

by this Act [amending this section and enacting provisions set out as notes under sections 1712, 1720B, and 3729 of this title and under section 6302 of Title 5, Government Organization and Employees] shall take effect as of October 1, 1989.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-576 effective July 1, 1987, see section 224(e) of Pub. L. 99-576, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as a note under section 8131 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as a note under section 1701 of this title.

§ 8134. General regulations

(a)(1) The Secretary shall prescribe regulations for the purposes of this subchapter.

(2) In those regulations, the Secretary shall prescribe for each State the number of nursing home and domiciliary beds for which assistance under this subchapter may be furnished. Such regulations shall be based on projected demand for such care 10 years after the date of the enactment of the Veterans Millennium Health Care and Benefits Act by veterans who at such time are 65 years of age or older and who reside in that State. In determining such projected demand, the Secretary shall take into account travel distances for veterans and their families.

(3)(A) In those regulations, the Secretary shall establish criteria under which the Secretary shall determine, with respect to an application for assistance under this subchapter for a project described in subparagraph (B) which is from a State that has a need for additional beds as determined under subsections (a)(2) and (d)(1), whether the need for such beds is most aptly characterized as great, significant, or limited. Such criteria shall take into account the availability of beds already operated by the Secretary and other providers which appropriately serve the needs which the State proposes to meet with its application.

(B) This paragraph applies to a project for the construction or acquisition of a new State home facility, a project to increase the number of beds available at a State home facility, and a project to replace beds at a State home facility.

(4) The Secretary shall review and, as necessary, revise regulations prescribed under paragraphs (2) and (3) not less often than every four years.

(b) The Secretary shall prescribe the following by regulation:

(1) General standards of construction, repair, and equipment for facilities constructed or acquired with assistance received under this subchapter.

(2) General standards for the furnishing of care in facilities which are constructed or ac-

quired with assistance received under this subchapter, which standards shall be no less stringent than those standards prescribed by the Secretary pursuant to section 1720(b) of this title.

(c) The Secretary may inspect any State facility constructed or acquired with assistance received under this subchapter at such times as the Secretary deems necessary to insure that such facility meets the standards prescribed under subsection (b)(2).

(d)(1) In prescribing regulations to carry out this subchapter, the Secretary shall provide that in the case of a State that seeks assistance under this subchapter for a project described in subsection (a)(3)(B), the determination of the unmet need for beds for State homes in that State shall be reduced by the number of beds in all previous applications submitted by that State under this subchapter, including beds which have not been recognized by the Secretary under section 1741 of this title.

(2)(A) Financial assistance under this subchapter for a renovation project may only be provided for a project for which the total cost of construction is in excess of \$400,000 (as adjusted from time-to-time in such regulations to reflect changes in costs of construction).

(B) For purposes of this paragraph, a renovation project is a project to remodel or alter existing buildings for which financial assistance under this subchapter may be provided and does not include maintenance and repair work which is the responsibility of the State.

(Added Pub. L. 88-450, §4(a), Aug. 19, 1964, 78 Stat. 502, §5034; amended Pub. L. 89-311, §7(b), Oct. 31, 1965, 79 Stat. 1157; Pub. L. 93-82, title IV, §403(d), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94-581, title I, §107(b), title II, §206(b), Oct. 21, 1976, 90 Stat. 2847, 2859; Pub. L. 95-62, §3(5), (6), July 5, 1977, 91 Stat. 262; Pub. L. 96-330, title IV, §404, Aug. 26, 1980, 94 Stat. 1052; Pub. L. 98-528, title I, §105(2), Oct. 19, 1984, 98 Stat. 2689; renumbered §8134, Pub. L. 102-40, title IV, §402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, §14(f)(6), June 13, 1991, 105 Stat. 288; Pub. L. 102-83, §§4(b)(1), (2)(E), 5(c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 106-117, title II, §207(a), Nov. 30, 1999, 113 Stat. 1564.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Veterans Millennium Health Care and Benefits Act, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 106-117, which was approved Nov. 30, 1999.

AMENDMENTS

1999—Subsecs. (a), (b). Pub. L. 106-117, §207(a)(1)–(3), added subsec. (a), redesignated former subsec. (a) as (b) and struck out introductory provisions and par. (1) which authorized Secretary to prescribe number of beds needed for adequate nursing home care of veterans, and redesignated former pars. (2) and (3) of subsec. (a) as pars. (1) and (2), respectively, of subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106-117, §207(a)(1), (4), redesignated subsec. (b) as (c) and substituted “subsection (b)(2)” for “subsection (a)(3)”.

Subsec. (d). Pub. L. 106-117, §207(a)(5), added subsec. (d).

1991—Pub. L. 102-40 renumbered section 5034 of this title as this section.

