

ceives 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.)

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 em-

ployee 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.

(Added Pub. L. 108-422, title II, §201(a)(1), Nov. 30, 2004, 118 Stat. 2380.)

IMPLEMENTATION

Pub. L. 108-422, title II, §201(b), Nov. 30, 2004, 118 Stat. 2382, provided that: "The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than June 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final."

§ 1745. Nursing home care and medications for veterans with service-connected disabilities

(a)(1) The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2), in any case in which such care is provided to any veteran as follows:

(A) Any veteran in need of such care for a service-connected disability.

(B) Any veteran who—

(i) has a service-connected disability rated at 70 percent or more; and

(ii) is in need of such care.

(2) The rate determined under this paragraph with respect to a State home is the lesser of—