

PART D—PRIMARY HEALTH CARE

SUBPART I—HEALTH CENTERS

AMENDMENTS

1996—Pub. L. 104-299, §2, Oct. 11, 1996, 110 Stat. 3626, substituted “Health Centers” for “Primary Health Centers” in subpart heading.

1978—Pub. L. 95-626, title I, §113(a)(3), Nov. 10, 1978, 92 Stat. 3562, added heading “Part D—Primary Health Care” and, immediately under it, heading “Subpart I—Primary Health Centers”.

§ 254b. Health centers**(a) “Health center” defined****(1) In general**

For purposes of this section, the term “health center” means an entity that serves a population that is medically underserved, or a special medically underserved population comprised of migratory and seasonal agricultural workers, the homeless, and residents of public housing, by providing, either through the staff and supporting resources of the center or through contracts or cooperative arrangements—

(A) required primary health services (as defined in subsection (b)(1) of this section); and

(B) as may be appropriate for particular centers, additional health services (as defined in subsection (b)(2) of this section) necessary for the adequate support of the primary health services required under subparagraph (A);

for all residents of the area served by the center (hereafter referred to in this section as the “catchment area”).

(2) Limitation

The requirement in paragraph (1) to provide services for all residents within a catchment area shall not apply in the case of a health center receiving a grant only under subsection (g), (h), or (i) of this section.

(b) Definitions

For purposes of this section:

(1) Required primary health services**(A) In general**

The term “required primary health services” means—

(i) basic health services which, for purposes of this section, shall consist of—

(I) health services related to family medicine, internal medicine, pediatrics, obstetrics, or gynecology that are furnished by physicians and where appropriate, physician assistants, nurse practitioners, and nurse midwives;

(II) diagnostic laboratory and radiologic services;

(III) preventive health services, including—

(aa) prenatal and perinatal services;

(bb) appropriate cancer screening;

(cc) well-child services;

(dd) immunizations against vaccine-preventable diseases;

(ee) screenings for elevated blood lead levels, communicable diseases, and cholesterol;

(ff) pediatric eye, ear, and dental screenings to determine the need for vision and hearing correction and dental care;

(gg) voluntary family planning services; and

(hh) preventive dental services;

(IV) emergency medical services; and

(V) pharmaceutical services as may be appropriate for particular centers;

(ii) referrals to providers of medical services (including specialty referral when medically indicated) and other health-related services (including substance abuse and mental health services);

(iii) patient case management services (including counseling, referral, and follow-up services) and other services designed to assist health center patients in establishing eligibility for and gaining access to Federal, State, and local programs that provide or financially support the provision of medical, social, housing, educational, or other related services;

(iv) services that enable individuals to use the services of the health center (including outreach and transportation services and, if a substantial number of the individuals in the population served by a center are of limited English-speaking ability, the services of appropriate personnel fluent in the language spoken by a predominant number of such individuals); and

(v) education of patients and the general population served by the health center regarding the availability and proper use of health services.

(B) Exception

With respect to a health center that receives a grant only under subsection (g) of this section, the Secretary, upon a showing of good cause, shall—

(i) waive the requirement that the center provide all required primary health services under this paragraph; and

(ii) approve, as appropriate, the provision of certain required primary health services only during certain periods of the year.

(2) Additional health services

The term “additional health services” means services that are not included as required primary health services and that are appropriate to meet the health needs of the population served by the health center involved. Such term may include—

(A) behavioral and mental health and substance abuse services;

(B) recuperative care services;

(C) environmental health services, including—

(i) the detection and alleviation of unhealthful conditions associated with—

(I) water supply;

(II) chemical and pesticide exposures;

(III) air quality; or

(IV) exposure to lead;

(ii) sewage treatment;

- (iii) solid waste disposal;
- (iv) rodent and parasitic infestation;
- (v) field sanitation;
- (vi) housing; and
- (vii) other environmental factors related to health; and

(D) in the case of health centers receiving grants under subsection (g) of this section, special occupation-related health services for migratory and seasonal agricultural workers, including—

- (i) screening for and control of infectious diseases, including parasitic diseases; and
- (ii) injury prevention programs, including prevention of exposure to unsafe levels of agricultural chemicals including pesticides.

(3) Medically underserved populations

(A) In general

The term “medically underserved population” means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services.

(B) Criteria

In carrying out subparagraph (A), the Secretary shall prescribe criteria for determining the specific shortages of personal health services of an area or population group. Such criteria shall—

- (i) take into account comments received by the Secretary from the chief executive officer of a State and local officials in a State; and
- (ii) include factors indicative of the health status of a population group or residents of an area, the ability of the residents of an area or of a population group to pay for health services and their accessibility to them, and the availability of health professionals to residents of an area or to a population group.

(C) Limitation

The Secretary may not designate a medically underserved population in a State or terminate the designation of such a population unless, prior to such designation or termination, the Secretary provides reasonable notice and opportunity for comment and consults with—

- (i) the chief executive officer of such State;
- (ii) local officials in such State; and
- (iii) the organization, if any, which represents a majority of health centers in such State.

(D) Permissible designation

The Secretary may designate a medically underserved population that does not meet the criteria established under subparagraph (B) if the chief executive officer of the State in which such population is located and local officials of such State recommend the designation of such population based on unusual local conditions which are a barrier to access to or the availability of personal health services.

(c) Planning grants

(1) In general

(A) Centers

The Secretary may make grants to public and nonprofit private entities for projects to plan and develop health centers which will serve medically underserved populations. A project for which a grant may be made under this subsection may include the cost of the acquisition and lease of buildings and equipment (including the costs of amortizing the principal of, and paying the interest on, loans) and shall include—

- (i) an assessment of the need that the population proposed to be served by the health center for which the project is undertaken has for required primary health services and additional health services;
- (ii) the design of a health center program for such population based on such assessment;
- (iii) efforts to secure, within the proposed catchment area of such center, financial and professional assistance and support for the project;
- (iv) initiation and encouragement of continuing community involvement in the development and operation of the project; and
- (v) proposed linkages between the center and other appropriate provider entities, such as health departments, local hospitals, and rural health clinics, to provide better coordinated, higher quality, and more cost-effective health care services.

(B) Managed care networks and plans

The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop a managed care network or plan. Such a grant may only be made for such a center if—

- (i) the center has received grants under subsection (e)(1)(A) of this section for at least 2 consecutive years preceding the year of the grant under this subparagraph or has otherwise demonstrated, as required by the Secretary, that such center has been providing primary care services for at least the 2 consecutive years immediately preceding such year; and
- (ii) the center provides assurances satisfactory to the Secretary that the provision of such services on a prepaid basis, or under another managed care arrangement, will not result in the diminution of the level or quality of health services provided to the medically underserved population served prior to the grant under this subparagraph.

(C) Practice management networks

The Secretary may make grants to health centers that receive assistance under this section to enable the centers to plan and develop practice management networks that will enable the centers to—

- (i) reduce costs associated with the provision of health care services;

(ii) improve access to, and availability of, health care services provided to individuals served by the centers;

(iii) enhance the quality and coordination of health care services; or

(iv) improve the health status of communities.

(D) Use of funds

The activities for which a grant may be made under subparagraph (B) or (C) may include the purchase or lease of equipment, which may include data and information systems (including paying for the costs of amortizing the principal of, and paying the interest on, loans for equipment), the provision of training and technical assistance related to the provision of health care services on a prepaid basis or under another managed care arrangement, and other activities that promote the development of practice management or managed care networks and plans.

(2) Limitation

Not more than two grants may be made under this subsection for the same project, except that upon a showing of good cause, the Secretary may make additional grant awards.

(d) Loan guarantee program

(1) Establishment

(A) In general

The Secretary shall establish a program under which the Secretary may, in accordance with this subsection and to the extent that appropriations are provided in advance for such program, guarantee up to 90 percent of the principal and interest on loans made by non-Federal lenders to health centers, funded under this section, for the costs of developing and operating managed care networks or plans described in subsection (c)(1)(B) of this section, or practice management networks described in subsection (c)(1)(C) of this section.

(B) Use of funds

Loan funds guaranteed under this subsection may be used—

(i) to establish reserves for the furnishing of services on a pre-paid basis;

(ii) for costs incurred by the center or centers, otherwise permitted under this section, as the Secretary determines are necessary to enable a center or centers to develop, operate, and own the network or plan; or

(iii) to refinance an existing loan (as of the date of refinancing) to the center or centers, if the Secretary determines—

(I) that such refinancing will be beneficial to the health center and the Federal Government; or

(II) that the center (or centers) can demonstrate an ability to repay the refinanced loan equal to or greater than the ability of the center (or centers) to repay the original loan on the date the original loan was made.

(C) Publication of guidance

Prior to considering an application submitted under this subsection, the Secretary

shall publish guidelines to provide guidance on the implementation of this section. The Secretary shall make such guidelines available to the universe of parties affected under this subsection, distribute such guidelines to such parties upon the request of such parties, and provide a copy of such guidelines to the appropriate committees of Congress.

(D) Provision directly to networks or plans

At the request of health centers receiving assistance under this section, loan guarantees provided under this paragraph may be made directly to networks or plans that are at least majority controlled and, as applicable, at least majority owned by those health centers.

(E) Federal credit reform

The requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.) shall apply with respect to loans refinanced under subparagraph (B)(iii).

(2) Protection of financial interests

(A) In general

The Secretary may not approve a loan guarantee for a project under this subsection unless the Secretary determines that—

(i) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the financial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such percent per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, except that the Secretary may not require as security any center asset that is, or may be, needed by the center or centers involved to provide health services;

(ii) the loan would not be available on reasonable terms and conditions without the guarantee under this subsection; and

(iii) amounts appropriated for the program under this subsection are sufficient to provide loan guarantees under this subsection.

(B) Recovery of payments

(i) In general

The United States shall be entitled to recover from the applicant for a loan guarantee under this subsection the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery (subject to appropriations remaining available to permit such a waiver) and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made. Amounts recovered under this clause shall be credited as reimbursements to the financing account of the program.

(ii) Modification of terms and conditions

To the extent permitted by clause (iii) and subject to the requirements of section 504(e) of the Credit Reform Act of 1990 (2 U.S.C. 661c(e)), any terms and conditions applicable to a loan guarantee under this subsection (including terms and conditions imposed under clause (iv)) may be modified or waived by the Secretary to the extent the Secretary determines it to be consistent with the financial interest of the United States.

(iii) Incontestability

Any loan guarantee made by the Secretary under this subsection shall be incontestable—

(I) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee; and

(II) as to any person (or successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

(iv) Further terms and conditions

Guarantees of loans under this subsection shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this section will be achieved.

(3) Loan origination fees**(A) In general**

The Secretary shall collect a loan origination fee with respect to loans to be guaranteed under this subsection, except as provided in subparagraph (C).

(B) Amount

The amount of a loan origination fee collected by the Secretary under subparagraph (A) shall be equal to the estimated long term cost of the loan guarantees involved to the Federal Government (excluding administrative costs), calculated on a net present value basis, after taking into account any appropriations that may be made for the purpose of offsetting such costs, and in accordance with the criteria used to award loan guarantees under this subsection.

(C) Waiver

The Secretary may waive the loan origination fee for a health center applicant who demonstrates to the Secretary that the applicant will be unable to meet the conditions of the loan if the applicant incurs the additional cost of the fee.

(4) Defaults**(A) In general**

Subject to the requirements of the Credit Reform Act of 1990¹ (2 U.S.C. 661 et seq.), the

Secretary may take such action as may be necessary to prevent a default on a loan guaranteed under this subsection, including the waiver of regulatory conditions, deferral of loan payments, renegotiation of loans, and the expenditure of funds for technical and consultative assistance, for the temporary payment of the interest and principal on such a loan, and for other purposes. Any such expenditure made under the preceding sentence on behalf of a health center or centers shall be made under such terms and conditions as the Secretary shall prescribe, including the implementation of such organizational, operational, and financial reforms as the Secretary determines are appropriate and the disclosure of such financial or other information as the Secretary may require to determine the extent of the implementation of such reforms.

(B) Foreclosure

The Secretary may take such action, consistent with State law respecting foreclosure procedures and, with respect to reserves required for furnishing services on a prepaid basis, subject to the consent of the affected States, as the Secretary determines appropriate to protect the interest of the United States in the event of a default on a loan guaranteed under this subsection, except that the Secretary may only foreclose on assets offered as security (if any) in accordance with paragraph (2)(A)(i).

(5) Limitation

Not more than one loan guarantee may be made under this subsection for the same network or plan, except that upon a showing of good cause the Secretary may make additional loan guarantees.

(6) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection such sums as may be necessary.

(e) Operating grants**(1) Authority****(A) In general**

The Secretary may make grants for the costs of the operation of public and nonprofit private health centers that provide health services to medically underserved populations.

(B) Entities that fail to meet certain requirements

The Secretary may make grants, for a period of not to exceed 2 years, for the costs of the operation of public and nonprofit private entities which provide health services to medically underserved populations but with respect to which the Secretary is unable to make each of the determinations required by subsection (k)(3) of this section.

(C) Operation of networks and plans

The Secretary may make grants to health centers that receive assistance under this section, or at the request of the health centers, directly to a network or plan (as de-

¹ See References in Text note below.

scribed in subparagraphs (B) and (C) of subsection (c)(1) of this section) that is at least majority controlled and, as applicable, at least majority owned by such health centers receiving assistance under this section, for the costs associated with the operation of such network or plan, including the purchase or lease of equipment (including the costs of amortizing the principal of, and paying the interest on, loans for equipment).

(2) Use of funds

The costs for which a grant may be made under subparagraph (A) or (B) of paragraph (1) may include the costs of acquiring and leasing buildings and equipment (including the costs of amortizing the principal of, and paying interest on, loans), and the costs of providing training related to the provision of required primary health services and additional health services and to the management of health center programs.

(3) Construction

The Secretary may award grants which may be used to pay the costs associated with expanding and modernizing existing buildings or constructing new buildings (including the costs of amortizing the principal of, and paying the interest on, loans) for projects approved prior to October 1, 1996.

(4) Limitation

Not more than two grants may be made under subparagraph (B) of paragraph (1) for the same entity.

(5) Amount

(A) In general

The amount of any grant made in any fiscal year under subparagraphs (A) and (B) of paragraph (1) to a health center shall be determined by the Secretary, but may not exceed the amount by which the costs of operation of the center in such fiscal year exceed the total of—

- (i) State, local, and other operational funding provided to the center; and
- (ii) the fees, premiums, and third-party reimbursements, which the center may reasonably be expected to receive for its operations in such fiscal year.

(B) Networks and plans

The total amount of grant funds made available for any fiscal year under paragraph (1)(C) and subparagraphs (B) and (C) of subsection (c)(1) of this section to a health center or to a network or plan shall be determined by the Secretary, but may not exceed 2 percent of the total amount appropriated under this section for such fiscal year.

(C) Payments

Payments under grants under subparagraph (A) or (B) of paragraph (1) shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary and adjustments may be made for overpayments or underpayments.

(D) Use of nongrant funds

Nongrant funds described in clauses (i) and (ii) of subparagraph (A), including any such

funds in excess of those originally expected, shall be used as permitted under this section, and may be used for such other purposes as are not specifically prohibited under this section if such use furthers the objectives of the project.

(f) Infant mortality grants

(1) In general

The Secretary may make grants to health centers for the purpose of assisting such centers in—

(A) providing comprehensive health care and support services for the reduction of—

- (i) the incidence of infant mortality; and
- (ii) morbidity among children who are less than 3 years of age; and

(B) developing and coordinating service and referral arrangements between health centers and other entities for the health management of pregnant women and children described in subparagraph (A).

(2) Priority

In making grants under this subsection the Secretary shall give priority to health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.

(3) Requirements

The Secretary may make a grant under this subsection only if the health center involved agrees that—

(A) the center will coordinate the provision of services under the grant to each of the recipients of the services;

(B) such services will be continuous for each such recipient;

(C) the center will provide follow-up services for individuals who are referred by the center for services described in paragraph (1);

(D) the grant will be expended to supplement, and not supplant, the expenditures of the center for primary health services (including prenatal care) with respect to the purpose described in this subsection; and

(E) the center will coordinate the provision of services with other maternal and child health providers operating in the catchment area.

(g) Migratory and seasonal agricultural workers

(1) In general

The Secretary may award grants for the purposes described in subsections (c), (e), and (f) of this section for the planning and delivery of services to a special medically underserved population comprised of—

(A) migratory agricultural workers, seasonal agricultural workers, and members of the families of such migratory and seasonal agricultural workers who are within a designated catchment area; and

(B) individuals who have previously been migratory agricultural workers but who no longer meet the requirements of subparagraph (A) of paragraph (3) because of age or

disability and members of the families of such individuals who are within such catchment area.

(2) Environmental concerns

The Secretary may enter into grants or contracts under this subsection with public and private entities to—

(A) assist the States in the implementation and enforcement of acceptable environmental health standards, including enforcement of standards for sanitation in migratory agricultural worker and seasonal agricultural worker labor camps, and applicable Federal and State pesticide control standards; and

(B) conduct projects and studies to assist the several States and entities which have received grants or contracts under this section in the assessment of problems related to camp and field sanitation, exposure to unsafe levels of agricultural chemicals including pesticides, and other environmental health hazards to which migratory agricultural workers and seasonal agricultural workers, and members of their families, are exposed.

(3) Definitions

For purposes of this subsection:

(A) Migratory agricultural worker

The term “migratory agricultural worker” means an individual whose principal employment is in agriculture, who has been so employed within the last 24 months, and who establishes for the purposes of such employment a temporary abode.

(B) Seasonal agricultural worker

The term “seasonal agricultural worker” means an individual whose principal employment is in agriculture on a seasonal basis and who is not a migratory agricultural worker.

(C) Agriculture

The term “agriculture” means farming in all its branches, including—

- (i) cultivation and tillage of the soil;
- (ii) the production, cultivation, growing, and harvesting of any commodity grown on, in, or as an adjunct to or part of a commodity grown in or on, the land; and
- (iii) any practice (including preparation and processing for market and delivery to storage or to market or to carriers for transportation to market) performed by a farmer or on a farm incident to or in conjunction with an activity described in clause (ii).

(h) Homeless population

(1) In general

The Secretary may award grants for the purposes described in subsections (c), (e), and (f) of this section for the planning and delivery of services to a special medically underserved population comprised of homeless individuals, including grants for innovative programs that provide outreach and comprehensive primary health services to homeless children and youth and children and youth at risk of homelessness.

(2) Required services

In addition to required primary health services (as defined in subsection (b)(1) of this section), an entity that receives a grant under this subsection shall be required to provide substance abuse services as a condition of such grant.

(3) Supplement not supplant requirement

A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

(4) Temporary continued provision of services to certain former homeless individuals

If any grantee under this subsection has provided services described in this section under the grant to a homeless individual, such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.

(5) Definitions

For purposes of this section:

(A) Homeless individual

The term “homeless individual” means an individual who lacks housing (without regard to whether the individual is a member of a family), including an individual whose primary residence during the night is a supervised public or private facility that provides temporary living accommodations and an individual who is a resident in transitional housing.

(B) Substance abuse

The term “substance abuse” has the same meaning given such term in section 290cc-34(4) of this title.

(C) Substance abuse services

The term “substance abuse services” includes detoxification, risk reduction, outpatient treatment, residential treatment, and rehabilitation for substance abuse provided in settings other than hospitals.

(i) Residents of public housing

(1) In general

The Secretary may award grants for the purposes described in subsections (c), (e), and (f) of this section for the planning and delivery of services to a special medically underserved population comprised of residents of public housing (such term, for purposes of this subsection, shall have the same meaning given such term in section 1437a(b)(1) of this title) and individuals living in areas immediately accessible to such public housing.

(2) Supplement not supplant

A grant awarded under this subsection shall be expended to supplement, and not supplant, the expenditures of the health center and the value of in kind contributions for the delivery of services to the population described in paragraph (1).

(3) Consultation with residents

The Secretary may not make a grant under paragraph (1) unless, with respect to the residents of the public housing involved, the applicant for the grant—

(A) has consulted with the residents in the preparation of the application for the grant; and

(B) agrees to provide for ongoing consultation with the residents regarding the planning and administration of the program carried out with the grant.

(j) Access grants**(1) In general**

The Secretary may award grants to eligible health centers with a substantial number of clients with limited English speaking proficiency to provide translation, interpretation, and other such services for such clients with limited English speaking proficiency.

(2) Eligible health center

In this subsection, the term “eligible health center” means an entity that—

(A) is a health center as defined under subsection (a) of this section;

(B) provides health care services for clients for whom English is a second language; and

(C) has exceptional needs with respect to linguistic access or faces exceptional challenges with respect to linguistic access.

(3) Grant amount

The amount of a grant awarded to a center under this subsection shall be determined by the Administrator. Such determination of such amount shall be based on the number of clients for whom English is a second language that is served by such center, and larger grant amounts shall be awarded to centers serving larger numbers of such clients.

(4) Use of funds

An eligible health center that receives a grant under this subsection may use funds received through such grant to—

(A) provide translation, interpretation, and other such services for clients for whom English is a second language, including hiring professional translation and interpretation services; and

(B) compensate bilingual or multilingual staff for language assistance services provided by the staff for such clients.

(5) Application

An eligible health center desiring a grant under this subsection shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require, including—

(A) an estimate of the number of clients that the center serves for whom English is a second language;

(B) the ratio of the number of clients for whom English is a second language to the total number of clients served by the center;

(C) a description of any language assistance services that the center proposes to

provide to aid clients for whom English is a second language; and

(D) a description of the exceptional needs of such center with respect to linguistic access or a description of the exceptional challenges faced by such center with respect to linguistic access.

(6) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection, in addition to any funds authorized to be appropriated or appropriated for health centers under any other subsection of this section, such sums as may be necessary for each of fiscal years 2002 through 2006.

(k) Applications**(1) Submission**

No grant may be made under this section unless an application therefore is submitted to, and approved by, the Secretary. Such an application shall be submitted in such form and manner and shall contain such information as the Secretary shall prescribe.

(2) Description of need

An application for a grant under subparagraph (A) or (B) of subsection (e)(1) of this section for a health center shall include—

(A) a description of the need for health services in the catchment area of the center;

(B) a demonstration by the applicant that the area or the population group to be served by the applicant has a shortage of personal health services; and

(C) a demonstration that the center will be located so that it will provide services to the greatest number of individuals residing in the catchment area or included in such population group.

Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under subsection (b)(3) of this section or on any other criteria which the Secretary may prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services. In considering an application for a grant under subparagraph (A) or (B) of subsection (e)(1) of this section, the Secretary may require as a condition to the approval of such application an assurance that the applicant will provide any health service defined under paragraphs (1) and (2) of subsection (b) of this section that the Secretary finds is needed to meet specific health needs of the area to be served by the applicant. Such a finding shall be made in writing and a copy shall be provided to the applicant.

