

(Added Pub. L. 96-22, title I, §106(a), June 13, 1979, 93 Stat. 53, §634; renumbered §1734 and amended Pub. L. 102-83, §§4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 106-377, §1(a)(1) [title V, §501(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A-57; Pub. L. 108-170, title I, §103, Dec. 6, 2003, 117 Stat. 2044.)

Editorial Notes

PRIOR PROVISIONS

Prior section 1734 was renumbered section 3534 of this title.

Another prior section 1734, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199, as amended by Pub. L. 89-358, §4(m), Mar. 3, 1966, 80 Stat. 25, related to overcharging of eligible persons by educational institutions, prior to the general amendment of this section by Pub. L. 92-540, title III, §313, Oct. 24, 1972, 86 Stat. 1084. See section 3690 of this title.

AMENDMENTS

2003—Pub. L. 108-170 amended text generally. Prior to amendment, text read as follows:

“(a) The Secretary, within the limits of Department facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.

“(b) An individual who is in receipt of benefits under subchapter II or IV of chapter 11 of this title paid by reason of service described in section 107(a) of this title who is residing in the United States and who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States shall be eligible for hospital and nursing home care and medical services in the same manner as a veteran, and the disease or disability for which such benefits are paid shall be considered to be a service-connected disability for purposes of this chapter.”

2000—Pub. L. 106-377 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Pub. L. 102-83, §5(a), renumbered section 634 of this title as this section.

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

Pub. L. 102-83, §4(a)(3), (4), substituted “Department” for “Veterans’ Administration”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 107 of Pub. L. 96-22, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

§ 1735. Definitions

For the purposes of this subchapter—

(1) The term “Commonwealth Army veterans” means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable. The term “new Philippine Scouts” means persons who served in the Philippine Scouts under section 14 of the Armed

Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(2) The term “service-connected disabilities” means disabilities determined by the Secretary under laws administered by the Secretary to have been incurred in or aggravated by the service described in paragraph (1) in line of duty.

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146, §634; Pub. L. 89-612, §3, Sept. 30, 1966, 80 Stat. 861; renumbered §635, Pub. L. 96-22, title I, §106(a), June 13, 1979, 93 Stat. 53; renumbered §1735 and amended Pub. L. 102-83, §§4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403-406.)

Editorial Notes

REFERENCES IN TEXT

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in par. (1), is section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

PRIOR PROVISIONS

Prior sections 1735 and 1736 were renumbered sections 3535 and 3536 of this title, respectively.

Another prior section 1736, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 88-126, §3, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89-358, §4(o), Mar. 3, 1966, 80 Stat. 25, related to discontinuance of the educational assistance allowance by the Administrator, prior to repeal by Pub. L. 92-540, title IV, §402(2), Oct. 24, 1972, 86 Stat. 1090. See section 3690 of this title.

Prior section 1737 was renumbered section 3537 of this title.

Another prior section 1737, added Pub. L. 93-508, title III, §303(a), Dec. 3, 1974, 88 Stat. 1591; amended Pub. L. 97-35, title XX, §2005(c), Aug. 13, 1981, 95 Stat. 783, related to entitlement of any eligible person, before Oct. 1, 1981, to an education loan, prior to repeal by Pub. L. 100-689, title I, §124(a), Nov. 18, 1988, 102 Stat. 4174.

Another prior section 1737 was renumbered section 1736 of this title.

Prior section 1738, added Pub. L. 95-202, title II, §201(b), Nov. 23, 1977, 91 Stat. 1437, related to accelerated payment of educational assistance allowances, prior to repeal by Pub. L. 100-689, title I, §124(a), Nov. 18, 1988, 102 Stat. 4174.

AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 635 of this title as this section.

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

Pub. L. 102-83, §4(a)(1), substituted “administered by the Secretary” for “administered by the Veterans’ Administration”.

1966—Par. (1). Pub. L. 89-612 inserted definition of “new Philippine Scouts”.

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 1741. Criteria for payment

(a)(1) Except as provided in section 1745 of this title, the Secretary shall pay each State at the per diem rate of—

(A) \$8.70 for domiciliary care; and

(B) \$20.35 for nursing home care and hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care under the laws administered by the Secretary.