Pub. L. 102-83, §5(c)(1), substituted “1720(b)” for “620(b)” in subsec. (a)(3).

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

Pub. L. 102-54 amended section as in effect immediately before the enactment of Pub. L. 102-40 by inserting “(a)” before “Within six months”, substituting “any amendment to this section” for “this section or any amendment to it”, designating sentence at end of par. (3) as subsec. (b), realigning such sentence, and substituting “the standards prescribed under subsection (a)(3)” for “such standards” at end of such sentence.

1984—Pars. (2), (3). Pub. L. 98-528 inserted “or acquired” after “constructed” wherever appearing.

1980—Par. (1). Pub. L. 96-330 struck out “, which number shall not exceed two and one-half beds per thousand veteran population in the case of any State” after “residing in each State”.

1977—Par. (2). Pub. L. 95-62, §3(5), substituted “repair, and equipment for facilities constructed” for “repairs, modernization, alteration, and equipment for facilities for furnishing nursing home care which are constructed”.

Par. (3). Pub. L. 95-62, §3(6), substituted “furnishing of care” for “furnishing of nursing home care”.

1976—Pub. L. 94-581 substituted “date of enactment of this section or any amendment to it with respect to such amendment” for “date of enactment of this subchapter” in provisions preceding par. (1), substituted “veterans” and “veteran” for “war veterans” and “war veteran”, respectively, in par. (1), and added par. (3).

1973—Par. (1). Pub. L. 93-82 substituted “two and one-half beds” for “one and one-half beds”.

1965—Par. (1). Pub. L. 89-311 substituted “one and one-half beds” for “one-half bed”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-62 effective Oct. 1, 1977, with provision for the continuing force and effect of the terms and conditions of grants made prior to Oct. 1, 1977, under former section 644 of this title and with additional provision for the modification of the terms and conditions of both grants made under former section 644 of this title prior to Oct. 1, 1977, and of grants made under this subchapter prior to Oct. 1, 1977, see section 5 of Pub. L. 95-62, set out as a note under section 8131 of this title.

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.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as a note under section 1701 of this title.

REGULATIONS

Pub. L. 106-117, title II, §207(d), Nov. 30, 1999, 113 Stat. 1567, provided that: “The Secretary [of Veterans Affairs] shall prescribe the initial regulations under subsection (a) of section 8134 of title 38, United States Code, as added by subsection (a), not later than April 30, 2000.”

TRANSITION PROVISIONS

Provisions of this section in effect on Nov. 10, 1999, to continue in effect after that date with respect to certain applications described in section 8135(b)(2)(A) of this title that are identified in section 207(c)(2) of Pub. L. 106-117, see section 207(c) of Pub. L. 106-117, set out as a note under section 8135 of this title.

§ 8135. Applications with respect to projects; payments

(a) Any State desiring to receive assistance for a project for construction of State home facilities (or acquisition of a facility to be used as a State home facility) must submit to the Secretary an application. Such application shall set forth the following:

(1) The amount of the grant requested with respect to such project which may not exceed 65 percent of the estimated cost of construction (or of the estimated cost of facility acquisition and construction) of such project.

(2) A description of the site for such project.

(3) Plans and specifications for such project in accordance with regulations prescribed by the Secretary pursuant to section 8134(a)(2) of this title.

(4) Reasonable assurance that upon completion of such project the facilities will be used principally to furnish to veterans the level of care for which such application is made and that not more than 25 percent of the bed occupancy at any one time will consist of patients who are not receiving such level of care as veterans.

(5) Reasonable assurance that title to such site is or will be vested solely in the applicant, a State home, or another agency or instrumentality of the State.

(6) Reasonable assurance that adequate financial support will be available for the construction of the project (or for facility acquisition and construction of the project) by July 1 of the fiscal year for which the application is approved and for its maintenance and operation when complete.

(7) Reasonable assurance that the State will make such reports in such form and containing such information as the Secretary may from time to time reasonably require, and give the Secretary, upon demand, access to the records upon which such information is based.

(8) Reasonable assurance that the rates of pay for laborers and mechanics engaged in construction of the project will be not less than the prevailing local wage rates for similar work as determined in accordance with sections 3141-3144, 3146, and 3147 of title 40.

(9) In the case of a project for acquisition of a facility, reasonable assurance that the estimated total cost of acquisition of the facility and of any expansion, remodeling, and alteration of the acquired facility will not be greater than the estimated cost of construction of an equivalent new facility.

(b)(1) Any State seeking to receive assistance under this subchapter for a project that would involve construction or acquisition of either nursing home or domiciliary facilities shall include with its application under subsection (a) the following:

(A) Documentation (i) that the site for the project is in reasonable proximity to a sufficient concentration and population of veterans who are 65 years of age and older, and (ii) that there is a reasonable basis to conclude that the facilities when complete will be fully occupied.