(3) Requirements

Except as provided in subsection (e)(1)(B) of this section, the Secretary may not approve an application for a grant under subparagraph (A) or (B) of subsection (e)(1) of this section unless the Secretary determines that the entity for which the application is submitted is a health center (within the meaning of subsection (a) of this section) and that—

(A) the required primary health services of the center will be available and accessible in

the catchment area of the center promptly, as appropriate, and in a manner which assures continuity;

(B) the center has made and will continue to make every reasonable effort to establish and maintain collaborative relationships with other health care providers in the catchment area of the center;

(C) the center will have an ongoing quality improvement system that includes clinical services and management, and that maintains the confidentiality of patient records;

(D) the center will demonstrate its financial responsibility by the use of such accounting procedures and other requirements as may be prescribed by the Secretary;

(E) the center—

(i)(I) has or will have a contractual or other arrangement with the agency of the State, in which it provides services, which administers or supervises the administration of a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the payment of all or a part of the center's costs in providing health services to persons who are eligible for medical assistance under such a State plan; and

(II) has or will have a contractual or other arrangement with the State agency administering the program under title XXI of such Act (42 U.S.C. 1397aa et seq.) with respect to individuals who are State children's health insurance program beneficiaries; or

(ii) has made or will make every reasonable effort to enter into arrangements described in subclauses (I) and (II) of clause (i);

(F) the center has made or will make and will continue to make every reasonable effort to collect appropriate reimbursement for its costs in providing health services to persons who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.], or to assistance for medical expenses under any other public assistance program or private health insurance program;

(G) the center—

(i) has prepared a schedule of fees or payments for the provision of its services consistent with locally prevailing rates or charges and designed to cover its reasonable costs of operation and has prepared a corresponding schedule of discounts to be applied to the payment of such fees or payments, which discounts are adjusted on the basis of the patient's ability to pay;

(ii) has made and will continue to make every reasonable effort—

(I) to secure from patients payment for services in accordance with such schedules; and

(II) to collect reimbursement for health services to persons described in subparagraph (F) on the basis of the full amount of fees and payments for such services without application of any discount;

(iii)(I) will assure that no patient will be denied health care services due to an individual's inability to pay for such services; and

(II) will assure that any fees or payments required by the center for such services will be reduced or waived to enable the center to fulfill the assurance described in subclause (I); and

(iv) has submitted to the Secretary such reports as the Secretary may require to determine compliance with this subparagraph;

(H) the center has established a governing board which except in the case of an entity operated by an Indian tribe or tribal or Indian organization under the Indian Self-Determination Act [25 U.S.C. 450f et seq.] or an urban Indian organization under the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.)—

(i) is composed of individuals, a majority of whom are being served by the center and who, as a group, represent the individuals being served by the center;

(ii) meets at least once a month, selects the services to be provided by the center, schedules the hours during which such services will be provided, approves the center's annual budget, approves the selection of a director for the center, and, except in the case of a governing board of a public center (as defined in the second sentence of this paragraph), establishes general policies for the center; and

(iii) in the case of an application for a second or subsequent grant for a public center, has approved the application or if the governing body has not approved the application, the failure of the governing body to approve the application was unreasonable;

except that, upon a showing of good cause the Secretary shall waive, for the length of the project period, all or part of the requirements of this subparagraph in the case of a health center that receives a grant pursuant to subsection (g), (h), (i), or (p) of this section;

(I) the center has developed—

(i) an overall plan and budget that meets the requirements of the Secretary; and

(ii) an effective procedure for compiling and reporting to the Secretary such statistics and other information as the Secretary may require relating to—

(I) the costs of its operations;

(II) the patterns of use of its services;

(III) the availability, accessibility, and acceptability of its services; and

(IV) such other matters relating to operations of the applicant as the Secretary may require;

(J) the center will review periodically its catchment area to—

(i) ensure that the size of such area is such that the services to be provided through the center (including any satellite) are available and accessible to the residents of the area promptly and as appropriate;

(ii) ensure that the boundaries of such area conform, to the extent practicable, to relevant boundaries of political subdivisions, school districts, and Federal and State health and social service programs; and

(iii) ensure that the boundaries of such area eliminate, to the extent possible, barriers to access to the services of the center, including barriers resulting from the area's physical characteristics, its residential patterns, its economic and social grouping, and available transportation;

(K) in the case of a center which serves a population including a substantial proportion of individuals of limited English-speaking ability, the center has—

(i) developed a plan and made arrangements responsive to the needs of such population for providing services to the extent practicable in the language and cultural context most appropriate to such individuals; and

(ii) identified an individual on its staff who is fluent in both that language and in English and whose responsibilities shall include providing guidance to such individuals and to appropriate staff members with respect to cultural sensitivities and bridging linguistic and cultural differences;

(L) the center, has developed an ongoing referral relationship with one or more hospitals; and

(M) the center encourages persons receiving or seeking health services from the center to participate in any public or private (including employer-offered) health programs or plans for which the persons are eligible, so long as the center, in complying with this subparagraph, does not violate the requirements of subparagraph (G)(iii)(I).

For purposes of subparagraph (H), the term "public center" means a health center funded (or to be funded) through a grant under this section to a public agency.

(4) Approval of new or expanded service applications

The Secretary shall approve applications for grants under subparagraph (A) or (B) of subsection (e)(1) of this section for health centers which—

(A) have not received a previous grant under such subsection; or

(B) have applied for such a grant to expand their services;

in such a manner that the ratio of the medically underserved populations in rural areas which may be expected to use the services provided by such centers to the medically underserved populations in urban areas which may be expected to use the services provided by such centers is not less than two to three or greater than three to two.

(I) Technical assistance

The Secretary shall establish a program through which the Secretary shall provide (either through the Department of Health and Human Services or by grant or contract) tech-

nical and other assistance to eligible entities to assist such entities to meet the requirements of subsection (k)(3) of this section. Services provided through the program may include necessary technical and nonfinancial assistance, including fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to the entities of the variety of resources available under this subchapter and how those resources can be best used to meet the health needs of the communities served by the entities.

(m) Memorandum of agreement

In carrying out this section, the Secretary may enter into a memorandum of agreement with a State. Such memorandum may include, where appropriate, provisions permitting such State to—

(1) analyze the need for primary health services for medically underserved populations within such State;

(2) assist in the planning and development of new health centers;

(3) review and comment upon annual program plans and budgets of health centers, including comments upon allocations of health care resources in the State;

(4) assist health centers in the development of clinical practices and fiscal and administrative systems through a technical assistance plan which is responsive to the requests of health centers; and

(5) share information and data relevant to the operation of new and existing health centers.

(n) Records

(1) In general

Each entity which receives a grant under subsection (e) of this section shall establish and maintain such records as the Secretary shall require.

(2) Availability

Each entity which is required to establish and maintain records under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

(o) Delegation of authority

The Secretary may delegate the authority to administer the programs authorized by this section to any office, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.

(p) Special consideration

In making grants under this section, the Secretary shall give special consideration to the

unique needs of sparsely populated rural areas, including giving priority in the awarding of grants for new health centers under subsections (c) and (e) of this section, and the granting of waivers as appropriate and permitted under subsections (b)(1)(B)(i) and (k)(3)(G) of this section.

(q) Audits

(1) In general

Each entity which receives a grant under this section shall provide for an independent annual financial audit of any books, accounts, financial records, files, and other papers and property which relate to the disposition or use of the funds received under such grant and such other funds received by or allocated to the project for which such grant was made. For purposes of assuring accurate, current, and complete disclosure of the disposition or use of the funds received, each such audit shall be conducted in accordance with generally accepted accounting principles. Each audit shall evaluate—

(A) the entity's implementation of the guidelines established by the Secretary respecting cost accounting,

(B) the processes used by the entity to meet the financial and program reporting requirements of the Secretary, and

(C) the billing and collection procedures of the entity and the relation of the procedures to its fee schedule and schedule of discounts and to the availability of health insurance and public programs to pay for the health services it provides.

A report of each such audit shall be filed with the Secretary at such time and in such manner as the Secretary may require.

(2) Records

Each entity which receives a grant under this section shall establish and maintain such records as the Secretary shall by regulation require to facilitate the audit required by paragraph (1). The Secretary may specify by regulation the form and manner in which such records shall be established and maintained.

(3) Availability of records

Each entity which is required to establish and maintain records or to provide for and² audit under this subsection shall make such books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of such entity upon a reasonable request therefore. The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have the authority to conduct such examination, copying, and reproduction.

(4) Waiver

The Secretary may, under appropriate circumstances, waive the application of all or part of the requirements of this subsection with respect to an entity.

(r) Authorization of appropriations

(1) In general

For the purpose of carrying out this section, in addition to the amounts authorized to be appropriated under subsection (d) of this section, there are authorized to be appropriated \$1,340,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006.

(2) Special provisions

(A) Public centers

The Secretary may not expend in any fiscal year, for grants under this section to public centers (as defined in the second sentence of subsection (k)(3) of this section) the governing boards of which (as described in subsection (k)(3)(H) of this section) do not establish general policies for such centers, an amount which exceeds 5 percent of the amounts appropriated under this section for that fiscal year. For purposes of applying the preceding sentence, the term "public centers" shall not include health centers that receive grants pursuant to subsection (h) or (i) of this section.

(B) Distribution of grants

For fiscal year 2002 and each of the following fiscal years, the Secretary, in awarding grants under this section, shall ensure that the proportion of the amount made available under each of subsections (g), (h), and (i) of this section, relative to the total amount appropriated to carry out this section for that fiscal year, is equal to the proportion of the amount made available under that subsection for fiscal year 2001, relative to the total amount appropriated to carry out this section for fiscal year 2001.

(3) Funding report

The Secretary shall annually prepare and submit to the appropriate committees of Congress a report concerning the distribution of funds under this section that are provided to meet the health care needs of medically underserved populations, including the homeless, residents of public housing, and migratory and seasonal agricultural workers, and the appropriateness of the delivery systems involved in responding to the needs of the particular populations. Such report shall include an assessment of the relative health care access needs of the targeted populations and the rationale for any substantial changes in the distribution of funds.

(July 1, 1944, ch. 373, title III, § 330, as added Pub. L. 104-299, § 2, Oct. 11, 1996, 110 Stat. 3626; amended Pub. L. 107-251, title I, § 101, Oct. 26, 2002, 116 Stat. 1622; Pub. L. 108-163, § 2(a), Dec. 6, 2003, 117 Stat. 2020.)

REFERENCES IN TEXT

The Federal Credit Reform Act of 1990, referred to in subsec. (d)(1)(E), is title V of Pub. L. 93-344, as added by Pub. L. 101-508, title XIII, § 13201(a), Nov. 5, 1990, 104 Stat. 1388-609, which is classified generally to subchapter III (§ 661 et seq.) of chapter 17A of Title 2, The Congress. The Credit Reform Act of 1990, referred to in subsec. (d)(4)(A), probably means the Federal Credit Re-

²So in original. Probably should be "an".

form Act of 1990. For complete classification of this Act to the Code, see Short Title note set out under section 621 of Title 2 and Tables.

The Social Security Act, referred to in subsec. (k)(3)(E)(i), (F), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Indian Self-Determination Act, referred to in subsec. (k)(3)(H), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (k)(3)(H), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§1601 et seq.) of Title 25. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

PRIOR PROVISIONS

A prior section 254a-1, act July 1, 1944, ch. 373, title III, §228, as added Nov. 10, 1978, Pub. L. 95-626, title I, §114, 92 Stat. 3563; amended Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695, related to hospital-affiliated primary care centers, prior to repeal by Pub. L. 99-117, §12(c), Oct. 7, 1985, 99 Stat. 495.

A prior section 254b, act July 1, 1944, ch. 373, title III, §329, formerly §310, as added Sept. 25, 1962, Pub. L. 87-692, 76 Stat. 592; amended Aug. 5, 1965, Pub. L. 89-109, §3, 79 Stat. 436; Oct. 15, 1968, Pub. L. 90-574, title II, §201, 82 Stat. 1006; Mar. 12, 1970, Pub. L. 91-209, 84 Stat. 52; June 18, 1973, Pub. L. 93-45, title I, §105, 87 Stat. 91; renumbered §319, July 23, 1974, Pub. L. 93-353, title I, §102(d), 88 Stat. 362; amended July 29, 1975, Pub. L. 94-63, title IV, §401(a), title VII, §701(c), 89 Stat. 334, 352; Apr. 22, 1976, Pub. L. 94-278, title VIII, §801(a), 90 Stat. 414; Aug. 1, 1977, Pub. L. 95-83, title III, §303, 91 Stat. 388; renumbered §329 and amended Nov. 10, 1978, Pub. L. 95-626, title I, §§102(a), 103(a)-(g)(1)(B), (2), (h), (i), 92 Stat. 3551-3555; July 10, 1979, Pub. L. 96-32, §6(a), 93 Stat. 83; Oct. 17, 1979, Pub. L. 96-88, title V, §509(b), 93 Stat. 695; Aug. 13, 1981, Pub. L. 97-35, title IX, §930, 95 Stat. 569; Dec. 21, 1982, Pub. L. 97-375, title I, §107(b), 96 Stat. 1820; Apr. 24, 1986, Pub. L. 99-280, §§6, 7, 100 Stat. 400, 401; Aug. 10, 1988, Pub. L. 100-386, §2, 102 Stat. 919; Nov. 6, 1990, Pub. L. 101-527, §9(b), 104 Stat. 2333; Oct. 27, 1992, Pub. L. 102-531, title III, §309(a), 106 Stat. 3499, related to migrant health centers, prior to the general amendment of this subpart by Pub. L. 104-299, §2.

Another prior section 254b, act July 1, 1944, ch. 373, title III, §329, as added Dec. 31, 1970, Pub. L. 91-623, §2, 84 Stat. 1868; amended Nov. 18, 1971, Pub. L. 92-157, title II, §203, 85 Stat. 462; Oct. 27, 1972, Pub. L. 92-585, §2, 86 Stat. 1290; July 29, 1975, Pub. L. 94-63, title VIII, §§801-803, 89 Stat. 353, 354; Oct. 12, 1976, Pub. L. 94-484, title I, §101(b), 90 Stat. 2244, related to establishment of National Health Service Corps, assignment of personnel and statement of purpose, prior to repeal by Pub. L. 94-484, title IV, §407(b)(1), Oct. 12, 1976, 90 Stat. 2268. See section 254d et seq. of this title.

A prior section 330 of act July 1, 1944, was classified to section 254c of this title prior to the general amendment of this subpart by Pub. L. 104-299.

AMENDMENTS

2003—Subsec. (c)(1)(B). Pub. L. 108-163, §2(a)(2)(A), substituted “plan.” for “plan..” in introductory provisions.

Subsec. (d)(1)(B)(iii)(I). Pub. L. 108-163, §2(a)(2)(B), inserted “or” at end.

Subsec. (e)(3) to (5). Pub. L. 108-163, §2(a)(1)(A), amended pars. (3) to (5) to read as if subpar. (C) of the second par. (4) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment notes below.

Subsec. (j). Pub. L. 108-163, §2(a)(2)(E), added subsec. (j) identical to the subsec. (j) appearing in the amendment by section 101(8)(C) of Pub. L. 107-251. See 2002 Amendment notes below. Former subsec. (j) redesignated (k).

Pub. L. 108-163, §2(a)(1)(C), amended subsec. (j) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment notes below.

Subsec. (j)(3)(H). Pub. L. 108-163, §2(a)(1)(B), amended subpar. (H) to read as if subpar. (C) of par. (7) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment note below.

Subsec. (k). Pub. L. 108-163, §2(a)(2)(C), (D), redesignated subsec. (j) as (k) and struck out heading and text of former subsec. (k). Text read as follows: “The Secretary may provide (either through the Department of Health and Human Services or by grant or contract) all necessary technical and other nonfinancial assistance (including fiscal and program management assistance and training in such management) to any public or private nonprofit entity to assist entities in developing plans for, or operating as, health centers, and in meeting the requirements of subsection (j)(2) of this section.”

Pub. L. 108-163, §2(a)(1)(C), amended subsec. (k) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment notes below.

Subsec. (l). Pub. L. 108-163, §2(a)(2)(H), inserted “(either through the Department of Health and Human Services or by grant or contract)” after “shall provide” and substituted “(k)(3)” for “(l)(3)”.

Pub. L. 108-163, §2(a)(2)(G), added subsec. (l) identical to the subsec. (m) appearing in the amendment by section 101(9) of Pub. L. 107-251. See 2002 Amendment notes below. Former subsec. (l) redesignated (r).

Pub. L. 108-163, §2(a)(1)(C), amended subsec. (l) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment note below.

Subsecs. (m) to (o). Pub. L. 108-163, §2(a)(1)(C), amended subsecs. (m) to (o) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment notes below.

Subsec. (p). Pub. L. 108-163, §2(a)(2)(I), substituted “(k)(3)(G)” for “(j)(3)(G)”.

Pub. L. 108-163, §2(a)(1)(C), amended subsec. (p) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment note below.

Subsec. (q). Pub. L. 108-163, §2(a)(1)(C), amended subsec. (q) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment note below.

Subsec. (r). Pub. L. 108-163, §2(a)(2)(F), redesignated subsec. (l) as (r).

Pub. L. 108-163, §2(a)(1)(C), amended subsec. (r) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment note below.

Subsec. (r)(1). Pub. L. 108-163, §2(a)(2)(J)(i), substituted “\$1,340,000,000 for fiscal year 2002 and such sums as may be necessary for each of the fiscal years 2003 through 2006” for “\$802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001”.

Subsec. (r)(2)(A). Pub. L. 108-163, §2(a)(2)(J)(ii), substituted “(k)(3)” for “(j)(3)” and “(k)(3)(H)” for “(j)(3)(G)(ii)”.

Subsec. (r)(2)(B). Pub. L. 108-163, §2(a)(2)(J)(iii), added subpar. (B) identical to the subpar. (B) appearing in the amendment by section 101(11)(B)(ii) of Pub. L. 107-251 and struck out heading and text of former subpar. (B) relating to distribution of grants for fiscal years 1997 through 1999. See 2002 Amendment note below.

Subsec. (s). Pub. L. 108-163, §2(a)(1)(C), amended subsec. (s) to read as if pars. (8) through (11) of section 101 of Pub. L. 107-251 had not been enacted. See 2002 Amendment notes below.

2002—Subsec. (b)(1)(A)(i)(III)(bb). Pub. L. 107-251, §101(1)(A), substituted “appropriate cancer screening” for “screening for breast and cervical cancer”.

Subsec. (b)(1)(A)(ii). Pub. L. 107-251, §101(1)(B), inserted “(including specialty referral when medically indicated)” after “medical services”.

Subsec. (b)(1)(A)(iii). Pub. L. 107-251, §101(1)(C), inserted “housing,” after “social.”

Subsec. (b)(2)(A). Pub. L. 107-251, §101(2)(C), added subpar. (A). Former subpar. (A) redesignated (C).

Subsec. (b)(2)(A)(i). Pub. L. 107-251, §101(2)(A), substituted “associated with—” and subcls. (I) to (IV) for “associated with water supply;”.

Subsec. (b)(2)(B) to (D). Pub. L. 107-251, §101(2)(B), (C), added subpar. (B) and redesignated former subpars. (A) and (B) as (C) and (D), respectively.

Subsec. (c)(1)(B). Pub. L. 107-251, §101(3)(A)(iii), struck out concluding provisions which read as follows: “Any such grant may include the acquisition and lease of buildings and equipment which may include data and information systems (including the costs of amortizing the principal of, and paying the interest on, loans), and providing training and technical assistance related to the provision of health services on a prepaid basis or under another managed care arrangement, and for other purposes that promote the development of managed care networks and plans.”

Pub. L. 107-251, §101(3)(A)(ii), in introductory provisions, substituted “managed care network or plan.” for “network or plan for the provision of health services, which may include the provision of health services on a prepaid basis or through another managed care arrangement, to some or to all of the individuals which the centers serve”.

Pub. L. 107-251, §101(3)(A)(i), substituted “Managed care” for “Comprehensive service delivery” in heading.

Subsec. (c)(1)(C), (D). Pub. L. 107-251, §101(3)(B), added subpars. (C) and (D).

Subsec. (d). Pub. L. 107-251, §101(4)(A), substituted “Loan guarantee program” for “Managed care loan guarantee program” in heading.

Subsec. (d)(1)(A). Pub. L. 107-251, §101(4)(B)(i), substituted “up to 90 percent of the principal and interest on loans made by non-Federal lenders to health centers, funded under this section, for the costs of developing and operating managed care networks or plans described in subsection (c)(1)(B) of this section, or practice management networks described in subsection (c)(1)(C) of this section” for “the principal and interest on loans made by non-Federal lenders to health centers funded under this section for the costs of developing and operating managed care networks or plans”.

Subsec. (d)(1)(B)(iii). Pub. L. 107-251, §101(4)(B)(ii), added cl. (iii).

Subsec. (d)(1)(D), (E). Pub. L. 107-251, §101(4)(B)(iii), added subpars. (D) and (E).

Subsec. (d)(6) to (8). Pub. L. 107-251, §101(4)(C), redesignated par. (8) as (6) and struck out headings and text of former pars. (6) and (7) which related to annual reports and program evaluation, respectively.

Subsec. (e)(1)(B). Pub. L. 107-251, §101(4)(A)(i), substituted “subsection (k)(3)” for “subsection (j)(3)”.

Subsec. (e)(1)(C). Pub. L. 107-251, §101(4)(A)(ii), added subpar. (C).

Subsec. (e)(3). Pub. L. 107-251, §101(4)(C), redesignated par. (4), relating to limitation, as (3).

Subsec. (e)(4). Pub. L. 107-251, §101(4)(C), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (e)(5). Pub. L. 107-251, §101(4)(B), (C), redesignated par. (5) as (4), inserted “subparagraphs (A) and (B) of” after “any fiscal year under” in subpar. (A), added subpar. (B), and redesignated former subpars. (B) and (C) as (C) and (D), respectively.

Subsec. (g)(2)(A). Pub. L. 107-251, §101(5)(A)(i), inserted “and seasonal agricultural worker” after “migratory agricultural worker”.

Subsec. (g)(2)(B). Pub. L. 107-251, §101(5)(A)(ii), substituted “and seasonal agricultural workers, and members of their families,” for “and members of their families”.

Subsec. (g)(3)(A). Pub. L. 107-251, §101(5)(B), struck out “on a seasonal basis” after “in agriculture”.

Subsec. (h)(1). Pub. L. 107-251, §101(6)(A), substituted “homeless children and youth and children and youth at risk of homelessness” for “homeless children and children at risk of homelessness”.

Subsec. (h)(4). Pub. L. 107-251, §101(6)(B)(ii), added par. (4). Former par. (4) redesignated (5).

Subsec. (h)(5). Pub. L. 107-251, §101(6)(B)(i), (C), redesignated par. (4) as (5) and substituted “, risk reduction, outpatient treatment, residential treatment, and rehabilitation” for “and residential treatment” in subpar. (C).

Subsec. (j). Pub. L. 107-251, §101(8)(C), added subsec. (j) relating to access grants.

Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsec. (j)(3)(E)(i). Pub. L. 107-251, §101(7)(A)(i), designated existing provisions as subcl. (I) and added subcl. (II).

Subsec. (j)(3)(E)(ii). Pub. L. 107-251, §101(7)(A)(ii), substituted “arrangements described in subclauses (I) and (II) of clause (i)” for “such an arrangement”.

Subsec. (j)(3)(G)(iii), (iv). Pub. L. 107-251, §101(7)(B), added cl. (iii) and redesignated former cl. (iii) as (iv).

Subsec. (j)(3)(H). Pub. L. 107-251, §101(7)(C), substituted “or (q)” for “or (p)” in concluding provisions.

Subsec. (j)(3)(M). Pub. L. 107-251, §101(7)(D)–(F), added subpar. (M).

Subsec. (k). Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsec. (l). Pub. L. 107-251, §101(8)(A), redesignated subsec. (l) as (s).

Subsec. (m). Pub. L. 107-251, §101(9), which directed striking subsec. (m) (as redesignated by paragraph (9)(B)) and adding a new subsec. (m), could not be executed. The new subsec. (m) to be added read as follows: “(m) TECHNICAL ASSISTANCE.—The Secretary shall establish a program through which the Secretary shall provide technical and other assistance to eligible entities to assist such entities to meet the requirements of subsection (l)(3) of this section. Services provided through the program may include necessary technical and nonfinancial assistance, including fiscal and program management assistance, training in fiscal and program management, operational and administrative support, and the provision of information to the entities of the variety of resources available under this subchapter and how those resources can be best used to meet the health needs of the communities served by the entities.”

Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsecs. (n) to (p). Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsec. (q). Pub. L. 107-251, §101(10), which directed the substitution of “(l)(3)(G)” for “(j)(3)(G)” in subsec. (q) “(as redesignated by paragraph (9)(B))”, could not be executed.

Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsec. (r). Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsec. (s). Pub. L. 107-251, §101(8)(B), which directed the redesignation of subsecs. (j), (k), and (m) through (q) as subsecs. (n), (o), and (p) through (s), respectively, could not be executed.

Subsec. (s)(1). Pub. L. 107-251, §101(11)(A), substituted “\$1,340,000,000 for fiscal year 2002 and such sums as may

be necessary for each of the fiscal years 2003 through 2006” for “\$802,124,000 for fiscal year 1997, and such sums as may be necessary for each of the fiscal years 1998 through 2001”.

