

(2)(A) Except as provided in the agreement itself, in subparagraph (B), and unless otherwise provided in this section or regulations prescribed pursuant to this section, an eligible entity or provider that enters into an agreement under this section is not subject to, in the carrying out of the agreement, any law to which providers of services and suppliers under the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) are not subject.

(B) An eligible entity or provider that enters into an agreement under this section is subject to—

(i) all laws regarding integrity, ethics, or fraud, or that subject a person to civil or criminal penalties; and

(ii) all laws that protect against employment discrimination or that otherwise ensure equal employment opportunities.

(3) Notwithstanding paragraph (2)(B)(i), an eligible entity or provider that enters into an agreement under this section shall not be treated as a Federal contractor or subcontractor for purposes of chapter 67 of title 41 (commonly known as the “McNamara-O’Hara Service Contract Act of 1965”).

(j) **PARITY OF TREATMENT.**—Eligibility for hospital care, medical services, and extended care services furnished to any covered individual pursuant to a Veterans Care Agreement shall be subject to the same terms as though provided in a facility of the Department, and provisions of this chapter applicable to covered individuals receiving such care and services in a facility of the Department shall apply to covered individuals treated under this section.

(k) **RULEMAKING.**—The Secretary shall promulgate regulations to carry out this section.

(l) **COVERED INDIVIDUAL DEFINED.**—In this section, the term “covered individual” means any individual eligible for hospital care, medical services, or extended care services under this title or any other law administered by the Secretary.

(Added Pub. L. 115–182, title I, §102(a), June 6, 2018, 132 Stat. 1404; amended Pub. L. 115–251, title II, §§203, 211(a)(2), Sept. 29, 2018, 132 Stat. 3172, 3174.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(2) and (i)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, 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

2018—Subsec. (a)(1)(A). Pub. L. 115–251, §203(b)(1)(A), substituted “covered individual” for “veteran” wherever appearing.

Subsec. (a)(1)(C). Pub. L. 115–251, §203(b)(1)(B), substituted “covered individual” for “veteran” and “covered individual’s” for “veteran’s”.

Subsec. (e)(2)(B). Pub. L. 115–251, §203(b)(2), substituted “covered individual” for “veteran” in two places.

Subsec. (f)(2)(C). Pub. L. 115–251, §203(b)(3)(A), substituted “covered individuals” for “veterans”.

Subsec. (f)(2)(D). Pub. L. 115–251, §203(b)(3)(B), substituted “covered individual” for “veteran”.

Subsec. (g). Pub. L. 115–251, §203(b)(4), substituted “to covered individuals” for “to veterans”.

Subsec. (h)(4). Pub. L. 115–251, §211(a)(2), struck out “, United States Code” after “of title 41”.

Subsec. (j). Pub. L. 115–251, §203(b)(5), substituted “any covered individual” for “any veteran” and substituted “to covered individuals” for “to veterans” in two places.

Subsec. (l). Pub. L. 115–251, §203(a), added subsec. (l).

Statutory Notes and Related Subsidiaries

APPLICABILITY OF DIRECTIVE OF OFFICE OF FEDERAL CONTRACT COMPLIANCE PROGRAMS

Pub. L. 115–182, title I, §107, June 6, 2018, 132 Stat. 1416, provided that:

“(a) **IN GENERAL.**—Notwithstanding the treatment of certain laws under subsection (i) of section 1703A of title 38, United States Code, as added by section 102 of this title, Directive 2014–01 of the Office of Federal Contract Compliance Programs of the Department of Labor (effective as of May 7, 2014) shall apply to any entity entering into an agreement under such section 1703A or section 1745 of such title, as amended by section 103, in the same manner as such directive applies to subcontractors under the TRICARE program for the duration of the moratorium provided under such directive.

“(b) **APPLICABILITY PERIOD.**—The directive described in subsection (a), and the moratorium provided under such directive, shall not be altered or rescinded before May 7, 2019.

“(c) **TRICARE PROGRAM DEFINED.**—In this section, the term ‘TRICARE program’ has the meaning given that term in section 1072 of title 10, United States Code.”

§ 1703B. Access standards

(a)(1) The Secretary shall establish access standards for furnishing hospital care, medical services, or extended care services to covered veterans for the purposes of section 1703(d).

(2) The Secretary shall ensure that the access standards established under paragraph (1) define such categories of care to cover all care and services within the medical benefits package of the Department of Veterans Affairs.

(b) The Secretary shall ensure that the access standards provide covered veterans, employees of the Department, and health care providers in the network established under section 1703(h) with relevant comparative information that is clear, useful, and timely, so that covered veterans can make informed decisions regarding their health care.

