

tion 12 of Executive Order 10450, prior to repeal by section 511(1) of Pub. L. 94-502.

Prior sections 1794 to 1799 were renumbered sections 3694 to 3699 of this title, respectively, and sections 3698 and 3699 were subsequently repealed.

AMENDMENTS

2006—Subsec. (b)(1). 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)(2), 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.

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 sections 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.

CHAPTER 18—BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS

Sec.
[1801. Repealed.]

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1802. Spina bifida conditions covered.
1803. Health care.
1804. Vocational training and rehabilitation.
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[1806. Repealed.]

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1811. Definitions.
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SUBCHAPTER III—CHILDREN OF CERTAIN KOREA SERVICE VETERANS BORN WITH SPINA BIFIDA

1821. Benefits for children of certain Korea service veterans born with spina bifida.

SUBCHAPTER IV—GENERAL PROVISIONS

1831. Definitions.
1832. Applicability of certain administrative provisions.

Sec.
1833. Treatment of receipt of monetary allowance and other benefits.
1834. Nonduplication of benefits.

AMENDMENTS

2003—Pub. L. 108-183, §102(d)(2), (e)(1), Dec. 16, 2003, 117 Stat. 2654, substituted “BENEFITS FOR CHILDREN OF VIETNAM VETERANS AND CERTAIN OTHER VETERANS” for “BENEFITS FOR CHILDREN OF VIETNAM VETERANS” in chapter heading, added item for subchapter III and item 1821, and redesignated former item for subchapter III and items 1821 to 1824 as item for subchapter IV and items 1831 to 1834, respectively.

2000—Pub. L. 106-419, title IV, §401(f)(1), (3), Nov. 1, 2000, 114 Stat. 1860, 1861, substituted “BENEFITS FOR CHILDREN OF VIETNAM VETERANS” for “BENEFITS FOR CHILDREN OF VIETNAM VETERANS WHO ARE BORN WITH SPINA BIFIDA” in chapter heading, added item for subchapter I, struck out items 1801 “Definitions” and 1806 “Applicability of certain administrative provisions”, added item for subchapter II and items 1811 to 1816, and added item for subchapter III and items 1821 to 1824.

1997—Pub. L. 105-114, title IV, §404(b)(2), Nov. 21, 1997, 111 Stat. 2295, substituted “Applicability of certain administrative provisions” for “Effective date of awards” in item 1806.

[§ 1801. Repealed. Pub. L. 106-419, title IV, § 401(c)(1), Nov. 1, 2000, 114 Stat. 1860]

Section, added Pub. L. 104-204, title IV, §421(b)(1), Sept. 26, 1996, 110 Stat. 2923; amended Pub. L. 105-114, title IV, §404(a), Nov. 21, 1997, 111 Stat. 2294, defined “child” and “Vietnam veteran”.

A prior section 1801 was renumbered section 3701 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106-419, set out as an Effective Date note under section 1811 of this title.

EFFECTIVE DATE

Chapter effective Oct. 1, 1997, notwithstanding section 421(d) of Pub. L. 104-204, set out below, unless legislation other than Pub. L. 104-204 is enacted providing for an earlier effective date, see section 422(c) of Pub. L. 104-204, set out as an Effective Date of 1996 Amendment note under section 1151 of this title.

Section 421(d) of Pub. L. 104-204 provided that: “This section [enacting this chapter and amending section 5312 of this title] and the amendments made by this section shall take effect on January 1, 1997.”

CONGRESSIONAL PURPOSE

Section 421(a) of Pub. L. 104-204 provided that: “The purpose of this section [enacting this chapter and amending section 5312 of this title] is to provide for the special needs of certain children of Vietnam veterans who were born with the birth defect spina bifida, possibly as the result of the exposure of one or both parents to herbicides during active service in the Republic of Vietnam during the Vietnam era, through the provision of health care and monetary benefits.”

SUBCHAPTER I—CHILDREN OF VIETNAM VETERANS BORN WITH SPINA BIFIDA

§ 1802. Spina bifida conditions covered

This subchapter applies with respect to all forms and manifestations of spina bifida except spina bifida occulta.

(Added Pub. L. 104-204, title IV, §421(b)(1), Sept. 26, 1996, 110 Stat. 2923; amended Pub. L. 106-419,

title IV, §401(e)(1), Nov. 1, 2000, 114 Stat. 1860; Pub. L. 107-14, §8(b)(3), June 5, 2001, 115 Stat. 36.)

PRIOR PROVISIONS

A prior section 1802 was renumbered section 3702 of this title.

AMENDMENTS

2001—Pub. L. 107-14 made technical amendment to directory language of Pub. L. 106-419. See 2000 Amendment note below.

2000—Pub. L. 106-419, as amended by Pub. L. 107-14, substituted "This subchapter" for "This chapter".