Subsec. (s)(2)(A). Pub. L. 107-251, §101(11)(B)(i), substituted “(l)(3)” for “(j)(3)” and “(l)(3)(H)” for “(j)(3)(G)(ii)”.

Subsec. (s)(2)(B). Pub. L. 107-251, §101(11)(B)(ii), added subpar. (B) and struck out heading and text of former subpar. (B) relating to distribution of grants for fiscal years 1997 through 1999.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendments by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 5 of Pub. L. 104-299, as amended, set out as an Effective Date of 1996 Amendment note under section 233 of this title.

SAVINGS PROVISION FOR CURRENT GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS

Section 3(b) of Pub. L. 104-299 provided that: “The Secretary of Health and Human Services shall ensure the continued funding of grants made, or contracts or cooperative agreements entered into, under subpart I of part D of title III of the Public Health Service Act (42 U.S.C. 254b et seq.) (as such subpart existed on the day prior to the date of enactment of this Act [Oct. 11, 1996]), until the expiration of the grant period or the term of the contract or cooperative agreement. Such funding shall be continued under the same terms and conditions as were in effect on the date on which the grant, contract or cooperative agreement was awarded, subject to the availability of appropriations.”

GUARANTEE STUDY

Pub. L. 107-251, title V, §501, Oct. 26, 2002, 116 Stat. 1664, as amended by Pub. L. 108-163, §2(n)(2), Dec. 6, 2003, 117 Stat. 2023, provided that: “The Secretary of Health and Human Services shall conduct a study regarding the ability of the Department of Health and Human Services to provide for guarantees of solvency for managed care networks or plans involving health centers receiving funding under section 330 of the Public Health Service Act [this section]. The Secretary shall prepare and submit a report to the appropriate Committees of Congress regarding such ability not later than 2 years after the date of enactment of the Health Care Safety Net Amendments of 2002 [Oct. 26, 2002].”

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Section 4(c) of Pub. L. 104-299 provided that: “Whenever any reference is made in any provision of law, regulation, rule, record, or document to a community health center, migrant health center, public housing health center, or homeless health center, such reference shall be considered a reference to a health center.”

LEGISLATIVE PROPOSAL FOR CHANGES CONFORMING TO PUB. L. 104-299

Section 4(e) of Pub. L. 104-299 provided that: “After consultation with the appropriate committees of the Congress, the Secretary of Health and Human Services shall prepare and submit to the Congress a legislative proposal in the form of an implementing bill containing technical and conforming amendments to reflect the changes made by this Act [see Short Title of 1996 Amendments note set out under section 201 of this title].”

§ 254c. Rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs

(a) Purpose

The purpose of this section is to provide grants for expanded delivery of health care services in rural areas, for the planning and implementation of integrated health care networks in rural areas, and for the planning and implementation of small health care provider quality improvement activities.

(b) Definitions

(1) Director

The term “Director” means the Director specified in subsection (d) of this section.

(2) Federally qualified health center; rural health clinic

The terms “Federally qualified health center” and “rural health clinic” have the meanings given the terms in section 1395x(aa) of this title.

(3) Health professional shortage area

The term “health professional shortage area” means a health professional shortage area designated under section 254e of this title.

(4) Medically underserved community

The term “medically underserved community” has the meaning given the term in section 295p(6) of this title.

(5) Medically underserved population

The term “medically underserved population” has the meaning given the term in section 254b(b)(3) of this title.

(c) Program

The Secretary shall establish, under section 241 of this title, a small health care provider quality improvement grant program.

(d) Administration

(1) Programs

The rural health care services outreach, rural health network development, and small health care provider quality improvement grant programs established under section 241 of this title shall be administered by the Director of the Office of Rural Health Policy of the Health Resources and Services Administration, in consultation with State offices of rural health or other appropriate State government entities.

(2) Grants

(A) In general

In carrying out the programs described in paragraph (1), the Director may award grants under subsections (e), (f), and (g) of this section to expand access to, coordinate, and improve the quality of essential health care services, and enhance the delivery of health care, in rural areas.

(B) Types of grants

The Director may award the grants—

- (i) to promote expanded delivery of health care services in rural areas under subsection (e) of this section;

(ii) to provide for the planning and implementation of integrated health care networks in rural areas under subsection (f) of this section; and

(iii) to provide for the planning and implementation of small health care provider quality improvement activities under subsection (g) of this section.

(e) Rural health care services outreach grants

(1) Grants

The Director may award grants to eligible entities to promote rural health care services outreach by expanding the delivery of health care services to include new and enhanced services in rural areas. The Director may award the grants for periods of not more than 3 years.

(2) Eligibility

To be eligible to receive a grant under this subsection for a project, an entity—

(A) shall be a rural public or rural non-profit private entity;

(B) shall represent a consortium composed of members—

(i) that include 3 or more health care providers; and

(ii) that may be nonprofit or for-profit entities; and

(C) shall not previously have received a grant under this subsection for the same or a similar project, unless the entity is proposing to expand the scope of the project or the area that will be served through the project.

(3) Applications

To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

(B) a description of the manner in which the project funded under the grant will meet the health care needs of rural underserved populations in the local community or region to be served;

(C) a description of how the local community or region to be served will be involved in the development and ongoing operations of the project;

(D) a plan for sustaining the project after Federal support for the project has ended;

(E) a description of how the project will be evaluated; and

(F) other such information as the Secretary determines to be appropriate.

(f) Rural health network development grants

(1) Grants

(A) In general

The Director may award rural health network development grants to eligible entities to promote, through planning and imple-

mentation, the development of integrated health care networks that have combined the functions of the entities participating in the networks in order to—

(i) achieve efficiencies;

(ii) expand access to, coordinate, and improve the quality of essential health care services; and

(iii) strengthen the rural health care system as a whole.

(B) Grant periods

The Director may award such a rural health network development grant for implementation activities for a period of 3 years. The Director may also award such a rural health network development grant for planning activities for a period of 1 year, to assist in the development of an integrated health care network, if the proposed participants in the network do not have a history of collaborative efforts and a 3-year grant would be inappropriate.

(2) Eligibility

To be eligible to receive a grant under this subsection, an entity—

(A) shall be a rural public or rural non-profit private entity;

(B) shall represent a network composed of participants—

(i) that include 3 or more health care providers; and

(ii) that may be nonprofit or for-profit entities; and

(C) shall not previously have received a grant under this subsection (other than a grant for planning activities) for the same or a similar project.

(3) Applications

To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

(B) an explanation of the reasons why Federal assistance is required to carry out the project;

(C) a description of—

(i) the history of collaborative activities carried out by the participants in the network;

(ii) the degree to which the participants are ready to integrate their functions; and

(iii) how the local community or region to be served will benefit from and be involved in the activities carried out by the network;

(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the integration activities carried out by the network;

(E) a plan for sustaining the project after Federal support for the project has ended;

(F) a description of how the project will be evaluated; and

(G) other such information as the Secretary determines to be appropriate.

(g) Small health care provider quality improvement grants

(1) Grants

The Director may award grants to provide for the planning and implementation of small health care provider quality improvement activities. The Director may award the grants for periods of 1 to 3 years.

(2) Eligibility

To be eligible for a grant under this subsection, an entity—

(A)(i) shall be a rural public or rural nonprofit private health care provider or provider of health care services, such as a critical access hospital or a rural health clinic; or

(ii) shall be another rural provider or network of small rural providers identified by the Secretary as a key source of local care; and

(B) shall not previously have received a grant under this subsection for the same or a similar project.

(3) Applications

To be eligible to receive a grant under this subsection, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

(A) a description of the project that the eligible entity will carry out using the funds provided under the grant;

(B) an explanation of the reasons why Federal assistance is required to carry out the project;

(C) a description of the manner in which the project funded under the grant will assure continuous quality improvement in the provision of services by the entity;

(D) a description of how the local community or region to be served will experience increased access to quality health care services across the continuum of care as a result of the activities carried out by the entity;

(E) a plan for sustaining the project after Federal support for the project has ended;

(F) a description of how the project will be evaluated; and

(G) other such information as the Secretary determines to be appropriate.

(4) Expenditures for small health care provider quality improvement grants

In awarding a grant under this subsection, the Director shall ensure that the funds made available through the grant will be used to provide services to residents of rural areas. The Director shall award not less than 50 percent of the funds made available under this subsection to providers located in and serving rural areas.

(h) General requirements

(1) Prohibited uses of funds

An entity that receives a grant under this section may not use funds provided through the grant—

(A) to build or acquire real property; or

(B) for construction.

(2) Coordination with other agencies

The Secretary shall coordinate activities carried out under grant programs described in this section, to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar grant programs, to maximize the effect of public dollars in funding meritorious proposals.

(3) Preference

In awarding grants under this section, the Secretary shall give preference to entities that—

(A) are located in health professional shortage areas or medically underserved communities, or serve medically underserved populations; or

(B) propose to develop projects with a focus on primary care, and wellness and prevention strategies.

(i) Report

Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsections (e), (f), and (g) of this section.

(j) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(July 1, 1944, ch. 373, title III, §330A, as added Pub. L. 104-299, §3(a), Oct. 11, 1996, 110 Stat. 3642; amended Pub. L. 107-251, title II, §201, Oct. 26, 2002, 116 Stat. 1628; Pub. L. 108-163, §2(b), Dec. 6, 2003, 117 Stat. 2021.)

PRIOR PROVISIONS

A prior section 254c, act July 1, 1944, ch. 373, title III, §330, as added July 29, 1975, Pub. L. 94-63, title V, §501(a), 89 Stat. 342; amended Apr. 22, 1976, Pub. L. 94-278, title VIII, §801(b), 90 Stat. 415; Aug. 1, 1977, Pub. L. 95-83, title III, §304, 91 Stat. 388; Nov. 10, 1978, Pub. L. 95-626, title I, §104(a)-(d)(3)(B), (4), (5), (e), (f), 92 Stat. 3556-3559; July 10, 1979, Pub. L. 96-32, §§6(b)-(d), 7(c), 93 Stat. 83, 84; Oct. 17, 1979, Pub. L. 96-88, title V, §509(b), 93 Stat. 695; Oct. 19, 1980, Pub. L. 96-470, title I, §106(e), 94 Stat. 2238; Aug. 13, 1981, Pub. L. 97-35, title IX, §§903(a), 905, 906, 95 Stat. 561, 562; Jan. 4, 1983, Pub. L. 97-414, §8(e), 96 Stat. 2060; Apr. 24, 1986, Pub. L. 99-280, §§2-4, 100 Stat. 399, 400; Aug. 10, 1988, Pub. L. 100-386, §§3, 4, 102 Stat. 921, 923; Nov. 4, 1988, Pub. L. 100-607, title I, §163(3), 102 Stat. 3062; Dec. 19, 1989, Pub. L. 101-239, title VI, §6103(e)(5), 103 Stat. 2207; Nov. 6, 1990, Pub. L. 101-527, §9(a), 104 Stat. 2332; Oct. 27, 1992, Pub. L. 102-531, title III, §309(b), 106 Stat. 3500, related to community health centers, prior to the general amendment of this subpart by Pub. L. 104-299, §2.

AMENDMENTS

2003—Subsec. (b)(4). Pub. L. 108-163 substituted “section 295p(6)” for “section 295p”.

2002—Pub. L. 107-251 amended section generally. Prior to amendment, section related to a rural health out-

reach, network development, and telemedicine grant program, and in subsec. (a), provided for administration by the Office of Rural Health Policy; in subsec. (b), set out the objectives of grants; in subsec. (c), set out eligibility requirements; in subsec. (d), described preferred characteristics of applicant networks; in subsec. (e), specified permitted uses of grant funds; in subsec. (f), limited the duration of grants; and in subsec. (g), authorized appropriations.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 5 of Pub. L. 104-299, as amended, set out as an Effective Date of 1996 Amendment note under section 233 of this title.

RURAL ACCESS TO EMERGENCY DEVICES

Pub. L. 106-505, title IV, subtitle B, Nov. 13, 2000, 114 Stat. 2340, provided that:

“SEC. 411. SHORT TITLE.

“This subtitle may be cited as the ‘Rural Access to Emergency Devices Act’ or the ‘Rural AED Act’.

“SEC. 412. FINDINGS.

“Congress makes the following findings:

“(1) Heart disease is the leading cause of death in the United States.

“(2) The American Heart Association estimates that 250,000 Americans die from sudden cardiac arrest each year.

“(3) A cardiac arrest victim’s chance of survival drops 10 percent for every minute that passes before his or her heart is returned to normal rhythm.

“(4) Because most cardiac arrest victims are initially in ventricular fibrillation, and the only treatment for ventricular fibrillation is defibrillation, prompt access to defibrillation to return the heart to normal rhythm is essential.

“(5) Lifesaving technology, the automated external defibrillator, has been developed to allow trained lay rescuers to respond to cardiac arrest by using this simple device to shock the heart into normal rhythm.

“(6) Those people who are likely to be first on the scene of a cardiac arrest situation in many communities, particularly smaller and rural communities, lack sufficient numbers of automated external defibrillators to respond to cardiac arrest in a timely manner.

“(7) The American Heart Association estimates that more than 50,000 deaths could be prevented each year if defibrillators were more widely available to designated responders.

“(8) Legislation should be enacted to encourage greater public access to automated external defibrillators in communities across the United States.

“SEC. 413. GRANTS.

“(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Rural Health Outreach Office of the Health Resources and Services Administration, shall award grants to community partnerships that meet the requirements of subsection (b) to enable such partnerships to purchase equipment and provide training as provided for in subsection (c).

“(b) COMMUNITY PARTNERSHIPS.—A community partnership meets the requirements of this subsection if such partnership—

“(1) is composed of local emergency response entities such as community training facilities, local emergency responders, fire and rescue departments, police, community hospitals, and local non-profit entities and for-profit entities concerned about cardiac arrest survival rates;

“(2) evaluates the local community emergency response times to assess whether they meet the stand-

ards established by national public health organizations such as the American Heart Association and the American Red Cross; and

“(3) submits to the Secretary of Health and Human Services an application at such time, in such manner, and containing such information as the Secretary may require.

“(c) USE OF FUNDS.—Amounts provided under a grant under this section shall be used—

“(1) to purchase automated external defibrillators that have been approved, or cleared for marketing, by the Food and Drug Administration; and

“(2) to provide defibrillator and basic life support training in automated external defibrillator usage through the American Heart Association, the American Red Cross, or other nationally recognized training courses.

“(d) REPORT.—Not later than 4 years after the date of the enactment of this Act [Nov. 13, 2000], the Secretary of Health and Human Services shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether the increased availability of defibrillators has affected survival rates in the communities in which grantees under this section operated. The procedures under which the Secretary obtains data and prepares the report under this subsection shall not impose an undue burden on program participants under this section.

“(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated \$25,000,000 for fiscal years 2001 through 2003 to carry out this section.”

REPORT ON TELEMEDICINE

Pub. L. 106-129, § 6, Dec. 6, 1999, 113 Stat. 1675, provided that: “Not later than January 10, 2001, the Secretary of Health and Human Services shall submit to the Congress a report that—

“(1) identifies any factors that inhibit the expansion and accessibility of telemedicine services, including factors relating to telemedicine networks;

“(2) identifies any factors that, in addition to geographical isolation, should be used to determine which patients need or require access to telemedicine care;

“(3) determines the extent to which—

“(A) patients receiving telemedicine service have benefited from the services, and are satisfied with the treatment received pursuant to the services; and

“(B) the medical outcomes for such patients would have differed if telemedicine services had not been available to the patients;

“(4) determines the extent to which physicians involved with telemedicine services have been satisfied with the medical aspects of the services;

“(5) determines the extent to which primary care physicians are enhancing their medical knowledge and experience through the interaction with specialists provided by telemedicine consultations; and

“(6) identifies legal and medical issues relating to State licensing of health professionals that are presented by telemedicine services, and provides any recommendations of the Secretary for responding to such issues.”

§ 254c-1. Grants for health services for Pacific Islanders

(a) Grants

The Secretary of Health and Human Services (hereafter in this section referred to as the “Secretary”) shall provide grants to, or enter into contracts with, public or private nonprofit agencies that have demonstrated experience in serving the health needs of Pacific Islanders living in the Territory of American Samoa, the Commonwealth of Northern Mariana Islands, the Territory of Guam, the Republic of the Mar-

shall Islands, the Republic of Palau, and the Federated States of Micronesia.

(b) Use of grants or contracts

Grants or contracts made or entered into under subsection (a) of this section shall be used, among other items—

(1) to continue, as a priority, the medical officer training program in Pohnpei, Federated States of Micronesia;

(2) to improve the quality and availability of health and mental health services and systems, with an emphasis therein on preventive health services and health promotion programs and projects, including improved health data systems;

(3) to improve the quality and availability of health manpower, including programs and projects to train new and upgrade the skills of existing health professionals by—

(A) establishing dental officer, dental assistant, nurse practitioner, or nurse clinical specialist training programs;

(B) providing technical training of new auxiliary health workers;

(C) upgrading the training of currently employed health personnel in special areas of need;

(D) developing long-term plans for meeting health profession needs;

(E) developing or improving programs for faculty enhancement or post-doctoral training; and

(F) providing innovative health professions training initiatives (including scholarships) targeted toward ensuring that residents of the Pacific Basin attend and graduate from recognized health professional programs;

(4) to improve the quality of health services, including laboratory, x-ray, and pharmacy, provided in ambulatory and inpatient settings through quality assurance, standard setting, and other culturally appropriate means;

(5) to improve facility and equipment repair and maintenance systems;

(6) to improve alcohol, drug abuse, and mental health prevention and treatment services and systems;

(7) to improve local and regional health planning systems; and

(8) to improve basic local public health systems, with particular attention to primary care and services to those most in need.

No funds under subsection (b) of this section shall be used for capital construction.

(c) Advisory Council

The Secretary of Health and Human Services shall establish a "Pacific Health Advisory Council" which shall consist of 12 members and shall include—

(1) the Directors of the Health Departments for the entities identified in subsection (a) of this section; and

(2) 6 members, including a representative of the Rehabilitation Hospital of the Pacific, representing organizations in the State of Hawaii actively involved in the provision of health services or technical assistance to the entities identified in subsection (a) of this section. The Secretary shall solicit the advice of the Gov-

ernor of the State of Hawaii in appointing the 5 Council members in addition to the representative of the Rehabilitation Hospital of the Pacific from the State of Hawaii.

The Secretary shall be responsible for providing sufficient staff support to the Council.

(d) Advisory Council functions

The Council shall meet at least annually to—

(1) recommend priority areas of need for funding by the Public Health Service under this section; and

(2) review progress in addressing priority areas and make recommendations to the Secretary for needed program modifications.

(e) Omitted

(f) Authorization of appropriation

There is authorized to be appropriated to carry out this section \$10,000,000 for each of the fiscal years 1991 through 1993.

(Pub. L. 101-527, §10, Nov. 6, 1990, 104 Stat. 2333.)

CODIFICATION

Section was enacted as part of the Disadvantaged Minority Health Improvement Act of 1990, and not as part of the Public Health Service Act which comprises this chapter.

Subsec. (e) of this section, which required the Secretary, in consultation with the Council, to annually prepare and submit to appropriate committees of Congress a report describing the expenditure of funds authorized to be appropriated under this section, with any recommendations of the Secretary, terminated, effective May 15, 2000, pursuant to section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance. See, also, page 95 of House Document No. 103-7.

TERMINATION OF ADVISORY COUNCILS

Advisory councils established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 254c-2. Special diabetes programs for type I diabetes

(a) In general

The Secretary, directly or through grants, shall provide for research into the prevention and cure of Type¹ I diabetes.

(b) Funding

(1) Transferred funds

Notwithstanding section 1397dd(a) of this title, from the amounts appropriated in such section for each of fiscal years 1998 through 2002, \$30,000,000 is hereby transferred and made available in such fiscal year for grants under this section.

(2) Appropriations

For the purpose of making grants under this section, there is appropriated, out of any funds in the Treasury not otherwise appropriated—

¹ So in original. Probably should not be capitalized.

- (A) \$70,000,000 for each of fiscal years 2001 and 2002 (which shall be combined with amounts transferred under paragraph (1) for each such fiscal years);
- (B) \$100,000,000 for fiscal year 2003; and
- (C) \$150,000,000 for each of fiscal years 2004 through 2009.

(July 1, 1944, ch. 373, title III, § 330B, as added Pub. L. 105-33, title IV, § 4921, Aug. 5, 1997, 111 Stat. 574; amended Pub. L. 105-34, title XVI, § 1604(f)(1)(B), (C), Aug. 5, 1997, 111 Stat. 1098; Pub. L. 106-554, § 1(a)(6) [title IX, § 931(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-585; Pub. L. 107-360, § 1(a), Dec. 17, 2002, 116 Stat. 3019; Pub. L. 110-173, title III, § 302(a), Dec. 29, 2007, 121 Stat. 2514.)

AMENDMENTS

2007—Subsec. (b)(2)(C). Pub. L. 110-173 substituted “2009” for “2008”.

2002—Subsec. (b)(2)(C). Pub. L. 107-360 added subpar. (C).

2000—Subsec. (b). Pub. L. 106-554 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1997—Pub. L. 105-34, § 1604(f)(1)(B), amended directory language of Pub. L. 105-33, § 4921, which enacted this section.

Pub. L. 105-34, § 1604(f)(1)(C)(i), struck out “children with” before “type I diabetes” in section catchline.

Subsec. (a). Pub. L. 105-34, § 1604(f)(1)(C)(ii), amended heading and text of subsec. (a) generally. Prior to amendment, text read as follows: “The Secretary shall make grants for services for the prevention and treatment of type I diabetes in children, and for research in innovative approaches to such services. Such grants may be made to children’s hospitals; grantees under section 254b of this title and other federally qualified health centers; State and local health departments; and other appropriate public or nonprofit private entities.”

EFFECTIVE DATE OF 1997 AMENDMENT

Section 1604(f)(4) of Pub. L. 105-34 provided that: “The provisions of, and amendments made by, this subsection [amending this section and provisions set out as a note under section 5701 of Title 26, Internal Revenue Code] shall take effect immediately after the sections referred to in this subsection [sections 4921, 9302, 11104, and 11201 of Pub. L. 105-33] take effect.”

REPORT ON DIABETES GRANT PROGRAMS

Pub. L. 105-33, title IV, § 4923, Aug. 5, 1997, 111 Stat. 574, as amended by Pub. L. 106-554, § 1(a)(6) [title IX, § 931(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-585; Pub. L. 107-360, § 1(c), Dec. 17, 2002, 116 Stat. 3019; Pub. L. 109-482, title I, § 104(b)(3)(C), Jan. 15, 2007, 120 Stat. 3694, provided that:

“(a) EVALUATION.—The Secretary of Health and Human Services shall conduct an evaluation of the diabetes grant programs established under the amendments made by this chapter [chapter 3 (§§ 4921-4923) of subtitle J of title IV of Pub. L. 105-33, enacting this section and section 254c-3 of this title].

“[(b) Repealed. Pub. L. 109-482, title I, § 104(b)(3)(C), Jan. 15, 2007, 120 Stat. 3694.]”

§ 254c-3. Special diabetes programs for Indians

(a) In general

The Secretary shall make grants for providing services for the prevention and treatment of diabetes in accordance with subsection (b) of this section.

(b) Services through Indian health facilities

For purposes of subsection (a) of this section, services under such subsection are provided in

accordance with this subsection if the services are provided through any of the following entities:

- (1) The Indian Health Service.
- (2) An Indian health program operated by an Indian tribe or tribal organization pursuant to a contract, grant, cooperative agreement, or compact with the Indian Health Service pursuant to the Indian Self-Determination Act [25 U.S.C. 450f et seq.].
- (3) An urban Indian health program operated by an urban Indian organization pursuant to a grant or contract with the Indian Health Service pursuant to title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.].

(c) Funding

(1) Transferred funds

Notwithstanding section 1397dd(a) of this title, from the amounts appropriated in such section for each of fiscal years 1998 through 2002, \$30,000,000, to remain available until expended, is hereby transferred and made available in such fiscal year for grants under this section.