(2) The Secretary may pay each State per diem at a rate determined by the Secretary for each veteran receiving extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home, if such veteran is eligible for such care under laws administered by the Secretary.

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.

(c) Whenever the Secretary makes a determination pursuant to section 1720(a)(2)(A) of this title that the cost of care furnished by the Department in a general hospital under the direct jurisdiction of the Secretary has increased, the Secretary may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Secretary has determined that such cost of care has increased.

(d) Subject to section 1743 of this title, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section.

(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be used to offset or reduce any other payment made to assist veterans.

(f) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section.

(g) In this subchapter, the term "State" means each of the several States and each Indian tribe (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5304)).

(Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1146, §641; Pub. L. 86-625, July 12, 1960, 74 Stat. 424; Pub. L. 87-819, §1, Oct. 15, 1962, 76 Stat. 935; Pub. L. 88-450, §3(a), Aug. 19, 1964, 78 Stat. 500; Pub. L. 90-432, §1, July 26, 1968, 82 Stat. 448; Pub. L. 91-178, §1, Dec. 30, 1969, 83 Stat. 836; Pub. L. 93-82, title IV, §403(a), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94-417, §1(a), Sept. 21, 1976, 90 Stat. 1277; Pub. L. 94-581, title II, §202(o), Oct. 21, 1976, 90 Stat. 2856; Pub. L. 96-151, title I, §101(b)(1), Dec. 20, 1979, 93 Stat. 1092; Pub. L. 98-160, title I, §105(a), Nov. 21, 1983, 97 Stat. 998; Pub. L. 100-322, title I, §134(a), May 20, 1988, 102 Stat. 507; renumbered §1741 and amended Pub. L. 102-83, §§4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-585, title IV, §406, Nov. 4, 1992, 106 Stat. 4954; Pub. L. 104-66, title I, §1141(a), Dec. 21, 1995, 109 Stat. 726; Pub. L. 104-262, title III, §342(a), Oct. 9, 1996, 110 Stat. 3206; Pub. L. 106-117, title I, §101(g), Nov. 30, 1999, 113 Stat. 1550; Pub. L. 108-422, title II, §202, Nov. 30, 2004, 118 Stat. 2382; Pub. L. 109-461, title II, §211(a)(3)(A), (b)(2), Dec. 22, 2006, 120 Stat. 3419, 3420; Pub. L. 116-315, title III, §§3004(b), 3007(b), Jan. 5, 2021, 134 Stat. 4992, 4996.)

Editorial Notes

PRIOR PROVISIONS

Prior sections 1740 and 1741 were renumbered sections 3540 and 3541 of this title, respectively.

AMENDMENTS

2021—Subsec. (a)(1). Pub. L. 116-315, §3007(b), substituted "under the laws administered by the Secretary" for "in a Department facility" in concluding provisions.

Subsec. (g). Pub. L. 116-315, §3004(b), added subsec. (g).
2006—Subsec. (a)(1). Pub. L. 109-461, §211(a)(3)(A), substituted "Except as provided in section 1745 of this title, the" for "The".

Subsec. (f). Pub. L. 109-461, §211(b)(2), added subsec. (f).

2004—Subsec. (e). Pub. L. 108-422 added subsec. (e).
1999—Subsec. (a)(2). Pub. L. 106-117 substituted "extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home" for "adult day health care in a State home".

1996—Subsec. (a). Pub. L. 104-262 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

1995—Subsecs. (c) to (e). Pub. L. 104-66 redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which read as follows: "The Secretary shall submit every three years to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the adequacy of the rates provided in subsection (a) of this section in light of projections over each of the following five years of the demand on the Department for the provision of nursing home care to veterans eligible for such care under this section and sections 1710 and 1720 of this title. The first such report shall be submitted not later than June 30, 1986."

1992—Subsec. (e). Pub. L. 102-585 added subsec. (e).
1991—Pub. L. 102-83, §5(a), renumbered section 641 of this title as this section.

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

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

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted "1710 and 1720" for "610 and 620".

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

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

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted "1720(a)(2)(A)" for "620(a)(2)(A)".