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-14, §8(b), June 5, 2001, 115 Stat. 36, provided that the amendment made by section 8(b) is effective Nov. 1, 2000, and as if included in the Veterans Benefits and Health Care Improvement Act of 2000, Pub. L. 106-419, as enacted.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-419 effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106-419, set out as an Effective Date note under section 1811 of this title.

§ 1803. Health care

(a) In accordance with regulations which the Secretary shall prescribe, the Secretary shall provide a child of a Vietnam veteran who is suffering from spina bifida with such health care as the Secretary determines is needed by the child for the spina bifida or any disability that is associated with such condition.

(b) The Secretary may provide health care under this section directly or by contract or other arrangement with any health care provider.

(c) For the purposes of this section—

(1) The term "health care"—

(A) means home care, hospital care, nursing home care, outpatient care, preventive care, habilitative and rehabilitative care, case management, and respite care; and

(B) includes—

(i) the training of appropriate members of a child's family or household in the care of the child; and

(ii) the provision of such pharmaceuticals, supplies, equipment, devices, appliances, assistive technology, direct transportation costs to and from approved sources of health care, and other materials as the Secretary determines necessary.

(2) The term "health care provider" includes specialized spina bifida clinics, health care plans, insurers, organizations, institutions, and any other entity or individual furnishing health care services that the Secretary determines are authorized under this section.

(3) The term "home care" means outpatient care, habilitative and rehabilitative care, preventive health services, and health-related services furnished to an individual in the individual's home or other place of residence.

(4) The term "hospital care" means care and treatment for a disability furnished to an individual who has been admitted to a hospital as a patient.

(5) The term "nursing home care" means care and treatment for a disability furnished

to an individual who has been admitted to a nursing home as a resident.

(6) The term "outpatient care" means care and treatment of a disability, and preventive health services, furnished to an individual other than hospital care or nursing home care.

(7) The term "preventive care" means care and treatment furnished to prevent disability or illness, including periodic examinations, immunizations, patient health education, and such other services as the Secretary determines necessary to provide effective and economical preventive health care.

(8) The term "habilitative and rehabilitative care" means such professional, counseling, and guidance services and treatment programs (other than vocational training under section 1804 of this title) as are necessary to develop, maintain, or restore, to the maximum extent practicable, the functioning of a disabled person.

(9) The term "respite care" means care furnished on an intermittent basis for a limited period to an individual who resides primarily in a private residence when such care will help the individual to continue residing in such private residence.

(Added Pub. L. 104-204, title IV, §421(b)(1), Sept. 26, 1996, 110 Stat. 2923; amended Pub. L. 105-368, title X, §1005(b)(4), Nov. 11, 1998, 112 Stat. 3365.)

PRIOR PROVISIONS

A prior section 1803 was renumbered section 3703 of this title.

AMENDMENTS

1998—Subsec. (c)(2). Pub. L. 105-368 substituted "furnishing health care services that the Secretary determines are authorized" for "who furnishes health care that the Secretary determines authorized".

§ 1804. Vocational training and rehabilitation

(a) Pursuant to such regulations as the Secretary may prescribe, the Secretary may provide vocational training under this section to a child of a Vietnam veteran who is suffering from spina bifida if the Secretary determines that the achievement of a vocational goal by such child is reasonably feasible.

(b) Any program of vocational training for a child under this section shall—

(1) be designed in consultation with the child in order to meet the child's individual needs;

(2) be set forth in an individualized written plan of vocational rehabilitation; and

(3) be designed and developed before the date specified in subsection (d)(3) so as to permit the beginning of the program as of the date specified in that subsection.

(c)(1) A vocational training program for a child under this section—

(A) shall consist of such vocationally oriented services and assistance, including such placement and post-placement services and personal and work adjustment training, as the Secretary determines are necessary to enable the child to prepare for and participate in vocational training or employment; and

(B) may include a program of education at an institution of higher learning if the Sec-

retary determines that the program of education is predominantly vocational in content.

(2) A vocational training program under this section may not include the provision of any loan or subsistence allowance or any automobile adaptive equipment.

(d)(1) Except as provided in paragraph (2) and subject to subsection (e)(2), a vocational training program under this section may not exceed 24 months.

(2) The Secretary may grant an extension of a vocational training program for a child under this section for up to 24 additional months if the Secretary determines that the extension is necessary in order for the child to achieve a vocational goal identified (before the end of the first 24 months of such program) in the written plan of vocational rehabilitation formulated for the child pursuant to subsection (b).

(3) A vocational training program under this section may begin on the child's 18th birthday, or on the successful completion of the child's secondary schooling, whichever first occurs, except that, if the child is above the age of compulsory school attendance under applicable State law and the Secretary determines that the child's best interests will be served thereby, the vocational training program may begin before the child's 18th birthday.