(2) Appropriations

For the purpose of making grants under this section, there is appropriated, out of any money in the Treasury not otherwise appropriated—

- (A) \$70,000,000 for each of fiscal years 2001 and 2002 (which shall be combined with amounts transferred under paragraph (1) for each such fiscal years);
- (B) \$100,000,000 for fiscal year 2003; and
- (C) \$150,000,000 for each of fiscal years 2004 through 2009.

(July 1, 1944, ch. 373, title III, § 330C, as added Pub. L. 105-33, title IV, § 4922, Aug. 5, 1997, 111 Stat. 574; amended Pub. L. 105-174, title III, § 3001, May 1, 1998, 112 Stat. 82; Pub. L. 106-554, § 1(a)(6) [title IX, § 931(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-585; Pub. L. 107-360, § 1(b), Dec. 17, 2002, 116 Stat. 3019; Pub. L. 110-173, title III, § 302(b), Dec. 29, 2007, 121 Stat. 2515.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (b)(2), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (b)(3), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended. Title V of the Act is classified generally to subchapter IV (§ 1651 et seq.) of chapter 18 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

AMENDMENTS

2007—Subsec. (c)(2)(C). Pub. L. 110-173 substituted “2009” for “2008”.

2002—Subsec. (c)(2)(C). Pub. L. 107-360 added subpar. (C).

2000—Subsec. (c). Pub. L. 106-554 designated existing provisions as par. (1), inserted par. heading, and added par. (2).

1998—Subsec. (c). Pub. L. 105-174 inserted “, to remain available until expended,” after “fiscal years 1998 through 2002, \$30,000,000”.

FUNDS AVAILABLE UNTIL EXPENDED

Pub. L. 108-7, div. F, title II, Feb. 20, 2003, 117 Stat. 261, provided in part “That funds appropriated under the Special Diabetes Program for Indians (42 U.S.C. 254c-3(c)) for fiscal year 2003 and thereafter for the purpose of making grants shall remain available until expended”.

§ 254c-4. Centers for strategies on facilitating utilization of preventive health services among various populations

(a) In general

The Secretary, acting through the appropriate agencies of the Public Health Service, shall make grants to public or nonprofit private entities for the establishment and operation of regional centers whose purpose is to develop, evaluate, and disseminate effective strategies, which utilize quality management measures, to assist public and private health care programs and providers in the appropriate utilization of preventive health care services by specific populations.

(b) Research and training

The activities carried out by a center under subsection (a) of this section may include establishing programs of research and training with respect to the purpose described in such subsection, including the development of curricula for training individuals in implementing the strategies developed under such subsection.

(c) Priority regarding infants and children

In carrying out the purpose described in subsection (a) of this section, the Secretary shall give priority to various populations of infants, young children, and their mothers.

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2000 through 2004.

(July 1, 1944, ch. 373, title III, § 330D, as added Pub. L. 106-129, § 3, Dec. 6, 1999, 113 Stat. 1670.)

§ 254c-5. Epilepsy; seizure disorder

(a) National public health campaign

(1) In general

The Secretary shall develop and implement public health surveillance, education, research, and intervention strategies to improve the lives of persons with epilepsy, with a particular emphasis on children. Such projects may be carried out by the Secretary directly and through awards of grants or contracts to public or nonprofit private entities. The Secretary may directly or through such awards provide technical assistance with respect to the planning, development, and operation of such projects.

(2) Certain activities

Activities under paragraph (1) shall include—

(A) expanding current surveillance activities through existing monitoring systems and improving registries that maintain data on individuals with epilepsy, including children;

(B) enhancing research activities on the diagnosis, treatment, and management of epilepsy;

(C) implementing public and professional information and education programs regarding epilepsy, including initiatives which promote effective management of the disease through children’s programs which are targeted to parents, schools, daycare providers, patients;

(D) undertaking educational efforts with the media, providers of health care, schools and others regarding stigmas and secondary disabilities related to epilepsy and seizures, and its effects on youth;

(E) utilizing and expanding partnerships with organizations with experience addressing the health and related needs of people with disabilities; and

(F) other activities the Secretary deems appropriate.

(3) Coordination of activities

The Secretary shall ensure that activities under this subsection are coordinated as appropriate with other agencies of the Public Health Service that carry out activities regarding epilepsy and seizure.

(b) Seizure disorder; demonstration projects in medically underserved areas

(1) In general

The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants for the purpose of carrying out demonstration projects to improve access to health and other services regarding seizures to encourage early detection and treatment in children and others residing in medically underserved areas.

(2) Application for grant

A grant may not be awarded under paragraph (1) unless an application therefore is submitted to the Secretary and the Secretary approves such application. Such application shall be submitted in such form and manner and shall contain such information as the Secretary may prescribe.

(c) Definitions

For purposes of this section:

(1) The term “epilepsy” refers to a chronic and serious neurological condition characterized by excessive electrical discharges in the brain causing recurring seizures affecting all life activities. The Secretary may revise the definition of such term to the extent the Secretary determines necessary.

(2) The term “medically underserved” has the meaning applicable under section 295p(6) of this title.

(d) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

(July 1, 1944, ch. 373, title III, § 330E, as added Pub. L. 106-310, div. A, title VIII, § 801, Oct. 17, 2000, 114 Stat. 1124.)

§ 254c-6. Certain services for pregnant women**(a) Infant adoption awareness****(1) In general**

The Secretary shall make grants to national, regional, or local adoption organizations for the purpose of developing and implementing programs to train the designated staff of eligible health centers in providing adoption information and referrals to pregnant women on an equal basis with all other courses of action included in nondirective counseling to pregnant women.

(2) Best-practices guidelines**(A) In general**

A condition for the receipt of a grant under paragraph (1) is that the adoption organization involved agree that, in providing training under such paragraph, the organization will follow the guidelines developed under subparagraph (B).

(B) Process for development of guidelines**(i) In general**

The Secretary shall establish and supervise a process described in clause (ii) in which the participants are—

- (I) an appropriate number and variety of adoption organizations that, as a group, have expertise in all models of adoption practice and that represent all members of the adoption triad (birth mother, infant, and adoptive parent); and

- (II) affected public health entities.

(ii) Description of process

The process referred to in clause (i) is a process in which the participants described in such clause collaborate to develop best-practices guidelines on the provision of adoption information and referrals to pregnant women on an equal basis with all other courses of action included in nondirective counseling to pregnant women.

(iii) Date certain for development

The Secretary shall ensure that the guidelines described in clause (ii) are developed not later than 180 days after October 17, 2000.

(C) Relation to authority for grants

The Secretary may not make any grant under paragraph (1) before the date on which the guidelines under subparagraph (B) are developed.

(3) Use of grant**(A) In general**

With respect to a grant under paragraph (1)—

- (i) an adoption organization may expend the grant to carry out the programs directly or through grants to or contracts with other adoption organizations;

- (ii) the purposes for which the adoption organization expends the grant may include the development of a training curriculum, consistent with the guidelines developed under paragraph (2)(B); and

- (iii) a condition for the receipt of the grant is that the adoption organization agree that, in providing training for the designated staff of eligible health centers, such organization will make reasonable efforts to ensure that the individuals who provide the training are individuals who are knowledgeable in all elements of the adoption process and are experienced in providing adoption information and referrals in the geographic areas in which the eligible health centers are located, and that the designated staff receive the training in such areas.

(B) Rule of construction regarding training of trainers

With respect to individuals who under a grant under paragraph (1) provide training for the designated staff of eligible health centers (referred to in this subparagraph as “trainers”), subparagraph (A)(iii) may not be construed as establishing any limitation regarding the geographic area in which the trainers receive instruction in being such trainers. A trainer may receive such instruction in a different geographic area than the area in which the trainer trains (or will train) the designated staff of eligible health centers.

(4) Adoption organizations; eligible health centers; other definitions

For purposes of this section:

(A) The term “adoption organization” means a national, regional, or local organization—

- (i) among whose primary purposes are adoption;

- (ii) that is knowledgeable in all elements of the adoption process and on providing adoption information and referrals to pregnant women; and

- (iii) that is a nonprofit private entity.

(B) The term “designated staff”, with respect to an eligible health center, means staff of the center who provide pregnancy or adoption information and referrals (or will provide such information and referrals after receiving training under a grant under paragraph (1)).

(C) The term “eligible health centers” means public and nonprofit private entities that provide health services to pregnant women.

(5) Training for certain eligible health centers

A condition for the receipt of a grant under paragraph (1) is that the adoption organization involved agree to make reasonable efforts to ensure that the eligible health centers with respect to which training under the grant is provided include—

- (A) eligible health centers that receive grants under section 300 of this title (relating to voluntary family planning projects);

- (B) eligible health centers that receive grants under section 254b of this title (relating to community health centers, migrant health centers, and centers regarding homeless individuals and residents of public housing); and

(C) eligible health centers that receive grants under this chapter for the provision of services in schools.

(6) Participation of certain eligible health clinics

In the case of eligible health centers that receive grants under section 254b or 300 of this title:

(A) Within a reasonable period after the Secretary begins making grants under paragraph (1), the Secretary shall provide eligible health centers with complete information about the training available from organizations receiving grants under such paragraph. The Secretary shall make reasonable efforts to encourage eligible health centers to arrange for designated staff to participate in such training. Such efforts shall affirm Federal requirements, if any, that the eligible health center provide nondirective counseling to pregnant women.

(B) All costs of such centers in obtaining the training shall be reimbursed by the organization that provides the training, using grants under paragraph (1).

(C) Not later than 1 year after October 17, 2000, the Secretary shall submit to the appropriate committees of the Congress a report evaluating the extent to which adoption information and referral, upon request, are provided by eligible health centers. Within a reasonable time after training under this section is initiated, the Secretary shall submit to the appropriate committees of the Congress a report evaluating the extent to which adoption information and referral, upon request, are provided by eligible health centers in order to determine the effectiveness of such training and the extent to which such training complies with subsection (a)(1) of this section. In preparing the reports required by this subparagraph, the Secretary shall in no respect interpret the provisions of this section to allow any interference in the provider-patient relationship, any breach of patient confidentiality, or any monitoring or auditing of the counseling process or patient records which breaches patient confidentiality or reveals patient identity. The reports required by this subparagraph shall be conducted by the Secretary acting through the Administrator of the Health Resources and Services Administration and in collaboration with the Director of the Agency for Healthcare Research and Quality.

(b) Application for grant

The Secretary may make a grant under subsection (a) of this section only if an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(c) Authorization of appropriations

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

(July 1, 1944, ch. 373, title III, §330F, as added Pub. L. 106-310, div. A, title XII, §1201, Oct. 17, 2000, 114 Stat. 1132.)

§ 254c-7. Special needs adoption programs; public awareness campaign and other activities

(a) Special needs adoption awareness campaign

(1) In general

The Secretary shall, through making grants to nonprofit private entities, provide for the planning, development, and carrying out of a national campaign to provide information to the public regarding the adoption of children with special needs.

(2) Input on planning and development

In providing for the planning and development of the national campaign under paragraph (1), the Secretary shall provide for input from a number and variety of adoption organizations throughout the States in order that the full national diversity of interests among adoption organizations is represented in the planning and development of the campaign.

(3) Certain features

With respect to the national campaign under paragraph (1):

(A) The campaign shall be directed at various populations, taking into account as appropriate differences among geographic regions, and shall be carried out in the language and cultural context that is most appropriate to the population involved.

(B) The means through which the campaign may be carried out include—

(i) placing public service announcements on television, radio, and billboards; and

(ii) providing information through means that the Secretary determines will reach individuals who are most likely to adopt children with special needs.

(C) The campaign shall provide information on the subsidies and supports that are available to individuals regarding the adoption of children with special needs.

(D) The Secretary may provide that the placement of public service announcements, and the dissemination of brochures and other materials, is subject to review by the Secretary.

(4) Matching requirement

(A) In general

With respect to the costs of the activities to be carried out by an entity pursuant to paragraph (1), a condition for the receipt of a grant under such paragraph is that the entity agree to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 25 percent of such costs.

(B) Determination of amount contributed

Non-Federal contributions under subparagraph (A) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Fed-

eral Government, may not be included in determining the amount of such contributions.

(b) National resources program

The Secretary shall (directly or through grant or contract) carry out a program that, through toll-free telecommunications, makes available to the public information regarding the adoption of children with special needs. Such information shall include the following:

(1) A list of national, State, and regional organizations that provide services regarding such adoptions, including exchanges and other information on communicating with the organizations. The list shall represent the full national diversity of adoption organizations.

(2) Information beneficial to individuals who adopt such children, including lists of support groups for adoptive parents and other postadoptive services.

(c) Other programs

With respect to the adoption of children with special needs, the Secretary shall make grants—

(1) to provide assistance to support groups for adoptive parents, adopted children, and siblings of adopted children; and

(2) to carry out studies to identify—

(A) the barriers to completion of the adoption process; and

(B) those components that lead to favorable long-term outcomes for families that adopt children with special needs.

(d) Application for grant

The Secretary may make an award of a grant or contract under this section only if an application for the award is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) Funding

For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

(July 1, 1944, ch. 373, title III, § 330G, as added Pub. L. 106-310, div. A, title XII, § 1211, Oct. 17, 2000, 114 Stat. 1135.)

§ 254c-8. Healthy start for infants

(a) In general

(1) Continuation and expansion of program

The Secretary, acting through the Administrator of the Health Resources and Services Administration, Maternal and Child Health Bureau, shall under authority of this section continue in effect the Healthy Start Initiative and may, during fiscal year 2001 and subsequent years, carry out such program on a national basis.

(2) Definition

For purposes of paragraph (1), the term “Healthy Start Initiative” is a reference to the program that, as an initiative to reduce the rate of infant mortality and improve perinatal outcomes, makes grants for project

areas with high annual rates of infant mortality and that, prior to the effective date of this section, was a demonstration program carried out under section 241 of this title.

(3) Additional grants

Effective upon increased funding beyond fiscal year 1999 for such Initiative, additional grants may be made to States to assist communities with technical assistance, replication of successful projects, and State policy formation to reduce infant and maternal mortality and morbidity.

(b) Requirements for making grants

In making grants under subsection (a) of this section, the Secretary shall require that applicants (in addition to meeting all eligibility criteria established by the Secretary) establish, for project areas under such subsection, community-based consortia of individuals and organizations (including agencies responsible for administering block grant programs under title V of the Social Security Act [42 U.S.C. 701 et seq.], consumers of project services, public health departments, hospitals, health centers under section 254b of this title, and other significant sources of health care services) that are appropriate for participation in projects under subsection (a) of this section.

(c) Coordination

Recipients of grants under subsection (a) of this section shall coordinate their services and activities with the State agency or agencies that administer block grant programs under title V of the Social Security Act [42 U.S.C. 701 et seq.] in order to promote cooperation, integration, and dissemination of information with Statewide systems and with other community services funded under the Maternal and Child Health Block Grant.

(d) Rule of construction

Except to the extent inconsistent with this section, this section may not be construed as affecting the authority of the Secretary to make modifications in the program carried out under subsection (a) of this section.

(e) Additional services for at-risk pregnant women and infants

(1) In general

The Secretary may make grants to conduct and support research and to provide additional health care services for pregnant women and infants, including grants to increase access to prenatal care, genetic counseling, ultrasound services, and fetal or other surgery.

(2) Eligible project area

The Secretary may make a grant under paragraph (1) only if the geographic area in which services under the grant will be provided is a geographic area in which a project under subsection (a) of this section is being carried out, and if the Secretary determines that the grant will add to or expand the level of health services available in such area to pregnant women and infants.

(3) Evaluation by Government Accountability Office**(A) In general**

During fiscal year 2004, the Comptroller General of the United States shall conduct an evaluation of activities under grants under paragraph (1) in order to determine whether the activities have been effective in serving the needs of pregnant women with respect to services described in such paragraph. The evaluation shall include an analysis of whether such activities have been effective in reducing the disparity in health status between the general population and individuals who are members of racial or ethnic minority groups. Not later than January 10, 2004, the Comptroller General shall submit to the Committee on Commerce in the House of Representatives, and to the Committee on Health, Education, Labor, and Pensions in the Senate, a report describing the findings of the evaluation.

(B) Relation to grants regarding additional services for at-risk pregnant women and infants

Before the date on which the evaluation under subparagraph (A) is submitted in accordance with such subparagraph—

- (i) the Secretary shall ensure that there are not more than five grantees under paragraph (1); and
- (ii) an entity is not eligible to receive grants under such paragraph unless the entity has substantial experience in providing the health services described in such paragraph.

(f) Funding**(1) General program****(A) Authorization of appropriations**

For the purpose of carrying out this section (other than subsection (e) of this section), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

(B) Allocations**(i) Program administration**

Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary may reserve up to 5 percent for coordination, dissemination, technical assistance, and data activities that are determined by the Secretary to be appropriate for carrying out the program under this section.

(ii) Evaluation

Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary may reserve up to 1 percent for evaluations of projects carried out under subsection (a) of this section. Each such evaluation shall include a determination of whether such projects have been effective in reducing the disparity in health status between the general population and individuals who are members of racial or ethnic minority groups.

(2) Additional services for at-risk pregnant women and infants**(A) Authorization of appropriations**

For the purpose of carrying out subsection (e) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

(B) Allocation for community-based mobile health units

Of the amounts appropriated under subparagraph (A) for a fiscal year, the Secretary shall make available not less than 10 percent for providing services under subsection (e) of this section (including ultrasound services) through visits by mobile units to communities that are eligible for services under subsection (a) of this section.

(July 1, 1944, ch. 373, title III, §330H, as added Pub. L. 106-310, div. A, title XV, §1501, Oct. 17, 2000, 114 Stat. 1146; amended Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)

REFERENCES IN TEXT

The effective date of this section, referred to in subsec. (a)(2), is the date of enactment of Pub. L. 106-310, which was approved Oct. 17, 2000.

The Social Security Act, referred to in subsecs. (b) and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title V of the Act is classified generally to subchapter V (§701 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2004—Subsec. (e)(3). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office” in heading.

CHANGE OF NAME

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 254c-9. Establishment of program of grants**(a) In general**

The Secretary of Health and Human Services shall in accordance with sections 254c-9 to 254c-13 of this title make grants to provide for projects for the establishment, operation, and coordination of effective and cost-efficient systems for the delivery of essential services to individuals with lupus and their families.

(b) Recipients of grants

A grant under subsection (a) of this section may be made to an entity only if the entity is a public or nonprofit private entity, which may include a State or local government; a public or nonprofit private hospital, community-based organization, hospice, ambulatory care facility, community health center, migrant health center, or homeless health center; or other appropriate public or nonprofit private entity.

(c) Certain activities

To the extent practicable and appropriate, the Secretary shall ensure that projects under sub-

section (a) of this section provide services for the diagnosis and disease management of lupus. Activities that the Secretary may authorize for such projects may also include the following:

(1) Delivering or enhancing outpatient, ambulatory, and home-based health and support services, including case management and comprehensive treatment services, for individuals with lupus; and delivering or enhancing support services for their families.

(2) Delivering or enhancing inpatient care management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities of individuals with lupus.

(3) Improving the quality, availability, and organization of health care and support services (including transportation services, attendant care, homemaker services, day or respite care, and providing counseling on financial assistance and insurance) for individuals with lupus and support services for their families.

(d) Integration with other programs

To the extent practicable and appropriate, the Secretary shall integrate the program under sections 254c-9 to 254c-13 of this title with other grant programs carried out by the Secretary, including the program under section 254b of this title.

(Pub. L. 106-505, title V, §521, Nov. 13, 2000, 114 Stat. 2343.)

CODIFICATION

Section was enacted as part of the Lupus Research and Care Amendments of 2000, and also as part of the Public Health Improvement Act, and not as part of the Public Health Service Act which comprises this chapter.

§ 254c-10. Certain requirements

A grant may be made under section 254c-9 of this title only if the applicant involved makes the following agreements:

(1) Not more than 5 percent of the grant will be used for administration, accounting, reporting, and program oversight functions.

(2) The grant will be used to supplement and not supplant funds from other sources related to the treatment of lupus.

(3) The applicant will abide by any limitations deemed appropriate by the Secretary on any charges to individuals receiving services pursuant to the grant. As deemed appropriate by the Secretary, such limitations on charges may vary based on the financial circumstances of the individual receiving services.

(4) The grant will not be expended to make payment for services authorized under section 254c-9(a) of this title to the extent that payment has been made, or can reasonably be expected to be made, with respect to such services—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis.

(5) The applicant will, at each site at which the applicant provides services under section

254c-9(a) of this title, post a conspicuous notice informing individuals who receive the services of any Federal policies that apply to the applicant with respect to the imposition of charges on such individuals.

(Pub. L. 106-505, title V, §522, Nov. 13, 2000, 114 Stat. 2344.)

CODIFICATION

Section was enacted as part of the Lupus Research and Care Amendments of 2000, and also as part of the Public Health Improvement Act, and not as part of the Public Health Service Act which comprises this chapter.

§ 254c-11. Technical assistance

The Secretary may provide technical assistance to assist entities in complying with the requirements of sections 254c-9 to 254c-13 of this title in order to make such entities eligible to receive grants under section 254c-9 of this title.

(Pub. L. 106-505, title V, §523, Nov. 13, 2000, 114 Stat. 2344.)

CODIFICATION

Section was enacted as part of the Lupus Research and Care Amendments of 2000, and also as part of the Public Health Improvement Act, and not as part of the Public Health Service Act which comprises this chapter.

§ 254c-12. Definitions

For purposes of sections 254c-9 to 254c-13 of this title:

(1) Official poverty line

The term “official poverty line” means the poverty line established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

(2) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

(Pub. L. 106-505, title V, §524, Nov. 13, 2000, 114 Stat. 2344.)

CODIFICATION

Section was enacted as part of the Lupus Research and Care Amendments of 2000, and also as part of the Public Health Improvement Act, and not as part of the Public Health Service Act which comprises this chapter.

§ 254c-13. Authorization of appropriations

For the purpose of carrying out sections 254c-9 to 254c-13 of this title, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2003.

(Pub. L. 106-505, title V, §525, Nov. 13, 2000, 114 Stat. 2345.)

CODIFICATION

Section was enacted as part of the Lupus Research and Care Amendments of 2000, and also as part of the Public Health Improvement Act, and not as part of the Public Health Service Act which comprises this chapter.

§ 254c-14. Telehealth network and telehealth resource centers grant programs

(a) Definitions

In this section:

(1) Director; Office

The terms “Director” and “Office” mean the Director and Office specified in subsection (c) of this section.

(2) Federally qualified health center and rural health clinic

The term “Federally qualified health center” and “rural health clinic” have the meanings given the terms in section 1395x(aa) of this title.

(3) Frontier community

The term “frontier community” shall have the meaning given the term in regulations issued under subsection (r) of this section.

(4) Medically underserved area

The term “medically underserved area” has the meaning given the term “medically underserved community” in section 295p(6) of this title.

(5) Medically underserved population

The term “medically underserved population” has the meaning given the term in section 254b(b)(3) of this title.

(6) Telehealth services

The term “telehealth services” means services provided through telehealth technologies.

(7) Telehealth technologies

The term “telehealth technologies” means technologies relating to the use of electronic information, and telecommunications technologies, to support and promote, at a distance, health care, patient and professional health-related education, health administration, and public health.

(b) Programs

The Secretary shall establish, under section 241 of this title, telehealth network and telehealth resource centers grant programs.

(c) Administration**(1) Establishment**

There is established in the Health Resources and Services Administration an Office for the Advancement of Telehealth. The Office shall be headed by a Director.

(2) Duties

The telehealth network and telehealth resource centers grant programs established under section 241 of this title shall be administered by the Director, in consultation with the State offices of rural health, State offices concerning primary care, or other appropriate State government entities.

(d) Grants**(1) Telehealth network grants**

The Director may, in carrying out the telehealth network grant program referred to in subsection (b) of this section, award grants to eligible entities for projects to demonstrate how telehealth technologies can be used through telehealth networks in rural areas, frontier communities, and medically underserved areas, and for medically underserved populations, to—

(A) expand access to, coordinate, and improve the quality of health care services;

(B) improve and expand the training of health care providers; and

(C) expand and improve the quality of health information available to health care providers, and patients and their families, for decisionmaking.