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

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

1988—Subsec. (a). Pub. L. 100-322, §134(a)(1), added cls. (1) and (2) and struck out former cls. (1) to (3) which read as follows:

- "(1) \$7.30 for domiciliary care,
- "(2) \$17.05 for nursing home care, and
- "(3) \$15.25 for hospital care."

Subsec. (d). Pub. L. 100-322, §134(a)(2), added subsec. (d).

1983—Subsec. (a). Pub. L. 98-160, §105(a)(1), substituted "\$7.30" for "\$6.35" in par. (1), "\$17.05" for "\$12.10" in par. (2), and "\$15.25" for "\$13.25" in par. (3).

Subsec. (c). Pub. L. 98-160, §105(a)(2), added subsec. (c).

1979—Subsec. (a). Pub. L. 96-151 substituted "\$6.35" for "\$5.50", "\$12.10" for "\$10.50", and "\$13.25" for "\$11.50".

1976—Pub. L. 94-581 struck out "of any war or of service after January 31, 1955" after "for each veteran" in provisions following par. (3).

Pub. L. 94-417 designated existing provisions as subsec. (a), increased from \$4.50 to \$5.50 the per diem rate for domiciliary care, from \$6 to \$10.50 the per diem rate for nursing home care, and from \$10 to \$11.50 the per diem rate for hospital care, struck out "of any war or of service after January 31, 1955" after "for each veteran", ",", in the case of such a veteran receiving domiciliary or hospital care," after "if", and provisions relating to the case of a veteran receiving nursing home care, and added subsec. (b).

1973—Pub. L. 93-82 increased from \$3.50 to \$4.50 the per diem rate for domiciliary care, from \$5 to \$6 the per diem rate for nursing home care, and from \$7.50 to \$10 the per diem rate for hospital care, and substituted "veteran of any war or of service after January 31, 1955" for "veteran of any war".

1969—Pub. L. 91-178 increased from \$3.50 to \$7.50 the per diem payment for hospital care.

1968—Pub. L. 90-432 increased from \$2.50 to \$3.50 the per diem rate for hospital or domiciliary care and from \$3.50 to \$5.00 the per diem rate for nursing home care as the amounts the Administrator shall pay each State providing such services for veterans.

1964—Pub. L. 88-450 amended section generally and, among other changes, authorized payment at the per diem rate of \$3.50 for each veteran receiving nursing care in a State home, if such veteran meets the requirements of paragraph (1), (2), or (3) of section 610(a) of this title, except that the requirement in clause (B) of such paragraph (1) shall, for this purpose, refer to the inability to defray the expenses of necessary nursing home care, and eliminated provisions which permitted reduction of the amount payable to the State homes under certain conditions and prohibited payments to State homes where a bar or canteen is maintained therein where intoxicating liquors are sold.

1962—Subsec. (b). Pub. L. 87-819 provided that no reduction shall be made by the retention or collection by a State home of amounts from the estate of a deceased veteran if such amounts are placed in a post or other special fund for the benefit of the State home or its inhabitants in providing the benefits enumerated in clauses (A) to (C).

1960—Subsec. (a). Pub. L. 86-625 substituted "at the per diem rate of \$2.50 per diem for each veteran" for "at the annual rate of \$700.00 for each veteran".

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 211(a)(3)(A) of Pub. L. 109-461 effective 90 days after Dec. 22, 2006, see section 211(a)(5) of Pub. L. 109-461, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-322, title I, §134(b), May 20, 1988, 102 Stat. 507, provided that:

"(1) The amendment made by subsection (a)(1) [amending this section] shall take effect as of January 1, 1988.

"(2) The amendment made by subsection (a)(2) [amending this section] shall take effect on October 1, 1988."

EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-160, title I, §105(b), Nov. 21, 1983, 97 Stat. 998, provided that: "The amendments made by subsection (a) [amending this section] shall take effect on April 1, 1984."

EFFECTIVE DATE OF 1979 AMENDMENT

Pub. L. 96-151, title I, §101(b)(2), Dec. 20, 1979, 93 Stat. 1092, provided that: "The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 1980, but, with respect to fiscal year 1980, shall take effect only to such extent and in such amounts as may be specifically provided for such purpose in appropriation Acts."