(e)(1) A child who is pursuing a program of vocational training under this section and is also eligible for assistance under a program under chapter 35 of this title may not receive assistance under both such programs concurrently. The child shall elect (in such form and manner as the Secretary may prescribe) the program under which the child is to receive assistance.

(2) The aggregate period for which a child may receive assistance under this section and chapter 35 of this title may not exceed 48 months (or the part-time equivalent thereof).

(Added Pub. L. 104-204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2924; amended Pub. L. 105-114, title IV, § 404(c), Nov. 21, 1997, 111 Stat. 2295; Pub. L. 108-183, title VII, § 708(a)(3), Dec. 16, 2003, 117 Stat. 2673.)

PRIOR PROVISIONS

A prior section 1804 was renumbered section 3704 of this title.

AMENDMENTS

2003—Subsec. (c)(2). Pub. L. 108-183 substituted "section" for "subsection".

1997—Subsec. (b). Pub. L. 105-114, § 404(c)(1), substituted "shall—" for "shall be designed in consultation with the child in order to meet the child's individual needs and shall be set forth in an individualized written plan of vocational rehabilitation." and added pars. (1) to (3).

Subsec. (c)(1)(B). Pub. L. 105-114, § 404(c)(2), substituted "higher learning" for "higher education".

Subsec. (d)(3). Pub. L. 105-114, § 404(c)(3), added par. (3).

EFFECTIVE DATE OF 1997 AMENDMENT

Section 404(d) of Pub. L. 105-114 provided that: "The amendments made by this section [amending this section and sections 1801 and 1806 of this title] shall take effect as of October 1, 1997."

§ 1805. Monetary allowance

(a) The Secretary shall pay a monthly allowance under this section to any child of a Viet-

nam veteran for any disability resulting from spina bifida suffered by such child.

(b)(1) The amount of the allowance paid to a child under this section shall be based on the degree of disability suffered by the child, as determined in accordance with such schedule for rating disabilities resulting from spina bifida as the Secretary may prescribe.

(2) The Secretary shall, in prescribing the rating schedule for the purposes of this section, establish three levels of disability upon which the amount of the allowance provided by this section shall be based.

(3) The amounts of the allowance shall be \$200 per month for the lowest level of disability prescribed, \$700 per month for the intermediate level of disability prescribed, and \$1,200 per month for the highest level of disability prescribed. Such amounts are subject to adjustment under section 5312 of this title.

(Added Pub. L. 104-204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2925; amended Pub. L. 106-419, title IV, § 401(c)(2), (e)(2), Nov. 1, 2000, 114 Stat. 1860.)

PRIOR PROVISIONS

A prior section 1805 was renumbered section 3705 of this title.

AMENDMENTS

2000—Subsec. (a). Pub. L. 106-419, § 401(e)(2), substituted "this section" for "this chapter".

Subsecs. (c), (d). Pub. L. 106-419, § 401(c)(2), struck out subsecs. (c) and (d) which read as follows:

"(c) Notwithstanding any other provision of law, receipt by a child of an allowance under this section shall not impair, infringe, or otherwise affect the right of the child to receive any other benefit to which the child may otherwise be entitled under any law administered by the Secretary, nor shall receipt of such an allowance impair, infringe, or otherwise affect the right of any individual to receive any benefit to which the individual is entitled under any law administered by the Secretary that is based on the child's relationship to the individual.

"(d) Notwithstanding any other provision of law, the allowance paid to a child under this section shall not be considered income or resources in determining eligibility for or the amount of benefits under any Federal or federally assisted program."

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-419 effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106-419, set out as an Effective Date note under section 1811 of this title.

§ 1806. Repealed. Pub. L. 106-419, title IV, § 401(c)(3), Nov. 1, 2000, 114 Stat. 1860]

Section, added Pub. L. 104-204, title IV, § 421(b)(1), Sept. 26, 1996, 110 Stat. 2926; amended Pub. L. 105-114, title IV, § 404(b)(1), Nov. 21, 1997, 111 Stat. 2294, related to applicability of certain administrative provisions.

Prior section 1806 was renumbered section 3706 of this title.

Prior section 1807, added Pub. L. 94-324, § 2(a), June 30, 1976, 90 Stat. 720; amended Pub. L. 97-72, title III, § 303(d), Nov. 3, 1981, 95 Stat. 1060, related to service after July 25, 1947, and prior to June 27, 1950, prior to repeal by Pub. L. 100-322, title IV, § 415(a)(4), May 20, 1988, 102 Stat. 550.

Prior section 1810 was renumbered section 3710 of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective on the first day of the first month beginning more than one year after Nov. 1, 2000, see section 401(g) of Pub. L. 106-419, set out as an Effective Date note under section 1811 of this title.