(2) Telehealth resource centers grants

The Director may, in carrying out the telehealth resource centers grant program referred to in subsection (b) of this section, award grants to eligible entities for projects to demonstrate how telehealth technologies can be used in the areas and communities, and for the populations, described in paragraph (1), to establish telehealth resource centers.

(e) Grant periods

The Director may award grants under this section for periods of not more than 4 years.

(f) Eligible entities**(1) Telehealth network grants****(A) Grant recipient**

To be eligible to receive a grant under subsection (d)(1) of this section, an entity shall be a nonprofit entity.

(B) Telehealth networks**(i) In general**

To be eligible to receive a grant under subsection (d)(1) of this section, an entity shall demonstrate that the entity will provide services through a telehealth network.

(ii) Nature of entities

Each entity participating in the telehealth network may be a nonprofit or for-profit entity.

(iii) Composition of network

The telehealth network shall include at least 2 of the following entities (at least 1 of which shall be a community-based health care provider):

(I) Community or migrant health centers or other Federally qualified health centers.

(II) Health care providers, including pharmacists, in private practice.

(III) Entities operating clinics, including rural health clinics.

(IV) Local health departments.

(V) Nonprofit hospitals, including community access hospitals.

(VI) Other publicly funded health or social service agencies.

(VII) Long-term care providers.

(VIII) Providers of health care services in the home.

(IX) Providers of outpatient mental health services and entities operating outpatient mental health facilities.

(X) Local or regional emergency health care providers.

(XI) Institutions of higher education.

(XII) Entities operating dental clinics.

(2) Telehealth resource centers grants

To be eligible to receive a grant under subsection (d)(2) of this section, an entity shall be a nonprofit entity.

(g) Applications

To be eligible to receive a grant under subsection (d) of this section, an eligible entity, in consultation with the appropriate State office of rural health or another appropriate State entity, shall prepare and submit to the Secretary an application, at such time, in such manner, and containing such information as the Secretary may require, including—

- (1) a description of the project that the eligible entity will carry out using the funds provided under the grant;
- (2) a description of the manner in which the project funded under the grant will meet the health care needs of rural or other populations to be served through the project, or improve the access to services of, and the quality of the services received by, those populations;
- (3) evidence of local support for the project, and a description of how the areas, communities, or populations to be served will be involved in the development and ongoing operations of the project;
- (4) a plan for sustaining the project after Federal support for the project has ended;
- (5) information on the source and amount of non-Federal funds that the entity will provide for the project;
- (6) information demonstrating the long-term viability of the project, and other evidence of institutional commitment of the entity to the project;
- (7) in the case of an application for a project involving a telehealth network, information demonstrating how the project will promote the integration of telehealth technologies into the operations of health care providers, to avoid redundancy, and improve access to and the quality of care; and
- (8) other such information as the Secretary determines to be appropriate.

(h) Terms; conditions; maximum amount of assistance

The Secretary shall establish the terms and conditions of each grant program described in subsection (b) of this section and the maximum amount of a grant to be awarded to an individual recipient for each fiscal year under this section. The Secretary shall publish, in a publication of the Health Resources and Services Administration, notice of the application requirements for each grant program described in subsection (b) of this section for each fiscal year.

(i) Preferences**(1) Telehealth networks**

In awarding grants under subsection (d)(1) of this section for projects involving telehealth networks, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

(A) Organization

The eligible entity is a rural community-based organization or another community-based organization.

(B) Services

The eligible entity proposes to use Federal funds made available through such a grant to develop plans for, or to establish, tele-

health networks that provide mental health, public health, long-term care, home care, preventive, or case management services.

(C) Coordination

The eligible entity demonstrates how the project to be carried out under the grant will be coordinated with other relevant federally funded projects in the areas, communities, and populations to be served through the grant.

(D) Network

The eligible entity demonstrates that the project involves a telehealth network that includes an entity that—

- (i) provides clinical health care services, or educational services for health care providers and for patients or their families; and
- (ii) is—
 - (I) a public library;
 - (II) an institution of higher education;
 or
 - (III) a local government entity.

(E) Connectivity

The eligible entity proposes a project that promotes local connectivity within areas, communities, or populations to be served through the project.

(F) Integration

The eligible entity demonstrates that health care information has been integrated into the project.

(2) Telehealth resource centers

In awarding grants under subsection (d)(2) of this section for projects involving telehealth resource centers, the Secretary shall give preference to an eligible entity that meets at least 1 of the following requirements:

(A) Provision of services

The eligible entity has a record of success in the provision of telehealth services to medically underserved areas or medically underserved populations.

(B) Collaboration and sharing of expertise

The eligible entity has a demonstrated record of collaborating and sharing expertise with providers of telehealth services at the national, regional, State, and local levels.

(C) Broad range of telehealth services

The eligible entity has a record of providing a broad range of telehealth services, which may include—

- (i) a variety of clinical specialty services;
- (ii) patient or family education;
- (iii) health care professional education; and
- (iv) rural residency support programs.

(j) Distribution of funds**(1) In general**

In awarding grants under this section, the Director shall ensure, to the greatest extent possible, that such grants are equitably distributed among the geographical regions of the United States.

(2) Telehealth networks

In awarding grants under subsection (d)(1) of this section for a fiscal year, the Director shall ensure that—

(A) not less than 50 percent of the funds awarded shall be awarded for projects in rural areas; and

(B) the total amount of funds awarded for such projects for that fiscal year shall be not less than the total amount of funds awarded for such projects for fiscal year 2001 under section 254c of this title (as in effect on the day before October 26, 2002).

(k) Use of funds**(1) Telehealth network program**

The recipient of a grant under subsection (d)(1) of this section may use funds received through such grant for salaries, equipment, and operating or other costs, including the cost of—

(A) developing and delivering clinical telehealth services that enhance access to community-based health care services in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations;

(B) developing and acquiring, through lease or purchase, computer hardware and software, audio and video equipment, computer network equipment, interactive equipment, data terminal equipment, and other equipment that furthers the objectives of the telehealth network grant program;

(C)(i) developing and providing distance education, in a manner that enhances access to care in rural areas, frontier communities, or medically underserved areas, or for medically underserved populations; or

(ii) mentoring, precepting, or supervising health care providers and students seeking to become health care providers, in a manner that enhances access to care in the areas and communities, or for the populations, described in clause (i);

(D) developing and acquiring instructional programming;

(E)(i) providing for transmission of medical data, and maintenance of equipment; and

(ii) providing for compensation (including travel expenses) of specialists, and referring health care providers, who are providing telehealth services through the telehealth network, if no third party payment is available for the telehealth services delivered through the telehealth network;

(F) developing projects to use telehealth technology to facilitate collaboration between health care providers;

(G) collecting and analyzing usage statistics and data to document the cost-effectiveness of the telehealth services; and

(H) carrying out such other activities as are consistent with achieving the objectives of this section, as determined by the Secretary.

(2) Telehealth resource centers

The recipient of a grant under subsection (d)(2) of this section may use funds received through such grant for salaries, equipment, and operating or other costs for—

(A) providing technical assistance, training, and support, and providing for travel expenses, for health care providers and a range of health care entities that provide or will provide telehealth services;

(B) disseminating information and research findings related to telehealth services;

(C) promoting effective collaboration among telehealth resource centers and the Office;

(D) conducting evaluations to determine the best utilization of telehealth technologies to meet health care needs;

(E) promoting the integration of the technologies used in clinical information systems with other telehealth technologies;

(F) fostering the use of telehealth technologies to provide health care information and education for health care providers and consumers in a more effective manner; and

(G) implementing special projects or studies under the direction of the Office.

(l) Prohibited uses of funds

An entity that receives a grant under this section may not use funds made available through the grant—

(1) to acquire real property;

(2) for expenditures to purchase or lease equipment, to the extent that the expenditures would exceed 40 percent of the total grant funds;

(3) in the case of a project involving a telehealth network, to purchase or install transmission equipment (such as laying cable or telephone lines, or purchasing or installing microwave towers, satellite dishes, amplifiers, or digital switching equipment);

(4) to pay for any equipment or transmission costs not directly related to the purposes for which the grant is awarded;

(5) to purchase or install general purpose voice telephone systems;

(6) for construction; or

(7) for expenditures for indirect costs (as determined by the Secretary), to the extent that the expenditures would exceed 15 percent of the total grant funds.

(m) Collaboration

In providing services under this section, an eligible entity shall collaborate, if feasible, with entities that—

(1)(A) are private or public organizations, that receive Federal or State assistance; or

(B) are public or private entities that operate centers, or carry out programs, that receive Federal or State assistance; and

(2) provide telehealth services or related activities.

(n) Coordination with other agencies

The Secretary shall coordinate activities carried out under grant programs described in subsection (b) of this section, to the extent practicable, with Federal and State agencies and nonprofit organizations that are operating similar programs, to maximize the effect of public dollars in funding meritorious proposals.

(o) Outreach activities

The Secretary shall establish and implement procedures to carry out outreach activities to

advise potential end users of telehealth services in rural areas, frontier communities, medically underserved areas, and medically underserved populations in each State about the grant programs described in subsection (b) of this section.

(p) Telehealth

It is the sense of Congress that, for purposes of this section, States should develop reciprocity agreements so that a provider of services under this section who is a licensed or otherwise authorized health care provider under the law of 1 or more States, and who, through telehealth technology, consults with a licensed or otherwise authorized health care provider in another State, is exempt, with respect to such consultation, from any State law of the other State that prohibits such consultation on the basis that the first health care provider is not a licensed or authorized health care provider under the law of that State.

(q) Report

Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report on the progress and accomplishments of the grant programs described in subsection (b) of this section.

(r) Regulations

The Secretary shall issue regulations specifying, for purposes of this section, a definition of the term “frontier area”. The definition shall be based on factors that include population density, travel distance in miles to the nearest medical facility, travel time in minutes to the nearest medical facility, and such other factors as the Secretary determines to be appropriate. The Secretary shall develop the definition in consultation with the Director of the Bureau of the Census and the Administrator of the Economic Research Service of the Department of Agriculture.

(s) Authorization of appropriations

There are authorized to be appropriated to carry out this section—

- (1) for grants under subsection (d)(1) of this section, \$40,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006; and
- (2) for grants under subsection (d)(2) of this section, \$20,000,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(July 1, 1944, ch. 373, title III, §330I, as added Pub. L. 107-251, title II, §212, Oct. 26, 2002, 116 Stat. 1632; amended Pub. L. 108-163, §2(c), Dec. 6, 2003, 117 Stat. 2021.)

AMENDMENTS

2003—Subsec. (a)(4). Pub. L. 108-163, §2(c)(1), substituted “section 295p(6)” for “section 295p”.

Subsec. (c)(1). Pub. L. 108-163, §2(c)(2), substituted “Health Resources and Services Administration” for “Health and Resources and Services Administration”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendments by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

§ 254c-15. Rural emergency medical service training and equipment assistance program

(a) Grants

The Secretary, acting through the Administrator of the Health Resources and Services Administration (referred to in this section as the “Secretary”) shall award grants to eligible entities to enable such entities to provide for improved emergency medical services in rural areas.

(b) Eligibility

To be eligible to receive a grant under this section, an entity shall—

- (1) be—
 - (A) a State emergency medical services office;
 - (B) a State emergency medical services association;
 - (C) a State office of rural health;
 - (D) a local government entity;
 - (E) a State or local ambulance provider; or
 - (F) any other entity determined appropriate by the Secretary; and

(2) prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require, that includes—

- (A) a description of the activities to be carried out under the grant; and
- (B) an assurance that the eligible entity will comply with the matching requirement of subsection (e) of this section.

(c) Use of funds

An entity shall use amounts received under a grant made under subsection (a) of this section, either directly or through grants to emergency medical service squads that are located in, or that serve residents of, a nonmetropolitan statistical area, an area designated as a rural area by any law or regulation of a State, or a rural census tract of a metropolitan statistical area (as determined under the most recent Goldsmith Modification, originally published in a notice of availability of funds in the Federal Register on February 27, 1992, 57 Fed. Reg. 6725), to—

- (1) recruit emergency medical service personnel;
- (2) recruit volunteer emergency medical service personnel;
- (3) train emergency medical service personnel in emergency response, injury prevention, safety awareness, and other topics relevant to the delivery of emergency medical services;
- (4) fund specific training to meet Federal or State certification requirements;
- (5) develop new ways to educate emergency health care providers through the use of technology-enhanced educational methods (such as distance learning);
- (6) acquire emergency medical services equipment, including cardiac defibrillators;
- (7) acquire personal protective equipment for emergency medical services personnel as required by the Occupational Safety and Health Administration; and
- (8) educate the public concerning cardiopulmonary resuscitation, first aid, injury prevention, safety awareness, illness prevention,

and other related emergency preparedness topics.

(d) Preference

In awarding grants under this section the Secretary shall give preference to—

(1) applications that reflect a collaborative effort by 2 or more of the entities described in subparagraphs (A) through (F) of subsection (b)(1) of this section; and

(2) applications submitted by entities that intend to use amounts provided under the grant to fund activities described in any of paragraphs (1) through (5) of subsection (c) of this section.

(e) Matching requirement

The Secretary may not award a grant under this section to an entity unless the entity agrees that the entity will make available (directly or through contributions from other public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to 25 percent of the amount received under the grant.

(f) Emergency medical services

In this section, the term “emergency medical services”—

(1) means resources used by a qualified public or private nonprofit entity, or by any other entity recognized as qualified by the State involved, to deliver medical care outside of a medical facility under emergency conditions that occur—

(A) as a result of the condition of the patient; or

(B) as a result of a natural disaster or similar situation; and

(2) includes services delivered by an emergency medical services provider (either compensated or volunteer) or other provider recognized by the State involved that is licensed or certified by the State as an emergency medical technician or its equivalent (as determined by the State), a registered nurse, a physician assistant, or a physician that provides services similar to services provided by such an emergency medical services provider.

(g) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

(2) Administrative costs

The Secretary may use not more than 10 percent of the amount appropriated under paragraph (1) for a fiscal year for the administrative expenses of carrying out this section.

(July 1, 1944, ch. 373, title III, § 330J, as added Pub. L. 107-251, title II, § 221, Oct. 26, 2002, 116 Stat. 1638.)

§ 254c-16. Mental health services delivered via telehealth

(a) Definitions

In this section:

(1) Eligible entity

The term “eligible entity” means a public or nonprofit private telehealth provider network

that offers services that include mental health services provided by qualified mental health providers.

(2) Qualified mental health professionals

The term “qualified mental health professionals” refers to providers of mental health services reimbursed under the Medicare program carried out under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.) who have additional training in the treatment of mental illness in children and adolescents or who have additional training in the treatment of mental illness in the elderly.

(3) Special populations

The term “special populations” refers to the following 2 distinct groups:

(A) Children and adolescents in mental health underserved rural areas or in mental health underserved urban areas.

(B) Elderly individuals located in long-term care facilities in mental health underserved rural or urban areas.

(4) Telehealth

The term “telehealth” means the use of electronic information and telecommunications technologies to support long distance clinical health care, patient and professional health-related education, public health, and health administration.

(b) Program authorized

(1) In general

The Secretary, acting through the Director of the Office for the Advancement of Telehealth of the Health Resources and Services Administration, shall award grants to eligible entities to establish demonstration projects for the provision of mental health services to special populations as delivered remotely by qualified mental health professionals using telehealth and for the provision of education regarding mental illness as delivered remotely by qualified mental health professionals using telehealth.

(2) Populations served

The Secretary shall award the grants under paragraph (1) in a manner that distributes the grants so as to serve equitably the populations described in subparagraphs (A) and (B) of subsection (a)(3) of this section.

(c) Use of funds

(1) In general

An eligible entity that receives a grant under this section shall use the grant funds—

(A) for the populations described in subsection (a)(3)(A) of this section—

(i) to provide mental health services, including diagnosis and treatment of mental illness, as delivered remotely by qualified mental health professionals using telehealth; and

(ii) to collaborate with local public health entities to provide the mental health services; and

(B) for the populations described in subsection (a)(3)(B) of this section—

(i) to provide mental health services, including diagnosis and treatment of mental

illness, in long-term care facilities as delivered remotely by qualified mental health professionals using telehealth; and

(ii) to collaborate with local public health entities to provide the mental health services.

(2) Other uses

An eligible entity that receives a grant under this section may also use the grant funds to—

- (A) pay telecommunications costs; and
- (B) pay qualified mental health professionals on a reasonable cost basis as determined by the Secretary for services rendered.

(3) Prohibited uses

An eligible entity that receives a grant under this section shall not use the grant funds to—

- (A) purchase or install transmission equipment (other than such equipment used by qualified mental health professionals to deliver mental health services using telehealth under the project involved); or
- (B) build upon or acquire real property.

(d) Equitable distribution

In awarding grants under this section, the Secretary shall ensure, to the greatest extent possible, that such grants are equitably distributed among geographical regions of the United States.

(e) Application

An entity that desires a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary determines to be reasonable.

(f) Report

Not later than 4 years after October 26, 2002, the Secretary shall prepare and submit to the appropriate committees of Congress a report that shall evaluate activities funded with grants under this section.

(g) Authorization of appropriations

There are authorized to be appropriated to carry out this section, \$20,000,000 for fiscal year 2002 and such sums as may be necessary for fiscal years 2003 through 2006.

(July 1, 1944, ch. 373, title III, § 330K, as added Pub. L. 107-251, title II, § 221, Oct. 26, 2002, 116 Stat. 1640; amended Pub. L. 108-163, § 2(d), Dec. 6, 2003, 117 Stat. 2021.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Act is classified generally to subchapter XVIII (§1395 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2003—Subsec. (b)(2). Pub. L. 108-163, § 2(d)(1), substituted “subsection (a)(3)” for “subsection (a)(4)”.

Subsec. (c)(1)(A). Pub. L. 108-163, § 2(d)(2)(A), substituted “subsection (a)(3)(A)” for “subsection (a)(4)(A)”.

Subsec. (c)(1)(B). Pub. L. 108-163, § 2(d)(2)(B), substituted “subsection (a)(3)(B)” for “subsection (a)(4)(B)”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendments by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

§ 254c-17. Repealed. Pub. L. 108-163, § 2(e)(2), Dec. 6, 2003, 117 Stat. 2021

Section, Pub. L. 107-251, title I, § 102, Oct. 26, 2002, 116 Stat. 1627, provided for grants to State professional licensing boards to develop and implement State policies to promote telemedicine.

EFFECTIVE DATE OF REPEAL

Repeal deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as an Effective Date of 2003 Amendments note under section 233 of this title.

§ 254c-18. Telemedicine; incentive grants regarding coordination among States

(a) In general

The Secretary may make grants to State professional licensing boards to carry out programs under which such licensing boards of various States cooperate to develop and implement State policies that will reduce statutory and regulatory barriers to telemedicine.

(b) Authorization of appropriations

For the purpose of carrying out subsection (a) of this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

(July 1, 1944, ch. 373, title III, § 330L, as added Pub. L. 108-163, § 2(e)(1), Dec. 6, 2003, 117 Stat. 2021.)

EFFECTIVE DATE

Section deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as an Effective Date of 2003 Amendments note under section 233 of this title.

SUBPART II—NATIONAL HEALTH SERVICE CORPS PROGRAM

AMENDMENTS

1976—Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2268, added heading “Subpart II—National Health Service Corps Program”.

§ 254d. National Health Service Corps

(a) Establishment; composition; purpose; definitions

(1) For the purpose of eliminating health manpower shortages in health professional shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—

(A) such officers of the Regular and Reserve Corps of the Service as the Secretary may designate,

(B) such civilian employees of the United States as the Secretary may appoint, and

(C) such other individuals who are not employees of the United States.

(2) The Corps shall be utilized by the Secretary to provide primary health services in health professional shortage areas.

(3) For purposes of this subpart and subpart III:

(A) The term “Corps” means the National Health Service Corps.

(B) The term “Corps member” means each of the officers, employees, and individuals of which the Corps consists pursuant to paragraph (1).

(C) The term “health professional shortage area” has the meaning given such term in section 254e(a) of this title.

(D) The term “primary health services” means health services regarding family medicine, internal medicine, pediatrics, obstetrics and gynecology, dentistry, or mental health, that are provided by physicians or other health professionals.

(E)(i) The term “behavioral and mental health professionals” means health service psychologists, licensed clinical social workers, licensed professional counselors, marriage and family therapists, psychiatric nurse specialists, and psychiatrists.

(ii) The term “graduate program of behavioral and mental health” means a program that trains behavioral and mental health professionals.

(b) Recruitment and fellowship programs

(1) The Secretary may conduct at schools of medicine, osteopathic medicine, dentistry, and, as appropriate, nursing and other schools of the health professions, including schools at which graduate programs of behavioral and mental health are offered, and at entities which train allied health personnel, recruiting programs for the Corps, the Scholarship Program, and the Loan Repayment Program. Such recruiting programs shall include efforts to recruit individuals who will serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program.

(2) In the case of physicians, dentists, behavioral and mental health professionals, certified nurse midwives, certified nurse practitioners, and physician assistants who have an interest and a commitment to providing primary health care, the Secretary may establish fellowship programs to enable such health professionals to gain exposure to and expertise in the delivery of primary health services in health professional shortage areas. To the maximum extent practicable, the Secretary shall ensure that any such programs are established in conjunction with accredited residency programs, and other training programs, regarding such health professions.

(c) Travel and moving expenses; persons entitled; reimbursement; limitation

(1) The Secretary may reimburse an applicant for a position in the Corps (including an individual considering entering into a written agreement pursuant to section 254n of this title) for the actual and reasonable expenses incurred in traveling to and from the applicant’s place of residence to an eligible site to which the applicant may be assigned under section 254f of this title for the purpose of evaluating such site with regard to being assigned at such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

(2) The Secretary may also reimburse the applicant for the actual and reasonable expenses

incurred for the travel of 1 family member to accompany the applicant to such site. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

(3) In the case of an individual who has entered into a contract for obligated service under the Scholarship Program or under the Loan Repayment Program, the Secretary may reimburse such individual for all or part of the actual and reasonable expenses incurred in transporting the individual, the individual’s family, and the family’s possessions to the site of the individual’s assignment under section 254f of this title. The Secretary may establish a maximum total amount that may be paid to an individual as reimbursement for such expenses.

(d) Monthly pay adjustments of members directly engaged in delivery of health services in health professional shortage area; “monthly pay” defined; monthly pay adjustment of member with service obligation incurred under Scholarship Program or Loan Repayment Program; personnel system applicable

(1) The Secretary may, under regulations promulgated by the Secretary, adjust the monthly pay of each member of the Corps (other than a member described in subsection (a)(1)(C) of this section) who is directly engaged in the delivery of health services in a health professional shortage area as follows:

(A) During the first 36 months in which such a member is so engaged in the delivery of health services, his monthly pay may be increased by an amount which when added to the member’s monthly pay and allowances will provide a monthly income competitive with the average monthly income from a practice of an individual who is a member of the profession of the Corps member, who has equivalent training, and who has been in practice for a period equivalent to the period during which the Corps member has been in practice.

(B) During the period beginning upon the expiration of the 36 months referred to in subparagraph (A) and ending with the month in which the member’s monthly pay and allowances are equal to or exceed the monthly income he received for the last of such 36 months, the member may receive in addition to his monthly pay and allowances an amount which when added to such monthly pay and allowances equals the monthly income he received for such last month.

(C) For each month in which a member is directly engaged in the delivery of health services in a health professional shortage area in accordance with an agreement with the Secretary entered into under section 294n(f)(1)(C)¹ of this title, under which the Secretary is obligated to make payments in accordance with section 294n(f)(2)¹ of this title, the amount of any monthly increase under subparagraph (A) or (B) with respect to such member shall be decreased by an amount equal to one-twelfth of the amount which the Secretary is obli-

¹ See References in Text note below.

gated to pay upon the completion of the year of practice in which such month occurs.

For purposes of subparagraphs (A) and (B), the term “monthly pay” includes special pay received under chapter 5 of title 37.

(2) In the case of a member of the Corps who is directly engaged in the delivery of health services in a health professional shortage area in accordance with a service obligation incurred under the Scholarship Program or the Loan Repayment Program, the adjustment in pay authorized by paragraph (1) may be made for such a member only upon satisfactory completion of such service obligation, and the first 36 months of such member’s being so engaged in the delivery of health services shall, for purposes of paragraph (1)(A), be deemed to begin upon such satisfactory completion.