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.

Pub. L. 94-417, §1(c), Sept. 21, 1976, 90 Stat. 1277, provided that:

"(1) The amendments made by subsection (a) of this section [amending this section] shall be effective on October 1, 1976.

"(2) At the time of the first payment to a State under section 641 [now 1741] of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 [now 1741] for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976."

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.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-450, §3(c), Aug. 19, 1964, 78 Stat. 501, provided that: "The amendment made by this section [amending this section] shall take effect on January 1, 1965; except that subsection (b) of section 641 [now 1741] of title 38, United States Code, as in effect immediately before such date, shall remain in effect with respect to any amounts retained or collected by any State home before such date."

IMPROVEMENT OF STATE VETERANS HOMES

Pub. L. 117-328, div. U, title I, §162, Dec. 29, 2022, 136 Stat. 5430, provided that:

"(a) STANDARDIZED SHARING AGREEMENTS.—The Secretary of Veterans Affairs shall develop a standardized process throughout the Department of Veterans Affairs for entering into sharing agreements between State homes and medical centers of the Department.

"(b) PROVISION OF MEDICATION TO CATASTROPHICALLY DISABLED VETERANS.—[Amended section 1745 of this title]

"(c) OVERSIGHT OF INSPECTIONS.—

"(1) MONITORING.—The Secretary shall monitor any contractor used by the Department to conduct inspections of State homes, including by reviewing the inspections conducted by each such contractor for quality not less frequently than quarterly.

"(2) REPORTING OF DEFICIENCIES.—The Secretary shall require that any deficiencies of a State home noted during the inspection of the State home be reported to the Secretary.

"(3) TRANSPARENCY.—The Secretary shall publish the results of any inspection of a State home, and any associated corrective actions planned by the State home, on a publicly available internet website of the Department.

"(d) 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."

GERIATRIC PSYCHIATRY PILOT PROGRAM AT STATE VETERANS HOMES

Pub. L. 117-328, div. U, title I, §163, Dec. 29, 2022, 136 Stat. 5430, provided that:

"(a) IN GENERAL.—Not later than one year after the date of the enactment of this Act [Dec. 29, 2022], the Secretary of Veterans Affairs shall commence the conduct of a pilot program under which the Secretary shall provide geriatric psychiatry assistance to eligible veterans at State homes.

"(b) DURATION.—The Secretary shall carry out the pilot program under this section for a two-year period.

“(c) TYPE OF ASSISTANCE.—Assistance provided under the pilot program under this section may include—

“(1) direct provision of geriatric psychiatry services, including health care if feasible;

“(2) payments to non-Department of Veterans Affairs providers in the community to provide such services;

“(3) collaboration with other Federal agencies to provide such services; or

“(4) such other forms of assistance as the Secretary considers appropriate.

“(d) CONSIDERATION OF LOCAL AREA NEEDS.—In providing assistance under the pilot program under this section, the Secretary shall consider the geriatric psychiatry needs of the local area, including by considering—

“(1) State homes with a high proportion of residents with unmet mental health needs;

“(2) State homes located in mental health care health professional shortage areas designated under section 332 of the Public Health Service Act (42 U.S.C. 254e); or

“(3) State homes located in rural or highly rural areas.

“(e) DEFINITIONS.—In this section, the terms ‘State home’ and ‘veteran’ have the meanings given those terms in section 101 of title 38, United States Code.”

MODIFICATION OF STATE HOME PROGRAM; TECHNICAL SUPPORT AND ASSISTANCE

Pub. L. 116-315, title III, §3004(d)–(f), Jan. 5, 2021, 134 Stat. 4992, 4993, provided that:

“(d) ADDITIONAL LEGISLATIVE OR ADMINISTRATIVE ACTION.—

“(1) CONSULTATION WITH INDIAN TRIBES.—Not later than 180 days after the date of the enactment of this Act [Jan. 5, 2021], the Secretary of Veterans Affairs shall consult with Indian tribes to determine if any legislative or administrative action is necessary to modify the State home program to function efficiently in support of State homes operated by Indian tribes pursuant to the amendments made by this section [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.