(c) The Secretary shall consult with all pertinent Federal entities (including the Department of Defense, the Department of Health and Human Services, and the Centers for Medicare & Medicaid Services), entities in the private sector, and other nongovernmental entities in establishing access standards.

(d)(1) Not later than 270 days after the date of the enactment of the Caring for Our Veterans Act of 2018, the Secretary shall submit to the appropriate committees of Congress a report detailing the access standards.

(2)(A) Before submitting the report required under paragraph (1), the Secretary shall provide periodic updates to the appropriate committees of Congress to confirm the Department’s progress towards developing the access standards required by this section.

(B) The first update under subparagraph (A) shall occur no later than 120 days from the date of the enactment of the Caring for Our Veterans Act of 2018.

(3) Not later than 540 days after the date on which the Secretary implements the access standards established under subsection (a), the Secretary shall submit to the appropriate committees of Congress a report detailing the implementation of and compliance with such access standards by Department and non-Department entities or providers.

(e) Not later than 3 years after the date on which the Secretary establishes access standards under subsection (a) and not less frequently than once every 3 years thereafter, the Secretary shall—

(1) conduct a review of such standards; and

(2) submit to the appropriate committees of Congress a report on the findings and any modification to the access standards with respect to the review conducted under paragraph (1).

(f)(1) Subject to paragraph (3), the Secretary shall meet the access standards established under subsection (a) when furnishing hospital care, medical services, or extended care services to a covered veteran under section 1703 of this title and shall ensure that meeting such access standards is reflected in the contractual requirements of Third Party Administrators.

(2) The Secretary shall ensure that health care providers specified under section 1703(c) of this title are able to comply with the access standards established under subsection (a) for such providers.

(3)(A) A Third Party Administrator may request a waiver to the requirement under this subsection to meet the access standards established under subsection (a) if—

(i)(I) the scarcity of available providers or facilities in the region precludes the Third Party Administrator from meeting those access standards; or

(II) the landscape of providers or facilities has changed, and certain providers or facilities are not available such that the Third Party Administrator is not able to meet those access standards; and

(ii) to address the scarcity of available providers or the change in the provider or facility landscape, as the case may be, the Third Party Administrator has contracted with other providers or facilities that may not meet those access standards but are the currently available providers or facilities most accessible to veterans within the region of responsibility of the Third Party Administrator.

(B) Any waiver requested by a Third Party Administrator under subparagraph (A) must be requested in writing and submitted to the Office of Integrated Veteran Care of the Department for approval by that office.

(C) As part of any waiver request under subparagraph (A), a Third Party Administrator must include conclusive evidence and documentation that the access standards established under subsection (a) cannot be met because of scarcity of available providers or changes to the landscape of providers or facilities.

(D) In evaluating a waiver request under subparagraph (A), the Secretary shall consider the following:

(i) The number and geographic distribution of eligible health care providers available within the geographic area and specialty referenced in the waiver request.

(ii) The prevailing market conditions within the geographic area and specialty referenced in the waiver request, which shall include the number and distribution of health care providers contracting with other health care plans (including commercial plans and the Medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)) operating in the geographic area and specialty referenced in the waiver request.

(iii) Whether the service area is comprised of highly rural, rural, or urban areas or some combination of such areas.

(iv) How significantly the waiver request differs from the access standards established under subsection (a).

(v) The rates offered to providers in the geographic area covered by the waiver.

(E) The Secretary shall not consider inability to contract as a valid sole rationale for granting a waiver under subparagraph (A).

(g)(1) The Secretary shall publish in the Federal Register and on a publicly available internet website of the Department the designated access standards established under this section for purposes of section 1703(d)(1)(D) of this title.

(2) The Secretary shall publish on a publicly available internet website of the Department the access standards established under subsection (a).

(h)(1) Consistent with paragraphs (1)(D) and (3) of section 1703(d), covered veterans may contact the Department at any time to request a determination regarding whether they are eligible to receive care and services from a non-Department entity or provider based on the Department being unable to furnish such care and services in a manner that complies with the designated access standards established under this section.

(2) The Secretary shall establish a process to review such requests from covered veterans to determine whether—

(A) the requested care is clinically necessary; and

(B) the Department is able to provide such care in a manner that complies with designated access standards established under this section.

(3) The Secretary shall promptly respond to any such request by a covered veteran.

(i) In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Committee on Veterans' Affairs and the Committee on Appropriations of the Senate; and

(B) the Committee on Veterans' Affairs and the Committee on Appropriations of the House of Representatives.

(2) The term “covered veterans” means veterans described in section 1703(b) of this title.

(3) The term “inability to contract”, with respect to a Third Party Administrator, means

the inability of the Third Party Administrator to successfully negotiate and establish a community care network contract with a provider or facility.

(4) The term “Third Party Administrator” means an entity that manages a provider network and performs administrative services related to such network within the Veterans Community Care Program under section 1703 of this title.