(3) A member of the Corps described in subparagraph (C) of subsection (a)(1) of this section shall when assigned to an entity under section 254f of this title be subject to the personnel system of such entity, except that such member shall receive during the period of assignment the income that the member would receive if the member was a member of the Corps described in subparagraph (B) of such subsection.

(e) Employment ceiling of Department not affected by Corps members

Corps members assigned under section 254f of this title to provide health services in health professional shortage areas shall not be counted against any employment ceiling affecting the Department.

(f) Assignment of personnel provisions inapplicable to members whose service obligation incurred under Scholarship Program or Loan Repayment Program

Sections 215 and 217 of this title shall not apply to members of the National Health Service Corps during their period of obligated service under the Scholarship Program or the Loan Repayment Program, except when such members are Commissioned Corps officers who entered into a contract with² Secretary under section 254l or 254l-1 of this title after December 31, 2006 and when the Secretary determines that exercising the authority provided under section 215 or 217 of this title with respect to any such officer to³ would not cause unreasonable disruption to health care services provided in the community in which such officer is providing health care services.

(g) Conversion from Corps member to commissioned officer; retirement credits

(1) The Secretary shall, by rule, prescribe conversion provisions applicable to any individual who, within a year after completion of service as a member of the Corps described in subsection (a)(1)(C) of this section, becomes a commissioned officer in the Regular or Reserve Corps of the Service.

(2) The rules prescribed under paragraph (1) shall provide that in applying the appropriate provisions of this chapter which relate to retirement, any individual who becomes such an offi-

cer shall be entitled to have credit for any period of service as a member of the Corps described in subsection (a)(1)(C) of this section.

(h) Effective administration of program

The Secretary shall ensure that adequate staff is provided to the Service with respect to effectively administering the program for the Corps.

(i) Demonstration projects; waivers

(1) In carrying out subpart III, the Secretary may, in accordance with this subsection, carry out demonstration projects in which individuals who have entered into a contract for obligated service under the Loan Repayment Program receive waivers under which the individuals are authorized to satisfy the requirement of obligated service through providing clinical service that is not full-time.

(2) A waiver described in paragraph (1) may be provided by the Secretary only if—

(A) the entity for which the service is to be performed—

(i) has been approved under section 254f-1 of this title for assignment of a Corps member; and

(ii) has requested in writing assignment of a health professional who would serve less than full time;

(B) the Secretary has determined that assignment of a health professional who would serve less than full time would be appropriate for the area where the entity is located;

(C) a Corps member who is required to perform obligated service has agreed in writing to be assigned for less than full-time service to an entity described in subparagraph (A);

(D) the entity and the Corps member agree in writing that the less than full-time service provided by the Corps member will not be less than 16 hours of clinical service per week;

(E) the Corps member agrees in writing that the period of obligated service pursuant to section 254l-1 of this title will be extended so that the aggregate amount of less than full-time service performed will equal the amount of service that would be performed through full-time service under section 254m of this title; and

(F) the Corps member agrees in writing that if the Corps member begins providing less than full-time service but fails to begin or complete the period of obligated service, the method stated in 254o(c) of this title for determining the damages for breach of the individual’s written contract will be used after converting periods of obligated service or of service performed into their full-time equivalents.

(3) In evaluating a demonstration project described in paragraph (1), the Secretary shall examine the effect of multidisciplinary teams.

(j) Definitions

For the purposes of this subpart and subpart III:

(1) The term “Department” means the Department of Health and Human Services.

(2) The term “Loan Repayment Program” means the National Health Service Corps Loan Repayment Program established under section 254l-1 of this title.

² So in original. The word “the” probably should appear.

³ So in original.

(3) The term “Scholarship Program” means the National Health Service Corps Scholarship Program established under section 254l of this title.

(4) The term “State” includes, in addition to the several States, only the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

(July 1, 1944, ch. 373, title III, § 331, as added Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2268; amended Pub. L. 97-35, title XXVII, § 2701, Aug. 13, 1981, 95 Stat. 902; Pub. L. 100-177, title II, § 202(b), title III, § 301, Dec. 1, 1987, 101 Stat. 996, 1003; Pub. L. 100-607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101-597, title I, § 101, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3013, 3035; Pub. L. 107-251, title III, § 301, Oct. 26, 2002, 116 Stat. 1642; Pub. L. 109-417, title II, § 206(c)(2), Dec. 19, 2006, 120 Stat. 2853.)

REFERENCES IN TEXT

Section 294n of this title, referred to in subsec. (d)(1)(C), was in the original a reference to section 741 of act July 1, 1944. Section 741 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102-408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102-408 enacted a new section 776 of act July 1, 1944, relating to acquired immune deficiency syndrome, which was classified to section 294n of this title, and subsequently renumbered section 2692 and transferred to section 300ff-111 of this title.

AMENDMENTS

2006—Subsec. (f). Pub. L. 109-417 inserted before period at end “, except when such members are Commissioned Corps officers who entered into a contract with Secretary under section 254l or 254l-1 of this title after December 31, 2006 and when the Secretary determines that exercising the authority provided under section 215 or 217 of this title with respect to any such officer to would not cause unreasonable disruption to health care services provided in the community in which such officer is providing health care services”.

2002—Subsec. (a)(3)(E). Pub. L. 107-251, § 301(a)(1), added subpar. (E).

Subsec. (b)(1). Pub. L. 107-251, § 301(a)(2)(A), substituted “health professions, including schools at which graduate programs of behavioral and mental health are offered,” for “health professions”.

Subsec. (b)(2). Pub. L. 107-251, § 301(a)(2)(B), inserted “behavioral and mental health professionals,” after “dentists,”.

Subsec. (c). Pub. L. 107-251, § 301(a)(3), added subsec. (c) and struck out former subsec. (c) which read as follows: “The Secretary may reimburse applicants for positions in the Corps (including individuals considering entering into a written agreement pursuant to section 254n of this title) for actual and reasonable expenses incurred in traveling to and from their places of residence to a health professional shortage area (designated under section 254e of this title) in which they may be assigned for the purpose of evaluating such area with regard to being assigned in such area. The Secretary shall not reimburse an applicant for more than one such trip.”

Subsecs. (i), (j). Pub. L. 107-251, § 301(b), added subsec. (i) and redesignated former subsec. (i) as (j).

1990—Subsec. (a). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in pars. (1), (2), and (3)(C).

Pub. L. 101-597, § 101(a), designated existing provisions as par. (1), substituted “For the purpose of eliminating

health manpower shortages in health manpower shortage areas, there is established, within the Service, the National Health Service Corps, which shall consist of—” for “There is established, within the Service, the National Health Service Corps (hereinafter in this subpart referred to as the ‘Corps’) which (1) shall consist of—”, substituted “States.” for “States,” at end of subpar. (C), struck out closing provisions which read “(such officers, employees, and individuals hereinafter in this subpart referred to as ‘Corps members’), and (2) shall be utilized by the Secretary to improve the delivery of health services in health manpower shortage areas as defined in section 254e(a) of this title.”, and added pars. (2) and (3).

Subsec. (b). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (2).

Pub. L. 101-597, § 101(b), designated existing provision as par. (1), inserted at end “Such recruiting programs shall include efforts to recruit individuals who will serve in the Corps other than pursuant to obligated service under the Scholarship or Loan Repayment Program.”, and added par. (2).

Subsec. (c). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (d)(1). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in introductory provisions and in subpar. (C).

Subsec. (d)(1)(A). Pub. L. 101-597, § 101(c), struck out “(not to exceed \$1,000)” after “by an amount”.

Subsecs. (d)(2), (e). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (h). Pub. L. 101-597, § 101(d), added subsec. (h) and struck out former subsec. (h) which read as follows: “In assigning members of the Corps to health manpower shortage areas, to the extent practicable, the Secretary shall—

“(1) give priority to meeting the needs of the Indian Health Service and the needs of health programs or facilities operated by tribes or tribal organizations under the Indian Self-Determination Act (25 U.S.C. 450f et seq.); and

“(2) provide special consideration to the homeless populations who do not have access to primary health care services.”

Subsec. (i). Pub. L. 101-597, § 101(e), substituted “of this subpart and subpart III” for “of this subpart”.

1988—Subsec. (b). Pub. L. 100-607 substituted “osteopathic medicine” for “osteopathy”.

1987—Subsec. (b). Pub. L. 100-177, § 202(b)(1), inserted reference to Loan Repayment Program.

Subsec. (c). Pub. L. 100-177, § 202(b)(2), made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

Subsecs. (d)(2), (f). Pub. L. 100-177, § 202(b)(3), (4), inserted reference to Loan Repayment Program.

Subsec. (h). Pub. L. 100-177, § 301(2), added subsec. (h). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 100-177, §§ 202(b)(5), 301(1), redesignated subsec. (h) as (i), added par. (2), and redesignated former pars. (2) and (3) as (3) and (4), respectively.

1981—Subsec. (a)(1). Pub. L. 97-35, § 2701(a), revised provisions and, as so revised, set out existing provisions in cls. (A) and (B), and added cl. (C).

Subsec. (b). Pub. L. 97-35, § 2701(b), substituted “may” for “shall”.

Subsec. (c). Pub. L. 97-35, § 2701(c), inserted provisions respecting a written agreement under section 254n of this title.

Subsec. (d). Pub. L. 97-35, § 2701(d), in par. (1) inserted reference to member described in subsec. (a)(1)(C) of this section, in subpars. (1)(A) and (B) substituted “may” for “shall”, and added par. (3).

Subsec. (g). Pub. L. 97-35, § 2701(e), substituted provisions relating to conversion from Corps member to commissioned officer and retirement credits, for provi-

sions relating to school participation in development of administrative guidelines.

Subsec. (h). Pub. L. 97-35, §2701(f), in par. (1) substituted "Health and Human Services" for "Health, Education, and Welfare", in par. (2) substituted "254f" for "294t", and in par. (3) inserted reference to Commonwealth with respect to the Northern Mariana Islands.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 501 of Pub. L. 101-597 provided that: "This Act and the amendments made by this Act [enacting sections 254f-1, 254o-1, and 254r of this title, amending this section, sections 242a, 254e to 254i, 254k, 254l to 254q-1, 254s, 294h, 294n, 294aa, 295g-1, 296m, 1320c-5, 1395l, 1395u, 1395x, 3505d, and 9840 of this title, and section 2123 of Title 10, Armed Forces, and enacting provisions set out as notes under sections 201, 254l-1, and 254o of this title] shall take effect October 1, 1990, or upon the date of the enactment of this Act [Nov. 16, 1990], whichever occurs later."

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SPECIAL REPORT ON PRESENT AND FUTURE DIRECTION OF NATIONAL HEALTH SERVICE CORPS; SUBMISSION TO CONGRESS NOT LATER THAN FEBRUARY 1, 1979

Pub. L. 95-626, title I, §116(c), Nov. 10, 1978, 92 Stat. 3569, directed Secretary, not later than Feb. 1, 1979, in consultation with National Advisory Council of National Health Service Corps and National Advisory Council on Health Professions Education, to submit to Congress a report on the direction of the National Health Service Corps, particularly its role as a health manpower program and as a health services delivery program, the use of members of the Corps in health manpower shortage areas to meet urban and rural health needs, the types of health professions needed to meet urban and rural health needs, and the projected size, composition, and use of the Corps through 1985.

EFFECTIVE DATE; OTHER PROVISIONS: HEALTH MANPOWER SHORTAGE AREA; APPROVAL OF APPLICATIONS FOR ASSIGNMENT OF CORPS PERSONNEL; ASSIGNMENT PERIOD, COMMENCEMENT; CREDIT FOR MONTHS OF PRIOR HEALTH CARE AND SERVICES FOR ADDITIONAL PAY BENEFIT; NATIONAL ADVISORY COUNCIL ON THE NATIONAL HEALTH SERVICE CORPS, CONTINUATION OF COUNCIL AND APPOINTMENT OF MEMBERS

Section 407(c) of Pub. L. 94-484 provided that:

"(1) The amendment made by subsections (a) and (b) [enacting this subpart and repealing section 254b of this title] shall apply only with respect to fiscal years beginning after September 30, 1977, except that the Secretary of Health, Education, and Welfare [now Health and Human Services] shall carry out the activities described in section 332 of the Public Health Service Act (as added by such amendment) [section 254e of this title] after the date of enactment of this Act [Oct. 12, 1976].

"(2)(A) Any area for which a designation under section 329(b) of the Public Health Service Act (as in effect on September 30, 1977) [former section 254b(b) of this title] was in effect on such date and in which National Health Service Corps personnel were, on such date, providing, under an assignment made under such section (as so in effect), health care and services for persons residing in such area shall, effective October 1, 1977, be considered under subpart II of part C of title III of such Act (as added by subsection (b) of this section) [this subpart] to (i) be designated a health manpower shortage area (as defined by section 332 of such Act (as so added)) [section 254e of this title], and (ii) have had an application approved under section 333 of such Act (as so added)) [section 254f of this title] for the assignment

of Corps personnel unless, as determined under subparagraph (B) of this paragraph, the assignment period applicable to such area (within the meaning of section 334 (as so added)) [former section 254g of this title] has expired.

"(B) The assignment period (within the meaning of such section 334) [former section 254g of this title] applicable to an area described in subparagraph (A) of this paragraph shall be considered to have begun on the date Corps personnel were first assigned to such area under section 329 of such Act (as in effect on September 30, 1977) [former section 254b of this title].

"(C) In the case of any physician or dentist member of the Corps who was providing health care and services on September 30, 1977, under an assignment made under section 329(b) of such Act (as in effect on September 30, 1977) [former section 254b(b) of this title], the number of the months during which such member provided such care and services before October 1, 1977, shall be counted in determining the application of the additional pay provisions of section 331(d) of such Act (as added by subsection (b) of this section) [subsec. (d) of this section] to such number.

"(3) The amendment made by subsection (b) which established an Advisory Council previously established under section 329 of the Public Health Service Act [former section 254b of this title] shall not be construed as requiring the establishment of a new Advisory Council under such section 337 [section 254j of this title], and the amendment made by such subsection with respect to the composition of such Advisory Council shall apply with respect to appointments made to the Advisory Council after October 1, 1977, and the Secretary of Health, Education, and Welfare [now Health and Human Services] shall make appointments to the Advisory Council after such date in a manner which will bring about, at the earliest feasible time, the Advisory Council composition prescribed by the amendment."

§ 254e. Health professional shortage areas

(a) Designation by Secretary; removal from areas designated; "medical facility" defined

(1) For purposes of this subpart the term "health professional shortage area" means (A) an area in an urban or rural area (which need not conform to the geographic boundaries of a political subdivision and which is a rational area for the delivery of health services) which the Secretary determines has a health manpower shortage and which is not reasonably accessible to an adequately served area, (B) a population group which the Secretary determines has such a shortage, or (C) a public or nonprofit private medical facility or other public facility which the Secretary determines has such a shortage. All Federally qualified health centers and rural health clinics, as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), that meet the requirements of section 254g of this title shall be automatically designated as having such a shortage. Not earlier than 6 years after such date of designation, and every 6 years thereafter, each such center or clinic shall demonstrate that the center or clinic meets the applicable requirements of the Federal regulations regarding the definition of a health professional shortage area for purposes of this section. The Secretary shall not remove an area from the areas determined to be health professional shortage areas under subparagraph (A) of the preceding sentence until the Secretary has afforded interested persons and groups in such area an opportunity to provide data and information in support of the designation as a health professional shortage area or a popu-

lation group described in subparagraph (B) of such sentence or a facility described in subparagraph (C) of such sentence, and has made a determination on the basis of the data and information submitted by such persons and groups and other data and information available to the Secretary.

(2) For purposes of this subsection, the term “medical facility” means a facility for the delivery of health services and includes—

(A) a hospital, State mental hospital, public health center, outpatient medical facility, rehabilitation facility, facility for long-term care, community mental health center, migrant health center, facility operated by a city or county health department, and community health center;

(B) such a facility of a State correctional institution or of the Indian Health Service, and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act [25 U.S.C. 450f et seq.];

(C) such a facility used in connection with the delivery of health services under section 248 of this title (relating to hospitals), 249 of this title (relating to care and treatment of persons under quarantine and others), 250 of this title (relating to care and treatment of Federal prisoners), 251 of this title (relating to examination and treatment of certain Federal employees), 252 of this title (relating to examination of aliens), 253 of this title (relating to services to certain Federal employees), 247e of this title (relating to services for persons with Hansen’s disease), or 254b(h) of this title (relating to the provision of health services to homeless individuals); and

(D) a Federal medical facility.

(3) Homeless individuals (as defined in section 254b(h)(5) of this title), seasonal agricultural workers (as defined in section 254b(g)(3) of this title) and migratory agricultural workers (as so defined), and residents of public housing (as defined in section 1437a(b)(1) of this title) may be population groups under paragraph (1).

(b) Criteria for designation of health professional shortage areas; promulgation of regulations

The Secretary shall establish by regulation criteria for the designation of areas, population groups, medical facilities, and other public facilities, in the States, as health professional shortage areas. In establishing such criteria, the Secretary shall take into consideration the following:

(1) The ratio of available health manpower to the number of individuals in an area or population group, or served by a medical facility or other public facility under consideration for designation.

(2) Indicators of a need, notwithstanding the supply of health manpower, for health services for the individuals in an area or population group or served by a medical facility or other public facility under consideration for designation.

(3) The percentage of physicians serving an area, population group, medical facility, or other public facility under consideration for designation who are employed by hospitals

and who are graduates of foreign medical schools.

(c) Considerations in determination of designation

In determining whether to make a designation, the Secretary shall take into consideration the following:

(1) The recommendations of the Governor of each State in which the area, population group, medical facility, or other public facility under consideration for designation is in whole or part located.

(2) The extent to which individuals who are (A) residents of the area, members of the population group, or patients in the medical facility or other public facility under consideration for designation, and (B) entitled to have payment made for medical services under title XVIII, XIX, or XXI of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.], cannot obtain such services because of suspension of physicians from the programs under such titles.

(d) Designation; publication of descriptive lists

(1) In accordance with the criteria established under subsection (b) of this section and the considerations listed in subsection (c) of this section the Secretary shall designate health professional shortage areas in the States, publish a descriptive list of the areas, population groups, medical facilities, and other public facilities so designated, and at least annually review and, as necessary, revise such designations.

(2) For purposes of paragraph (1), a complete descriptive list shall be published in the Federal Register not later than July 1 of 1991 and each subsequent year.

(e) Notice of proposed designation of areas and facilities; time for comment

(1) Prior to the designation of a public facility, including a Federal medical facility, as a health professional shortage area, the Secretary shall give written notice of such proposed designation to the chief administrative officer of such facility and request comments within 30 days with respect to such designation.

(2) Prior to the designation of a health professional shortage area under this section, the Secretary shall, to the extent practicable, give written notice of the proposed designation of such area to appropriate public or private nonprofit entities which are located or have a demonstrated interest in such area and request comments from such entities with respect to the proposed designation of such area.

(f) Notice of designation

The Secretary shall give written notice of the designation of a health professional shortage area, not later than 60 days from the date of such designation, to—

(1) the Governor of each State in which the area, population group, medical facility, or other public facility so designated is in whole or part located; and

(2) appropriate public or nonprofit private entities which are located or which have a demonstrated interest in the area so designated.

(g) Recommendations to Secretary

Any person may recommend to the Secretary the designation of an area, population group, medical facility, or other public facility as a health professional shortage area.

(h) Public information programs in designated areas

The Secretary may conduct such information programs in areas, among population groups, and in medical facilities and other public facilities designated under this section as health professional shortage areas as may be necessary to inform public and nonprofit private entities which are located or have a demonstrated interest in such areas of the assistance available under this subchapter by virtue of the designation of such areas.

(i) Dissemination

The Administrator of the Health Resources and Services Administration shall disseminate information concerning the designation criteria described in subsection (b) of this section to—

- (1) the Governor of each State;
- (2) the representative of any area, population group, or facility selected by any such Governor to receive such information;
- (3) the representative of any area, population group, or facility that requests such information; and
- (4) the representative of any area, population group, or facility determined by the Administrator to be likely to meet the criteria described in subsection (b) of this section.

(j) Regulations and report

(1) The Secretary shall submit the report described in paragraph (2) if the Secretary, acting through the Administrator of the Health Resources and Services Administration, issues—

- (A) a regulation that revises the definition of a health professional shortage area for purposes of this section; or
- (B) a regulation that revises the standards concerning priority of such an area under section 254f-1 of this title.

(2) On issuing a regulation described in paragraph (1), the Secretary shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report that describes the regulation.

(3) Each regulation described in paragraph (1) shall take effect 180 days after the committees described in paragraph (2) receive a report referred to in such paragraph describing the regulation.

(July 1, 1944, ch. 373, title III, § 332, as added Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2270; amended Pub. L. 95-142, § 7(d), Oct. 25, 1977, 91 Stat. 1193; Pub. L. 96-32, § 7(d), July 10, 1979, 93 Stat. 84; Pub. L. 97-35, title IX, § 986(b)(4), title XXVII, § 2702(a), (b), (c), Aug. 13, 1981, 95 Stat. 603, 903, 904; Pub. L. 100-77, title VI, § 602, July 22, 1987, 101 Stat. 515; Pub. L. 100-177, title III, § 302, Dec. 1, 1987, 101 Stat. 1003; Pub. L. 100-607, title VIII, § 802(b)(2), Nov. 4, 1988, 102 Stat. 3169; Pub. L. 100-628, title VI, § 602(b)(2), Nov. 7, 1988, 102 Stat. 3242; Pub. L. 101-597, title

I, § 102, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3014, 3035; Pub. L. 107-251, title III, § 302(a), (d)(2), title VI, § 601(a), Oct. 26, 2002, 116 Stat. 1643, 1645, 1664; Pub. L. 108-163, § 2(f)(1), Dec. 6, 2003, 117 Stat. 2021.)

REFERENCES IN TEXT

The Indian Self-Determination Act, referred to in subsec. (a)(2)(B), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to part A (§ 450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Social Security Act, referred to in subsec. (c)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§ 1395 et seq.), XIX (§ 1396 et seq.), and XXI (§ 1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 332 of act July 1, 1944, was renumbered section 340, and was classified to section 256 of this title prior to repeal by Pub. L. 95-626.

AMENDMENTS

2003—Subsec. (a)(1). Pub. L. 108-163, § 2(f)(1)(A), substituted “such date of designation” for “such date of enactment” and “regarding” for “, issued after the date of enactment of this Act, that revise”.

Subsec. (a)(3). Pub. L. 108-163, § 2(f)(1)(B), substituted “254b(h)(5)” for “254b(h)(4)”.

Subsec. (b)(2). Pub. L. 108-163, § 2(f)(1)(C), struck out comma before period at end.

Subsec. (j). Pub. L. 108-163, § 2(f)(1)(D), added subsec. (j).

2002—Subsec. (a)(1). Pub. L. 107-251, § 302(a)(1)(A), inserted after first sentence “All Federally qualified health centers and rural health clinics, as defined in section 1861(aa) of the Social Security Act (42 U.S.C. 1395x(aa)), that meet the requirements of section 254g of this title shall be automatically designated as having such a shortage. Not earlier than 6 years after such date of enactment, and every 6 years thereafter, each such center or clinic shall demonstrate that the center or clinic meets the applicable requirements of the Federal regulations, issued after the date of enactment of this Act, that revise the definition of a health professional shortage area for purposes of this section.”

Subsec. (a)(2)(C). Pub. L. 107-251, § 601(a), substituted “254b(h)” for “256”.

Subsec. (a)(3). Pub. L. 107-251, § 302(a)(1)(B), substituted “254b(h)(4) of this title), seasonal agricultural workers (as defined in section 254b(g)(3) of this title) and migratory agricultural workers (as so defined)), and residents of public housing (as defined in section 1437a(b)(1) of this title) may be population groups” for “256(r) of this title) may be a population group”.