SUBCHAPTER II—CHILDREN OF WOMEN VIETNAM VETERANS BORN WITH CERTAIN BIRTH DEFECTS

§ 1811. Definitions

In this subchapter:

(1) The term “eligible child” means an individual who—

(A) is the child (as defined in section 1831(1) of this title) of a woman Vietnam veteran; and

(B) was born with one or more covered birth defects.

(2) The term “covered birth defect” means a birth defect identified by the Secretary under section 1812 of this title.

(Added Pub. L. 106-419, title IV, §401(a), Nov. 1, 2000, 114 Stat. 1857; amended Pub. L. 108-183, title I, §102(d)(1), Dec. 16, 2003, 117 Stat. 2654.)

PRIOR PROVISIONS

A prior section 1811 was renumbered section 3711 of this title.

AMENDMENTS

2003—Par. (1)(A). Pub. L. 108-183 substituted “section 1831(1)” for “section 1821(1)”.

EFFECTIVE DATE

Pub. L. 106-419, title IV, §401(g), Nov. 1, 2000, 114 Stat. 1861, provided that:

“(1) Except as provided in paragraph (2), the amendments made by this section [enacting this subchapter and subchapter III of this chapter, amending sections 1802 and 1805 of this title, and repealing sections 1801 and 1806 of this title] shall take effect on the first day of the first month beginning more than one year after the date of the enactment of this Act [Nov. 1, 2000].

“(2) The Secretary of Veterans Affairs shall identify birth defects under section 1812 of title 38, United States Code (as added by subsection (a) of this section), and shall prescribe the regulations required by subchapter II of chapter 18 of that title (as so added), not later than the effective date specified in paragraph (1).”

§ 1812. Covered birth defects

(a) IDENTIFICATION.—The Secretary shall identify the birth defects of children of women Vietnam veterans that—

(1) are associated with the service of those veterans in the Republic of Vietnam during the Vietnam era; and

(2) result in permanent physical or mental disability.

(b) LIMITATIONS.—(1) The birth defects identified under subsection (a) may not include birth defects resulting from the following:

(A) A familial disorder.

(B) A birth-related injury.

(C) A fetal or neonatal infirmity with well-established causes.

(2) In any case where affirmative evidence establishes that a covered birth defect of a child of a woman Vietnam veteran results from a cause other than the active military, naval, or air

service of that veteran in the Republic of Vietnam during the Vietnam era, no benefits or assistance may be provided the child under this subchapter.

(Added Pub. L. 106-419, title IV, §401(a), Nov. 1, 2000, 114 Stat. 1857.)

PRIOR PROVISIONS

A prior section 1812 was renumbered section 3712 of this title.

Another prior section 1812, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1210, automatically guaranteed loans made to a veteran if made for the purpose of purchasing farms and farm equipment, prior to repeal by Pub. L. 93-569, §7(a), Dec. 31, 1974, 88 Stat. 1866.

§ 1813. Health care

(a) NEEDED CARE.—The Secretary shall provide an eligible child such health care as the Secretary determines is needed by the child for that child's covered birth defects or any disability that is associated with those birth defects.

(b) AUTHORITY FOR CARE TO BE PROVIDED DIRECTLY OR BY CONTRACT.—The Secretary may provide health care under this section directly or by contract or other arrangement with a health care provider.

(c) DEFINITIONS.—For purposes of this section, the definitions in section 1803(c) of this title shall apply with respect to the provision of health care under this section, except that for such purposes—

(1) the reference to “specialized spina bifida clinic” in paragraph (2) of that section shall be treated as a reference to a specialized clinic treating the birth defect concerned under this section; and

(2) the reference to “vocational training under section 1804 of this title” in paragraph (8) of that section shall be treated as a reference to vocational training under section 1814 of this title.

(Added Pub. L. 106-419, title IV, §401(a), Nov. 1, 2000, 114 Stat. 1857.)

PRIOR PROVISIONS

A prior section 1813 was renumbered section 3713 of this title.

Another prior section 1813, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1211, automatically guaranteed loans made to a veteran if made for the purpose of purchasing business property, prior to repeal by Pub. L. 93-569, §7(a), Dec. 31, 1974, 88 Stat. 1866.

§ 1814. Vocational training

(a) AUTHORITY.—The Secretary may provide a program of vocational training to an eligible child if the Secretary determines that the achievement of a vocational goal by the child is reasonably feasible.

(b) APPLICABLE PROVISIONS.—Subsections (b) through (e) of section 1804 of this title shall apply with respect to any program of vocational training provided under subsection (a).

(Added Pub. L. 106-419, title IV, §401(a), Nov. 1, 2000, 114 Stat. 1858.)

PRIOR PROVISIONS

A prior section 1814 was renumbered section 3714 of this title.

Another prior section 1814, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1211, Pub. L. 86-665, §3, July 14, 1960, 74