(Added Pub. L. 115-182, title I, §104(a), June 6, 2018, 132 Stat. 1409; amended Pub. L. 115-251, title II, §211(a)(3), Sept. 29, 2018, 132 Stat. 3174; Pub. L. 117-328, div. U, title I, §125(a), Dec. 29, 2022, 136 Stat. 5416.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of the Caring for Our Veterans Act of 2018, referred to in subsec. (d)(1), (2)(B), is the date of enactment of Pub. L. 115-182, which was approved June 6, 2018.

The Social Security Act, referred to in subsec. (f)(3)(D)(ii), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) 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

2022—Subsecs. (f), (g), Pub. L. 117-328, §125(a)(1), added subsecs. (f) and (g) and struck out former subsecs. (f) and (g) which read as follows:

“(f) The Secretary shall ensure health care providers specified under section 1703(c) are able to comply with the applicable access standards established by the Secretary.

“(g) The Secretary shall publish in the Federal Register and on an internet website of the Department the designated access standards established under this section for purposes of section 1703(d)(1)(D).”

Subsec. (i)(3), (4), Pub. L. 117-328, §125(a)(2), added pars. (3) and (4)

2018—Subsec. (i), Pub. L. 115-251 inserted introductory provisions, substituted “means” for “refers to” in par. (2), and realigned margins.

Statutory Notes and Related Subsidiaries

PUBLICATION OF CLARIFYING INFORMATION FOR NON-DEPARTMENT OF VETERANS AFFAIRS PROVIDERS

Pub. L. 117-328, div. U, title I, §143, Dec. 29, 2022, 136 Stat. 5424, provided that:

“(a) IN GENERAL.—The Secretary of Veterans Affairs shall publish on one or more publicly available internet websites of the Department of Veterans Affairs, including the main internet website regarding emergency care authorization for non-Department providers, the following information:

“(1) A summary table or similar resource that provides a list of all authorities of the Department to authorize emergency care from non-Department providers and, for each such authority, the corresponding deadline for submission of claims.

“(2) An illustrated summary of steps, such as a process map, with a checklist for the submission of clean claims that non-Department providers can follow to assure compliance with the claims-filing process of the Department.

“(3) Contact information for the appropriate office or service line of the Department to address process questions from non-Department providers.

“(b) PERIODIC REVIEW.—Not less frequently than once every 180 days, the Secretary shall review the informa-

tion published under subsection (a) to ensure that such information is current.

“(c) CLEAN CLAIMS DEFINED.—In this section, the term ‘clean claims’ means clean electronic claims and clean paper claims (as those terms are defined in section 1703D(i) of title 38, United States Code).”

§ 1703C. Standards for quality

(a) IN GENERAL.—(1) The Secretary shall establish standards for quality regarding hospital care, medical services, and extended care services furnished by the Department pursuant to this title, including through non-Department health care providers pursuant to section 1703 of this title.

(2) In establishing standards for quality under paragraph (1), the Secretary shall consider existing health quality measures that are applied to public and privately sponsored health care systems with the purpose of providing covered veterans relevant comparative information to make informed decisions regarding their health care.

(3) The Secretary shall collect and consider data for purposes of establishing the standards under paragraph (1). Such data collection shall include—

(A) after consultation with veterans service organizations and other key stakeholders on survey development or modification of an existing survey, a survey of veterans who have used hospital care, medical services, or extended care services furnished by the Veterans Health Administration during the most recent 2-year period to assess the satisfaction of the veterans with service and quality of care; and

(B) datasets that include, at a minimum, elements relating to the following:

(i) Timely care.

(ii) Effective care.

(iii) Safety, including, at a minimum, complications, readmissions, and deaths.

(iv) Efficiency.

(4) The Secretary shall consult with all pertinent Federal entities (including the Department of Defense, the Department of Health and Human Services, and the Centers for Medicare & Medicaid Services), entities in the private sector, and other nongovernmental entities in establishing standards for quality.

(5)(A) Not later than 270 days after the date of the enactment of the Caring for Our Veterans Act of 2018, the Secretary shall submit to the appropriate committees of Congress a report detailing the standards for quality.

(B)(i) Before submitting the report required under subparagraph (A), the Secretary shall provide periodic updates to the appropriate committees of Congress to confirm the Department's progress towards developing the standards for quality required by this section.

(ii) The first update under clause (i) shall occur no later than 120 days from the date of the enactment of the Caring for Our Veterans Act of 2018.

(b) PUBLICATION AND CONSIDERATION OF PUBLIC COMMENTS.—(1) Not later than 1 year after the date on which the Secretary establishes standards for quality under subsection (a), the Secretary shall publish the quality rating of medical facilities of the Department in the publicly