Subsec. (b)(2). Pub. L. 107-251, § 302(a)(2), struck out after “designation,” the following: “with special consideration to indicators of—

- “(A) infant mortality,
- “(B) access to health services,
- “(C) health status, and
- “(D) ability to pay for health services”.

Subsec. (c)(2)(B). Pub. L. 107-251, § 302(a)(3), substituted “XVIII, XIX, or XXI of the Social Security Act” for “XVIII or XIX of the Social Security Act”.

Subsec. (i). Pub. L. 107-251, § 302(d)(2), added subsec. (i).

1990—Subsec. (a)(1). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

Subsec. (a)(2)(A). Pub. L. 101-597, § 102(b)(1), inserted “facility operated by a city or county health department,” before “and community health center”.

Subsec. (a)(2)(B). Pub. L. 101-597, §102(b)(2), inserted before semicolon “, and a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act”.

Subsec. (a)(2)(C). Pub. L. 101-597, §102(b)(3), substituted “section” for “sections” before “248”, struck out “or” before “253” and “or section” before “247e”, and inserted before semicolon “, or 256 of this title (relating to the provision of health services to homeless individuals)”.

Subsec. (b). Pub. L. 101-597, §401(b)(a), substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101-597, §102(c)(1), struck out “, promulgated not later than May 1, 1977,” after “establish by regulation”.

Subsec. (c). Pub. L. 101-597, §102(c)(2), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows:

“(A) The recommendations of each health systems agency (designated under section 300f-4 of this title) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility under consideration for designation.

“(B) The recommendations of the State health planning and development agency (designated under section 300m of this title) if such area, population group, medical facility, or other public facility is within a health service area for which no health systems agency has been designated.”

Subsec. (d). Pub. L. 101-597, §401(b)(a), substituted reference to health professional shortage area for reference to health manpower shortage area in par. (1).

Pub. L. 101-597, §102(a), (c)(3), designated existing provision as par. (1), struck out “, not later than November 1, 1977,” after “Secretary shall designate”, and added par. (2).

Subsec. (e). Pub. L. 101-597, §401(b)(a), substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

Subsec. (f). Pub. L. 101-597, §401(b)(a), substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101-597, §102(c)(4), redesignated par. (3) as (2) and struck out former par. (2) which read as follows:

“(A) each health systems agency (designated under section 300f-4 of this title) for a health service area which includes all or any part of the area, population group, medical facility, or other public facility so designated; or

“(B) the State health planning and development agency of the State (designated under section 300m of this title) if there is a part of such area, population group, medical facility, or other public facility within a health service area for which no health systems agency has been designated; and”.

Subsecs. (g), (h). Pub. L. 101-597, §401(b)(a), substituted reference to health professional shortage area for reference to health manpower shortage area.

1988—Subsec. (a)(3). Pub. L. 100-607 and Pub. L. 100-628 made identical amendments, substituting “section 256(r)” for “section 256(q)(2)”.

1987—Subsec. (a)(1). Pub. L. 100-177, §302(1), inserted sentence at end relating to removal of an area from areas determined to be health manpower shortage areas.

Subsec. (a)(3). Pub. L. 100-77 added par. (3).
Subsec. (b)(2)(D). Pub. L. 100-177, §302(2), added subpar. (D).

1981—Subsec. (a)(1)(A). Pub. L. 97-35, §2702(a), inserted provisions respecting reasonable accessibility to adequately served area.

Subsec. (a)(2)(C). Pub. L. 97-35, §986(b)(4), substituted “persons under quarantine” for “seamen”.

Subsec. (e). Pub. L. 97-35, §2702(c), designated existing provisions as par. (1) and added par. (2).

Subsec. (h). Pub. L. 97-35, §2702(b), substituted “may” for “shall”.

1979—Subsec. (a)(2)(C). Pub. L. 96-32 substituted “section 247e of this title” for “part D of subchapter II of this chapter”.

1977—Subsec. (c)(3). Pub. L. 95-142 added par. (3).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendments by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Section 631 of title VI of Pub. L. 100-628 provided that: “The amendments made by subsection (a) of section 601 [amending section 256 of this title] shall take effect in accordance with subsection (b) of such section [formerly set out as a note under section 256 of this title]. The amendments otherwise made by this title [amending this section and sections 256, 290bb-2, 290cc-21, 290cc-28, 290cc-29, 290cc-35, 290cc-36, 290dd, 290ee, and 290ee-1 of this title and amending provisions set out as a note under section 290aa-3 of this title] shall take effect October 1, 1988, or upon the date of the enactment of this Act [Nov. 7, 1988], whichever occurs later.”

Section 831 of title VIII of Pub. L. 100-607 provided that: “The amendments made by subsection (a) of section 801 [amending section 256 of this title] shall take effect in accordance with subsection (b) of such section [formerly set out as a note under section 256 of this title]. The amendments otherwise made by this title [amending this section and sections 256, 290bb-2, 290cc-21, 290cc-28, 290cc-29, 290cc-35, 290cc-36, 290dd, 290ee, and 290ee-1 of this title and amending provisions set out as a note under section 290aa-3 of this title] shall take effect October 1, 1988, or upon the date of the enactment of this Act [Nov. 4, 1988], whichever occurs later.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 986(b)(4) of Pub. L. 97-35 effective Oct. 1, 1981, see section 986(c) of Pub. L. 97-35, set out as a note under section 249 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Section 7(e)(1) of Pub. L. 95-142 provided that: “The amendment made by subsection (d) [amending this section] shall apply with respect to determinations and designations made on and after the date of the enactment of this Act [Oct. 25, 1977].”

REGULATIONS

Pub. L. 107-251, title III, §302(b), Oct. 26, 2002, 116 Stat. 1644, which required the Secretary to submit a report to Congress, if the Secretary issued regulations revising the definition of a health professional shortage area under this section and standards concerning priority of such an area under section 254f-1 of this title, was repealed by Pub. L. 108-163, §2(f)(2), Dec. 6, 2003, 117 Stat. 2022.

IMPROVEMENT OF SITE DESIGNATION PROCESS

Pub. L. 107-251, title III, §302(d)(1), Oct. 26, 2002, 116 Stat. 1644, provided that: “The Administrator of the Health Resources and Services Administration, in consultation with the Association of State and Territorial Dental Directors, dental societies, and other interested parties, shall revise the criteria on which the designations of dental health professional shortage areas are based so that such criteria provide a more accurate reflection of oral health care need, particularly in rural areas.”

GAO STUDY

Pub. L. 107-251, title III, §302(e), Oct. 26, 2002, 116 Stat. 1645, provided that: “Not later than February 1, 2005, the Comptroller General of the United States shall submit to the Congress a report on the appropriateness of the criteria, including but not limited to infant mortality rates, access to health services taking into account the distance to primary health services, the rate of

poverty and ability to pay for health services, and low birth rates, established by the Secretary of Health and Human Services for the designation of health professional shortage areas and whether the deeming of federally qualified health centers and rural health clinics as such areas is appropriate and necessary.”

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center, considered reference to health center, see section 4(c) of Pub. L. 104-299, set out as a note under section 254b of this title.

EVALUATION OF CRITERIA USED TO DESIGNATE HEALTH MANPOWER SHORTAGE AREAS; REPORT TO CONGRESS

Section 2702(c) of Pub. L. 97-35 directed the Secretary of Health and Human Services, effective Oct. 1, 1981, to evaluate the criteria used under section 254e(b) of this title to determine if the use of the criteria resulted in areas which did not have a shortage of health professions personnel being designated as health manpower shortage areas, and to consider different criteria (including the actual use of health professions personnel in an area by the residents, taking into account their health status and indicators of unmet demand and likelihood that such demand would not be met in two years) which might be used to designate health manpower shortage areas. The Secretary was to report the results of his activities to Congress not later than Nov. 30, 1982.

§ 254f. Corps personnel

(a) Conditions necessary for assignment of Corps personnel to area; contents of application for assignment; assignment to particular facility; approval of applications

(1) The Secretary may assign members of the Corps to provide, under regulations promulgated by the Secretary, health services in or to a health professional shortage area during the assignment period only if—

(A) a public or private entity, which is located or has a demonstrated interest in such area makes application to the Secretary for such assignment;

(B) such application has been approved by the Secretary;

(C) the entity agrees to comply with the requirements of section 254g of this title; and

(D) the Secretary has (i) conducted an evaluation of the need and demand for health manpower for the area, the intended use of Corps members to be assigned to the area, community support for the assignment of Corps members to the area, the area's efforts to secure health manpower for the area, and the fiscal management capability of the entity to which Corps members would be assigned and (ii) on the basis of such evaluation has determined that—

(I) there is a need and demand for health manpower for the area;

(II) there has been appropriate and efficient use of any Corps members assigned to the entity for the area;

(III) there is general community support for the assignment of Corps members to the entity;

(IV) the area has made unsuccessful efforts to secure health manpower for the area; and

(V) there is a reasonable prospect of sound fiscal management, including efficient col-

lection of fee-for-service, third-party, and other appropriate funds, by the entity with respect to Corps members assigned to such entity.

An application for assignment of a Corps member to a health professional shortage area shall include a demonstration by the applicant that the area or population group to be served by the applicant has a shortage of personal health services and that the Corps member will be located so that the member will provide services to the greatest number of persons residing in such area or included in such population group. Such a demonstration shall be made on the basis of the criteria prescribed by the Secretary under section 254e(b) of this title and on additional criteria which the Secretary shall prescribe to determine if the area or population group to be served by the applicant has a shortage of personal health services.

(2) Corps members may be assigned to a Federal health care facility, but only upon the request of the head of the department or agency of which such facility is a part.

(3) In approving applications for assignment of members of the Corps the Secretary shall not discriminate against applications from entities which are not receiving Federal financial assistance under this chapter. In approving such applications, the Secretary shall give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned.

(b) Corps member income assurances; grants respecting sufficiency of financial resources

(1) The Secretary may not approve an application for the assignment of a member of the Corps described in subparagraph (C) of section 254d(a)(1) of this title to an entity unless the application of the entity contains assurances satisfactory to the Secretary that the entity (A) has sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 254d(a)(1) of this title, or (B) would have such financial resources if a grant was made to the entity under paragraph (2).

(2)(A) If in approving an application of an entity for the assignment of a member of the Corps described in subparagraph (C) of section 254d(a)(1) of this title the Secretary determines that the entity does not have sufficient financial resources to provide the member of the Corps with an income of not less than the income to which the member would be entitled if the member was a member described in subparagraph (B) of section 254d(a)(1) of this title, the Secretary may make a grant to the entity to assure that the member of the Corps assigned to it will receive during the period of assignment to the entity such an income.

(B) The amount of any grant under subparagraph (A) shall be determined by the Secretary. Payments under such a grant may be made in advance or by way of reimbursement, and at such intervals and on such conditions, as the Secretary finds necessary. No grant may be made unless an application therefor is submit-

ted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.

(c) Assignment of members without regard to ability of area to pay for services

The Secretary shall assign Corps members to entities in health professional shortage areas without regard to the ability of the individuals in such areas, population groups, medical facilities, or other public facilities to pay for such services.

(d) Entities entitled to aid; forms of assistance; coordination of efforts; agreements for assignment of Corps members; qualified entity

(1) The Secretary may provide technical assistance to a public or private entity which is located in a health professional shortage area and which desires to make an application under this section for assignment of a Corps member to such area. Assistance provided under this paragraph may include assistance to an entity in (A) analyzing the potential use of health professions personnel in defined health services delivery areas by the residents of such areas, (B) determining the need for such personnel in such areas, (C) determining the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice, (D) determining the types of inpatient and other health services that should be provided by such personnel in such areas, and (E) developing long-term plans for addressing health professional shortages and improving access to health care. The Secretary shall encourage entities that receive technical assistance under this paragraph to communicate with other communities, State Offices of Rural Health, State Primary Care Associations and Offices, and other entities concerned with site development and community needs assessment.

(2) The Secretary may provide, to public and private entities which are located in a health professional shortage area to which area a Corps member has been assigned, technical assistance to assist in the retention of such member in such area after the completion of such member's assignment to the area.

(3) The Secretary may provide, to health professional shortage areas to which no Corps member has been assigned, (A) technical assistance to assist in the recruitment of health manpower for such areas, and (B) current information on public and private programs which provide assistance in the securing of health manpower.

(4)(A) The Secretary shall undertake to demonstrate the improvements that can be made in the assignment of members of the Corps to health professional shortage areas and in the delivery of health care by Corps members in such areas through coordination with States, political subdivisions of States, agencies of States and political subdivisions, and other public and private entities which have expertise in the planning, development, and operation of centers for the delivery of primary health care. In carrying out this subparagraph, the Secretary shall enter into agreements with qualified entities which provide that if—

(i) the entity places in effect a program for the planning, development, and operation of centers for the delivery of primary health care in health professional shortage areas which reasonably addresses the need for such care in such areas, and

(ii) under the program the entity will perform the functions described in subparagraph (B),

the Secretary will assign under this section members of the Corps in accordance with the program.

(B) For purposes of subparagraph (A), the term "qualified entity" means a State, political subdivision of a State, an agency of a State or political subdivision, or other public or private entity operating solely within one State, which the Secretary determines is able—

(i) to analyze the potential use of health professions personnel in defined health services delivery areas by the residents of such areas;

(ii) to determine the need for such personnel in such areas and to recruit, select, and retain health professions personnel (including members of the National Health Service Corps) to meet such need;

(iii) to determine the extent to which such areas will have a financial base to support the practice of such personnel and the extent to which additional financial resources are needed to adequately support the practice;

(iv) to determine the types of inpatient and other health services that should be provided by such personnel in such areas;

(v) to assist such personnel in the development of their clinical practice and fee schedules and in the management of their practice;

(vi) to assist in the planning and development of facilities for the delivery of primary health care; and

(vii) to assist in establishing the governing bodies of centers for the delivery of such care and to assist such bodies in defining and carrying out their responsibilities.

(e) Practice within State by Corps member

Notwithstanding any other law, any member of the Corps licensed to practice medicine, osteopathic medicine, dentistry, or any other health profession in any State shall, while serving in the Corps, be allowed to practice such profession in any State.

(July 1, 1944, ch. 373, title III, § 333, as added Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2272; amended Pub. L. 97-35, title XXVII, § 2703, Aug. 13, 1981, 95 Stat. 904; Pub. L. 100-177, title III, §§ 303, 304, Dec. 1, 1987, 101 Stat. 1004; Pub. L. 100-607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101-597, title I, § 103, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3015, 3035; Pub. L. 107-251, title III, § 303, Oct. 26, 2002, 116 Stat. 1645; Pub. L. 108-163, § 2(g), Dec. 6, 2003, 117 Stat. 2022.)

AMENDMENTS

2003—Subsec. (a)(1)(C). Pub. L. 108-163 realigned margin.

2002—Subsec. (a)(1). Pub. L. 107-251, § 303(1)(A)(i), struck out "(specified in the agreement described in section 254g of this title)" after "assignment period" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 107-251, §303(1)(A)(ii), struck out “nonprofit” before “private entity”.

Subsec. (a)(1)(C). Pub. L. 107-251, §303(1)(A)(iii), added subpar. (C) and struck out former subpar. (C) which read as follows: “an agreement has been entered into between the entity which has applied and the Secretary, in accordance with section 254g of this title; and”.

Subsec. (a)(3). Pub. L. 107-251, §303(1)(B), inserted at end “In approving such applications, the Secretary shall give preference to applications in which a nonprofit entity or public entity shall provide a site to which Corps members may be assigned.”

Subsec. (d)(1). Pub. L. 107-251, §303(2), struck out “nonprofit” before “private entity” in first sentence, added cl. (E), and inserted at end “The Secretary shall encourage entities that receive technical assistance under this paragraph to communicate with other communities, State Offices of Rural Health, State Primary Care Associations and Offices, and other entities concerned with site development and community needs assessment.”

Subsec. (d)(2). Pub. L. 107-251, §303(2)(A), struck out “nonprofit” before “private entities”.

Subsec. (d)(4). Pub. L. 107-251, §303(2)(A), struck out “nonprofit” before “private entities” in introductory provisions of subpar. (A) and before “private entity” in introductory provisions of subpar. (B).

1990—Subsec. (a)(1). Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in introductory and closing provisions.

Subsec. (a)(1)(D)(ii)(II). Pub. L. 101-597, §103(a), substituted “has been” and “any Corps” for “will be” and “Corps”, respectively.

Subsec. (b). Pub. L. 101-597, §103(b), redesignated subsec. (d) as (b) and struck out former subsec. (b) which related to approval of application for assignment of Corps personnel subject to review and comment on application by health service agencies in designated area.

Subsec. (c). Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101-597, §103(b), redesignated subsec. (e) as (c) and struck out former subsec. (c) which related to applications, consideration and approval by Secretary, priorities, cooperation with Corps members, and comments by health professionals and societies in designated areas.

Subsec. (d). Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing in pars. (1) to (4)(A)(i).

Pub. L. 101-597, §103(b)(2), redesignated subsec. (g) as (d). Former subsec. (d) redesignated (b).

Subsec. (e). Pub. L. 101-597, §103(b)(2), redesignated subsec. (i) as (e). Former subsec. (e) redesignated (c).

Subsec. (f). Pub. L. 101-597, §103(b)(1), struck out subsec. (f) which provided for selection of Corps members for assignment upon basis of characteristics.

Subsec. (g). Pub. L. 101-597, §103(b)(2), redesignated subsec. (g) as (d).

Subsec. (h). Pub. L. 101-597, §103(b)(1), struck out subsec. (h) which related to study and contracts for study of methods of assignments of Corps members.

Subsec. (i). Pub. L. 101-597, §103(b)(2), redesignated subsec. (i) as (e).

Subsecs. (j), (k). Pub. L. 101-597, §103(b)(1), struck out subsecs. (j) and (k) which provided for placement of physicians in medically underserved areas and assignment of family physicians, respectively.

1988—Subsec. (i). Pub. L. 100-607 substituted “osteopathic medicine” for “osteopathy”.

1987—Subsec. (j). Pub. L. 100-177, §303, added subsec. (j).

Subsec. (k). Pub. L. 100-177, §304, added subsec. (k).

1981—Subsec. (a). Pub. L. 97-35, §2703(a), (b), amended par. (1)(D) generally and, among changes, made numerous changes in nomenclature, inserted at end of par. (1) provisions respecting application, and added par. (3).

Subsec. (c). Pub. L. 97-35, §2703(c), struck out par. (2) which related to special considerations, and redesignated pars. (3) and (4) as (2) and (3), respectively.

Subsecs. (d) to (f). Pub. L. 97-35, §2703(d), added subsec. (d) and redesignated former subsecs. (d), (e), and (f) as (e), (f), and (g), respectively.

Subsec. (g). Pub. L. 97-35, §2703(d), (e), redesignated former subsec. (f) as (g) and substituted “may” for “shall” in pars. (1) to (3), inserted provisions respecting health professions personnel in par. (1), added par. (4), and struck out requirement respecting demonstrated interest in pars. (1) and (2). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 97-35, §2703(d), (f), redesignated former subsec. (g) as (h) and directed that “may” be substituted for “shall” which was executed by substituting “may” for “shall” in two places preceding par. (1). Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 97-35, §2703(d), (g), redesignated former subsec. (h) as (i) and inserted reference to other health profession.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2703(d) of Pub. L. 97-35 provided that the amendment made by that section is effective Oct. 1, 1981.

§ 254f-1. Priorities in assignment of Corps personnel

(a) In general

In approving applications made under section 254f of this title for the assignment of Corps members, the Secretary shall—

(1) give priority to any such application that—

(A) is made regarding the provision of primary health services to a health professional shortage area with the greatest such shortage; and

(B) is made by an entity that—

(i) serves a health professional shortage area described in subparagraph (A);

(ii) coordinates the delivery of primary health services with related health and social services;

(iii) has a documented record of sound fiscal management; and

(iv) will experience a negative impact on its capacity to provide primary health services if a Corps member is not assigned to the entity;

(2) with respect to the geographic area in which the health professional shortage area is located, take into consideration the willingness of individuals in the geographic area, and of the appropriate governmental agencies or health entities in the area, to assist and cooperate with the Corps in providing effective primary health services; and

(3) take into consideration comments of medical, osteopathic, dental, or other health professional societies whose members deliver services to the health professional shortage area, or if no such societies exist, comments of physicians, dentists, or other health professionals delivering services to the area.

(b) Establishment of criteria for determining priorities**(1) In general**

The Secretary shall establish criteria specifying the manner in which the Secretary makes a determination under subsection (a)(1)(A) of this section of the health professional shortage areas with the greatest such shortages.

(2) Publication of criteria

The criteria required in paragraph (1) shall be published in the Federal Register not later than July 1, 1991. Any revisions made in the criteria by the Secretary shall be effective upon publication in the Federal Register.

(c) Notifications regarding priorities**(1) Proposed list**

The Secretary shall prepare and publish a proposed list of health professional shortage areas and entities that would receive priority under subsection (a)(1) of this section in the assignment of Corps members. The list shall contain the information described in paragraph (2), and the relative scores and relative priorities of the entities submitting applications under section 254f of this title, in a proposed format. All such entities shall have 30 days after the date of publication of the list to provide additional data and information in support of inclusion on the list or in support of a higher priority determination and the Secretary shall reasonably consider such data and information in preparing the final list under paragraph (2).

(2) Preparation of list for applicable period

For the purpose of carrying out paragraph (3), the Secretary shall prepare and, as appropriate, update a list of health professional shortage areas and entities that are receiving priority under subsection (a)(1) of this section in the assignment of Corps members. Such list—

(A) shall include a specification, for each such health professional shortage area, of the entities for which the Secretary has provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments; and

(B) shall, of the entities for which an authorization described in subparagraph (A) has been provided, specify—

(i) the entities provided such an authorization for the assignment of Corps members who are participating in the Scholarship Program;

(ii) the entities provided such an authorization for the assignment of Corps members who are participating in the Loan Repayment Program; and

(iii) the entities provided such an authorization for the assignment of Corps members who have become Corps members other than pursuant to contractual obligations under the Scholarship or Loan Repayment Programs.

The Secretary may set forth such specifications by medical specialty.

(3) Notification of affected parties**(A) Entities**

Not later than 30 days after the Secretary has added to a list under paragraph (2) an entity specified as described in subparagraph (A) of such paragraph, the Secretary shall notify such entity that the entity has been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

(B) Individuals

In the case of an individual obligated to provide service under the Scholarship Program, not later than 3 months before the date described in section 254m(b)(5) of this title, the Secretary shall provide to such individual the names of each of the entities specified as described in paragraph (2)(B)(i) that is appropriate for the individual's medical specialty and discipline.

(4) Revisions

If the Secretary proposes to make a revision in the list under paragraph (2), and the revision would adversely alter the status of an entity with respect to the list, the Secretary shall notify the entity of the revision. Any entity adversely affected by such a revision shall be notified in writing by the Secretary of the reasons for the revision and shall have 30 days from such notification to file a written appeal of the determination involved which shall be reasonably considered by the Secretary before the revision to the list becomes final. The revision to the list shall be effective with respect to assignment of Corps members beginning on the date that the revision becomes final.

(d) Limitation on number of entities offered as assignment choices in Scholarship Program**(1) Determination of available Corps members**

By April 1 of each calendar year, the Secretary shall determine the number of participants in the Scholarship Program who will be available for assignments under section 254f of this title during the program year beginning on July 1 of that calendar year.

(2) Determination of number of entities

At all times during a program year, the number of entities specified under subsection (c)(2)(B)(i) of this section shall be—

(A) not less than the number of participants determined with respect to that program year under paragraph (1); and

(B) not greater than twice the number of participants determined with respect to that program year under paragraph (1).

(July 1, 1944, ch. 373, title III, §333A, as added and amended Pub. L. 101-597, title I, §104, title IV, §401(b)[(a)], Nov. 16, 1990, 104 Stat. 3015, 3035; Pub. L. 107-251, title III, §304, Oct. 26, 2002, 116 Stat. 1646; Pub. L. 108-163, §2(h), Dec. 6, 2003, 117 Stat. 2022.)

AMENDMENTS

2003—Subsec. (c)(4). Pub. L. 108-163 substituted “30 days from such notification” for “30 days”.

