(2) The Veterans' Administration has an extensive, comprehensive health-care system that could be used to assist the Department of Defense in caring for such personnel in such a situation."

Executive Documents

EXECUTIVE ORDER NO. 12751

Ex. Ord. No. 12751, Feb. 14, 1991, 56 F.R. 6787, which related to health care services for Operation Desert Storm, was revoked by Ex. Ord. No. 13350, July 29, 2004, 69 F.R. 46055, listed in a table under section 1701 of Title 50, War and National Defense.

§ 8111B. Shared medical facilities with Department of Defense

(a) AGREEMENTS.—The Secretary of Veterans Affairs may enter into agreements with the Secretary of Defense 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 VETERANS AFFAIRS.—(1) The Secretary of Veterans Affairs may transfer to the Department of Defense amounts appropriated to the Department of Veterans Affairs for "Construction, minor projects" for use for the planning, design, or construction of a shared medical facility if the estimated share of the project costs of the Department of Veterans Affairs does not exceed the amount specified in section 8104(a)(3)(A) of this title.

(2) The Secretary of Veterans Affairs may transfer to the Department of Defense amounts appropriated to the Department of Veterans Affairs for "Construction, major projects" for use for the planning, design, or construction of a shared medical facility if—

(A) the estimated share of the project costs of the Department of Veterans Affairs exceeds the amount specified in section 8104(a)(3)(A) of this title; and

(B) the other requirements of section 8104 of this title have been met with respect to amounts identified for transfer.

(3) The Secretary of Veterans Affairs may transfer to the Department of Defense amounts appropriated to the "Medical Facilities" account of the Department of Veterans Affairs for the purpose of leasing space for a shared medical facility if the estimated share of the Department of Veterans Affairs for the lease costs does not exceed the amount specified in section 8104(a)(3)(B) of this title.

(c) TRANSFER OF FUNDS TO SECRETARY OF VETERANS AFFAIRS.—(1) Any amount transferred to the Secretary of Veterans Affairs by the Sec-