2002—Subsec. (a)(1)(A). Pub. L. 107-251, §304(1), struck out “, as determined in accordance with subsection (b) of this section” after “such shortage”.

Subsec. (b). Pub. L. 107-251, §304(2), (7), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “In making a determination under subsection (a)(1)(A) of this section of the health professional shortage areas with the greatest such shortages, the Secretary may consider only the following factors:

“(1) The ratio of available health manpower to the number of individuals in the area or population group involved, or served by the medical facility or other public facility involved.

“(2) Indicators of need as follows:

“(A) The rate of low birthweight births.

“(B) The rate of infant mortality.

“(C) The rate of poverty.

“(D) Access to primary health services, taking into account the distance to such services.”

Subsec. (c). Pub. L. 107-251, §304(7), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 107-251, §304(3), struck out second sentence, which read as follows: “Such criteria shall specify the manner in which the factors described in subsection (b) of this section are implemented regarding such a determination.”

Subsec. (d). Pub. L. 107-251, §304(7), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 107-251, §304(4)(B), added par. (1). Former par. (1) redesignated (2).

Subsec. (d)(2). Pub. L. 107-251, §304(4)(C), in introductory provisions, substituted “paragraph (3)” for “paragraph (2)” and “prepare and, as appropriate, update a list of health professional shortage areas and entities” for “prepare a list of health professional shortage areas” and struck out “for the period applicable under subsection (f) of this section” after “Corps members”.

Pub. L. 107-251, §304(4)(A), redesignated par. (1) as (2). Former par. (2) redesignated (3).

Subsec. (d)(3). Pub. L. 107-251, §304(4)(D), added par. (3) and struck out heading and text of former par. (3). Text read as follows:

“(A) Not later than 30 days after the preparation of each list under paragraph (1), the Secretary shall notify entities specified for purposes of subparagraph (A) of such paragraph of the fact that the entities have been provided an authorization to receive assignments of Corps members in the event that Corps members are available for the assignments.

“(B) In the case of individuals with respect to whom a period of obligated service under the Scholarship Program will begin during the period under subsection (f) of this section for which a list under paragraph (1) is prepared, the Secretary shall, not later than 30 days after the preparation of each such list, provide to such individuals the names of each of the entities specified for purposes of paragraph (1)(B)(i) that is appropriate to the medical specialty of the individuals.”

Pub. L. 107-251, §304(4)(A), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (d)(4). Pub. L. 107-251, §304(4)(E), added par. (4) and struck out heading and text of former par. (4). Text read as follows: “If the Secretary makes a revision in a list under paragraph (1) during the period under subsection (f) of this section to which the list is applicable, and the revision alters the status of an entity with respect to the list, the Secretary shall notify the entity of the effect on the entity of the revision. Such notification shall be provided not later than 30 days after the date on which the revision is made.”

Pub. L. 107-251, §304(4)(A), redesignated par. (3) as (4).

Subsec. (e). Pub. L. 107-251, §304(7), redesignated subsec. (e) as (d).

Pub. L. 107-251, §304(5), added subsec. (e) and struck out heading and text of former subsec. (e). Text related to limitation on the number of entities offered as assignment choices in the Scholarship Program based on the number of participants available for assignments.

Subsec. (f). Pub. L. 107-251, §304(6), struck out heading and text of subsec. (f), which related to applicable pe-

riod regarding priorities in assignment of Corps members.

1990—Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing in subsecs. (a) to (c)(1), (d)(1), and (e)(3).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

§ 254g. Charges for services by entities using Corps members

(a) Availability of services regardless of ability to pay or payment source

An entity to which a Corps member is assigned shall not deny requested health care services, and shall not discriminate in the provision of services to an individual—

(1) because the individual is unable to pay for the services; or

(2) because payment for the services would be made under—

(A) the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.);

(B) the medicaid program under title XIX of such Act (42 U.S.C. 1396 et seq.); or

(C) the State children’s health insurance program under title XXI of such Act (42 U.S.C. 1397aa et seq.).

(b) Charges for services

The following rules shall apply to charges for health care services provided by an entity to which a Corps member is assigned:

(1) In general

(A) Schedule of fees or payments

Except as provided in paragraph (2), the entity shall prepare a schedule of fees or payments for the entity’s services, consistent with locally prevailing rates or charges and designed to cover the entity’s reasonable cost of operation.

(B) Schedule of discounts

Except as provided in paragraph (2), the entity shall prepare a corresponding schedule of discounts (including, in appropriate cases, waivers) to be applied to the payment of such fees or payments. In preparing the schedule, the entity shall adjust the discounts on the basis of a patient’s ability to pay.

(C) Use of schedules

The entity shall make every reasonable effort to secure from patients fees and payments for services in accordance with such schedules, and fees or payments shall be sufficiently discounted in accordance with the schedule described in subparagraph (B).

(2) Services to beneficiaries of Federal and federally assisted programs

In the case of health care services furnished to an individual who is a beneficiary of a program listed in subsection (a)(2) of this section, the entity—

(A) shall accept an assignment pursuant to section 1842(b)(3)(B)(ii) of the Social Secu-

rity Act (42 U.S.C. 1395u(b)(3)(B)(ii)) with respect to an individual who is a beneficiary under the medicare program; and

(B) shall enter into an appropriate agreement with—

(i) the State agency administering the program under title XIX of such Act [42 U.S.C. 1396 et seq.] with respect to an individual who is a beneficiary under the medicaid program; and

(ii) the State agency administering the program under title XXI of such Act [42 U.S.C. 1397aa et seq.] with respect to an individual who is a beneficiary under the State children's health insurance program.

(3) Collection of payments

The entity shall take reasonable and appropriate steps to collect all payments due for health care services provided by the entity, including payments from any third party (including a Federal, State, or local government agency and any other third party) that is responsible for part or all of the charge for such services.

(July 1, 1944, ch. 373, title III, § 334, as added Pub. L. 107-251, title III, § 305, Oct. 26, 2002, 116 Stat. 1647; amended Pub. L. 108-163, § 2(i), Dec. 6, 2003, 117 Stat. 2022.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(2) and (b)(2)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§1395 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 254g, act July 1, 1944, ch. 373, title III, § 334, as added Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2274; amended Pub. L. 97-35, title XXVII, § 2704, Aug. 13, 1981, 95 Stat. 906; Pub. L. 98-194, § 3, Dec. 1, 1983, 97 Stat. 1345; Pub. L. 100-177, title II, § 202(c), Dec. 1, 1987, 101 Stat. 996; Pub. L. 101-597, title I, § 105, title IV, § 401(b)(a), Nov. 16, 1990, 104 Stat. 3018, 3035, related to shared responsibility for costs of Corps personnel providing health services in or to a health professional shortage area during the assignment period, prior to repeal by Pub. L. 107-251, title III, § 305, Oct. 26, 2002, 116 Stat. 1647.

AMENDMENTS

2003—Subsec. (b)(1)(B). Pub. L. 108-163 inserted “the payment of” after “applied to”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

§ 254h. Provision of health services by Corps members

(a) Means of delivery of services; cooperation with other health care providers

In providing health services in a health professional shortage area, Corps members shall utilize the techniques, facilities, and organizational forms most appropriate for the area, population group, medical facility, or other public

facility, and shall, to the maximum extent feasible, provide such services (1) to all individuals in, or served by, such health professional shortage area regardless of their ability to pay for the services, and (2) in a manner which is cooperative with other health care providers serving such health professional shortage area.

(b) Utilization of existing health facilities; lease, acquisition, and use of equipment and supplies; permanent and temporary professional services

(1) Notwithstanding any other provision of law, the Secretary may (A) to the maximum extent feasible make such arrangements as he determines necessary to enable Corps members to utilize the health facilities in or serving the health professional shortage area in providing health services; (B) make such arrangements as he determines are necessary for the use of equipment and supplies of the Service and for the lease or acquisition of other equipment and supplies; and (C) secure the permanent or temporary services of physicians, dentists, nurses, administrators, and other health personnel. If there are no health facilities in or serving such area, the Secretary may arrange to have Corps members provide health services in the nearest health facilities of the Service or may lease or otherwise provide facilities in or serving such area for the provision of health services.

(2) If the individuals in or served by a health professional shortage area are being served (as determined under regulations of the Secretary) by a hospital or other health care delivery facility of the Service, the Secretary may, in addition to such other arrangements as he may make under paragraph (1), arrange for the utilization of such hospital or facility by Corps members in providing health services, but only to the extent that such utilization will not impair the delivery of health services and treatment through such hospital or facility to individuals who are entitled to health services and treatment through such hospital or facility.

(c) Loan; purposes; limitations

The Secretary may make one loan to any entity with an approved application under section 254f of this title to assist such entity in meeting the costs of (1) establishing medical, dental, or other health profession practices, including the development of medical practice management systems; (2) acquiring equipment for use in providing health services; and (3) renovating buildings to establish health facilities. No loan may be made under this subsection unless an application therefor is submitted to, and approved by, the Secretary. The amount of any such loan shall be determined by the Secretary, except that no such loan may exceed \$50,000.

(d) Property and equipment disposal; fair market value; sale at less than full market value

Upon the expiration of the assignment of all Corps members to a health professional shortage area, the Secretary may (notwithstanding any other provision of law) sell, to any appropriate local entity, equipment and other property of the United States utilized by such members in providing health services. Sales made under this subsection shall be made at the fair market

value (as determined by the Secretary) of the equipment or such other property; except that the Secretary may make such sales for a lesser value to an appropriate local entity, if he determines that the entity is financially unable to pay the full market value.

(e) Admitting privileges denied to Corps member by hospital; notice and hearing; denial of Federal funds for violation; "hospital" defined

(1)(A) It shall be unlawful for any hospital to deny an authorized Corps member admitting privileges when such Corps member otherwise meets the professional qualifications established by the hospital for granting such privileges and agrees to abide by the published bylaws of the hospital and the published bylaws, rules, and regulations of its medical staff.

(B) Any hospital which is found by the Secretary, after notice and an opportunity for a hearing on the record, to have violated this subsection shall upon such finding cease, for a period to be determined by the Secretary, to receive and to be eligible to receive any Federal funds under this chapter or under titles XVIII, XIX, or XXI of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq., 1397aa et seq.].

(2) For purposes of this subsection, the term "hospital" includes a State or local public hospital, a private profit hospital, a private nonprofit hospital, a general or special hospital, and any other type of hospital (excluding a hospital owned or operated by an agency of the Federal Government), and any related facilities.

(July 1, 1944, ch. 373, title III, § 335, as added Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2275; amended Pub. L. 97-35, title XXVII, § 2705, Aug. 13, 1981, 95 Stat. 907; Pub. L. 101-597, title I, § 106, title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3018, 3035; Pub. L. 107-251, title III, § 306, Oct. 26, 2002, 116 Stat. 1648.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (e)(1)(B), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII, XIX, and XXI of the Act are classified generally to subchapters XVIII (§ 1395 et seq.), XIX (§ 1396 et seq.), and XXI (§ 1397aa et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

2002—Subsec. (e)(1)(B). Pub. L. 107-251 substituted "titles XVIII, XIX, or XXI of the Social Security Act" for "titles XVIII or XIX of the Social Security Act".

1990—Subsecs. (a), (b)(1)(A), (2), (d). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

Subsec. (e)(1)(A). Pub. L. 101-597, § 106, substituted "authorized Corps member admitting privileges" for "authorized physician or dentist member of the Corps admitting privileges".

1981—Subsec. (a)(2). Pub. L. 97-35, § 2705(a), substituted provisions respecting cooperation with other health care providers, for provisions respecting direct health services programs.

Subsec. (c)(4). Pub. L. 97-35, § 2705(b), struck out cl. (4) relating to appropriate continuing education programs.

§ 254h-1. Facilitation of effective provision of Corps services

(a) Consideration of individual characteristics of members in making assignments

In making an assignment of a Corps member to an entity that has had an application approved under section 254f of this title, the Secretary shall, subject to making the assignment in accordance with section 254f-1 of this title, seek to assign to the entity a Corps member who has (and whose spouse, if any, has) characteristics that increase the probability that the member will remain in the health professional shortage area involved after the completion of the period of service in the Corps.

(b) Counseling on service in Corps

(1) In general

The Secretary shall, subject to paragraph (3), offer appropriate counseling on service in the Corps to individuals during the period of membership in the Corps, particularly during the initial period of each assignment.

(2) Career advisor regarding obligated service

(A) In the case of individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, counseling under paragraph (1) shall include appropriate counseling on matters particular to such obligated service. The Secretary shall ensure that career advisors for providing such counseling are available to such individuals throughout the period of participation in the Scholarship or Loan Repayment Program.

(B) With respect to the Scholarship Program, counseling under paragraph (1) shall include counseling individuals during the period in which the individuals are pursuing an educational degree in the health profession involved, including counseling to prepare the individual for service in the Corps.

(3) Extent of counseling services

With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, this subsection shall be carried out regarding such individuals throughout the period of obligated service (and, additionally, throughout the period specified in paragraph (2)(B), in the case of the Scholarship Program). With respect to Corps members generally, this subsection shall be carried out to the extent practicable.

(c) Grants regarding preparation of students for practice

With respect to individuals who have entered into contracts for obligated service under the Scholarship or Loan Repayment Program, the Secretary may make grants to, and enter into contracts with, public and nonprofit private entities (including health professions schools) for the conduct of programs designed to prepare such individuals for the effective provision of primary health services in the health professional shortage areas to which the individuals are assigned.

(d) Assistance in establishing local professional relationships

The Secretary shall assist Corps members in establishing appropriate professional relationships between the Corps member involved and the health professions community of the geographic area with respect to which the member is assigned, including such relationships with hospitals, with health professions schools, with area health education centers under section 295g-1¹ of this title, with health education and training centers under such section, and with border health education and training centers under such section. Such assistance shall include assistance in obtaining faculty appointments at health professions schools.

(e) Temporary relief from Corps duties**(1) In general**

The Secretary shall, subject to paragraph (4), provide assistance to Corps members in establishing arrangements through which Corps members may, as appropriate, be provided temporary relief from duties in the Corps in order to pursue continuing education in the health professions, to participate in exchange programs with teaching centers, to attend professional conferences, or to pursue other interests, including vacations.

(2) Assumption of duties of member

(A) Temporary relief under paragraph (1) may be provided only if the duties of the Corps member involved are assumed by another health professional. With respect to such temporary relief, the duties may be assumed by Corps members or by health professionals who are not Corps members, if the Secretary approves the professionals for such purpose. Any health professional so approved by the Secretary shall, during the period of providing such temporary relief, be deemed to be a Corps member for purposes of section 233 of this title (including for purposes of the remedy described in such section), section 254f of this title, and section 254h(e) of this title.

(B) In carrying out paragraph (1), the Secretary shall provide for the formation and continued existence of a group of health professionals to provide temporary relief under such paragraph.

(3) Recruitment from general health professions community

In carrying out paragraph (1), the Secretary shall—

(A) encourage health professionals who are not Corps members to enter into arrangements under which the health professionals temporarily assume the duties of Corps members for purposes of paragraph (1); and

(B) with respect to the entities to which Corps members have been assigned under section 254f of this title, encourage the entities to facilitate the development of arrangements described in subparagraph (A).

(4) Limitation

In carrying out paragraph (1), the Secretary may not, except as provided in paragraph (5),

obligate any amounts (other than for incidental expenses) for the purpose of—

(A) compensating a health professional who is not a Corps member for assuming the duties of a Corps member; or

(B) paying the costs of a vacation, or other interests that a Corps member may pursue during the period of temporary relief under such paragraph.

(5) Sole providers of health services

In the case of any Corps member who is the sole provider of health services in the geographic area involved, the Secretary may, from amounts appropriated under section 254k of this title, obligate on behalf of the member such sums as the Secretary determines to be necessary for purposes of providing temporary relief under paragraph (1).

(f) Determinations regarding effective service

In carrying out subsection (a) of this section and sections 254l(d) and 254l-1(d) of this title, the Secretary shall carry out activities to determine—

(1) the characteristics of physicians, dentists, and other health professionals who are more likely to remain in practice in health professional shortage areas after the completion of the period of service in the Corps;

(2) the characteristics of health manpower shortage areas, and of entities seeking assignments of Corps members, that are more likely to retain Corps members after the members have completed the period of service in the Corps; and

(3) the appropriate conditions for the assignment and utilization in health manpower shortage areas of certified nurse practitioners, certified nurse midwives, and physician assistants.

(July 1, 1944, ch. 373, title III, §336, as added Pub. L. 97-35, title XXVII, §2706(b), Aug. 13, 1981, 95 Stat. 907; amended Pub. L. 100-177, title II, §202(d), Dec. 1, 1987, 101 Stat. 997; Pub. L. 101-597, title I, §107, title IV, §401(b)(a), Nov. 16, 1990, 104 Stat. 3018, 3035; Pub. L. 107-251, title III, §307(a), Oct. 26, 2002, 116 Stat. 1649.)

REFERENCES IN TEXT

Section 295g-1 of this title, referred to in subsec. (d), was in the original a reference to section 781 of act July 1, 1944. Section 781 of that Act was omitted in the general revision of subchapter V of this chapter by Pub. L. 102-408, title I, §102, Oct. 13, 1992, 106 Stat. 1994.

PRIOR PROVISIONS

A prior section 336 of act July 1, 1944, was renumbered section 336A by Pub. L. 97-35, §2706(a), and is classified to section 254i of this title.

AMENDMENTS

2002—Subsecs. (c), (f)(1). Pub. L. 107-251 substituted “health professional shortage areas” for “health manpower shortage areas”.

1990—Pub. L. 101-597, §107, amended section generally. Prior to amendment, section read as follows:

“(a) The Secretary may make grants to and enter into contracts with public and private nonprofit entities for the conduct of programs which are designed to prepare individuals subject to a service obligation under the National Health Service Corps Scholarship Program or Loan Repayment Program to effectively

¹ See References in Text note below.

provide health services in the health manpower shortage area to which they are assigned.

“(b) No grant may be made or contract entered into under subsection (a) of this section unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe.”

Subsec. (a). Pub. L. 101-597, §401(b)(a), substituted “health professional shortage area” for “health manpower shortage area”.

1987—Subsec. (a). Pub. L. 100-177 substituted “Scholarship Program or Loan Repayment Program” for “scholarship program”.

§ 254i. Annual report to Congress; contents

The Secretary shall submit an annual report to Congress, and shall include in such report with respect to the previous calendar year—

(1) the number, identity, and priority of all health professional shortage areas designated in such year and the number of health professional shortage areas which the Secretary estimates will be designated in the subsequent year;

(2) the number of applications filed under section 254f of this title in such year for assignment of Corps members and the action taken on each such application;

(3) the number and types of Corps members assigned in such year to health professional shortage areas, the number and types of additional Corps members which the Secretary estimates will be assigned to such areas in the subsequent year, and the need for additional members for the Corps;

(4) the recruitment efforts engaged in for the Corps in such year and the number of qualified individuals who applied for service in the Corps in such year;

(5) the number of patients seen and the number of patient visits recorded during such year with respect to each health professional shortage area to which a Corps member was assigned during such year;

(6) the number of Corps members who elected, and the number of Corps members who did not elect, to continue to provide health services in health professional shortage areas after termination of their service in the Corps and the reasons (as reported to the Secretary) of members who did not elect for not making such election;

(7) the results of evaluations and determinations made under section 254f(a)(1)(D) of this title during such year; and

(8) the amount charged during such year for health services provided by Corps members, the amount which was collected in such year by entities in accordance with section 254g of this title, and the amount which was paid to the Secretary in such year under such agreements.

(July 1, 1944, ch. 373, title III, §336A, formerly §336, as added Pub. L. 94-484, title IV, §407(b)(3), Oct. 12, 1976, 90 Stat. 2277, renumbered §336A, Pub. L. 97-35, title XXVII, §2706(a), Aug. 13, 1981, 95 Stat. 907; amended Pub. L. 97-375, title II, §206(a), Dec. 21, 1982, 96 Stat. 1823; Pub. L. 101-597, title IV, §401(b)(a), Nov. 16, 1990, 104 Stat. 3035; Pub. L. 107-251, title III, §307(b), Oct. 26, 2002, 116 Stat. 1649.)

AMENDMENTS

2002—Par. (8). Pub. L. 107-251 struck out “agreements under” after “in accordance with”.

1990—Pars. (1), (3), (5), (6). Pub. L. 101-597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1982—Pub. L. 97-375 struck out “on May 1 of each year” after “report to Congress”.

§ 254j. National Advisory Council on National Health Service Corps

(a) Establishment; appointment of members

There is established a council to be known as the National Advisory Council on the National Health Service Corps (hereinafter in this section referred to as the “Council”). The Council shall be composed of not more than 15 members appointed by the Secretary. The Council shall consult with, advise, and make recommendations to, the Secretary with respect to his responsibilities in carrying out this subpart (other than section 254r¹ of this title), and shall review and comment upon regulations promulgated by the Secretary under this subpart.

(b) Term of members; compensation; expenses

(1) Members of the Council shall be appointed for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of such term. No member shall be removed, except for cause. Members may not be reappointed to the Council.

(2) Members of the Council (other than members who are officers or employees of the United States), while attending meetings or conferences thereof or otherwise serving on the business of the Council, shall be entitled to receive for each day (including traveltime) in which they are so serving compensation at a rate fixed by the Secretary (but not to exceed the daily equivalent of the annual rate of basic pay in effect for grade GS-18 of the General Schedule); and while so serving away from their homes or regular places of business all members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 for persons in the Government Service employed intermittently.

(c) Termination

Section 14 of the Federal Advisory Committee Act shall not apply with respect to the Council.

(July 1, 1944, ch. 373, title III, §337, as added Pub. L. 94-484, title IV, §407(b)(3), Oct. 12, 1976, 90 Stat. 2277; amended Pub. L. 96-32, §7(g), July 10, 1979, 93 Stat. 84; Pub. L. 97-35, title XXVII, §2707, Aug. 13, 1981, 95 Stat. 907; Pub. L. 97-414, §8(f), Jan. 4, 1983, 96 Stat. 2061; Pub. L. 103-183, title VII, §706(b), Dec. 14, 1993, 107 Stat. 2241.)

REFERENCES IN TEXT

Section 254r of this title, referred to in subsec. (a), was in the original a reference to section 338G of act July 1, 1944, which was renumbered section 338I by Pub. L. 100-177, title II, §201(1), Dec. 1, 1987, 101 Stat. 992, and repealed by Pub. L. 100-713, title I, §104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

¹ See References in Text note below.

Section 14 of the Federal Advisory Committee Act, referred to in subsec. (c), is section 14 of Pub. L. 92-463, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

1993—Subsec. (b)(2). Pub. L. 103-183 inserted “compensation at a rate fixed by the Secretary (but not to exceed” before “the daily equivalent” and substituted “Schedule;” for “Schedule;”.

1983—Subsec. (a). Pub. L. 97-414 inserted “(other than section 254r of this title)” after “carrying out this subpart”.

1981—Subsec. (a). Pub. L. 97-35, § 2707(a), amended subsec. (a) generally, striking out pars. (1) to (5) respecting required status and background of members appointed by the Secretary.

Subsec. (b)(1). Pub. L. 97-35, § 2707(b), inserted “not” before “be reappointed”.

1979—Subsec. (b)(2). Pub. L. 96-32 substituted “section 5703 of title 5” for “section 5703(b) of title 5”.

TERMINATION OF ADVISORY COMMITTEES

Pub. L. 93-641, § 6, Jan. 4, 1975, 88 Stat. 2275, set out as a note under section 217a of this title, provided that an advisory committee established pursuant to the Public Health Service Act shall terminate at such time as may be specifically prescribed by an Act of Congress enacted after Jan. 4, 1975.

REFERENCES IN OTHER LAWS TO GS-16, 17, OR 18 PAY RATES

References in laws to the rates of pay for GS-16, 17, or 18, or to maximum rates of pay under the General Schedule, to be considered references to rates payable under specified sections of Title 5, Government Organization and Employees, see section 529 [title I, § 101(c)(1)] of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

§ 254k. Authorization of appropriations

(a) For the purpose of carrying out this subpart, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2002 through 2006.

(b) An appropriation under an authorization under subsection (a) of this section for any fiscal year may be made at any time before that fiscal year and may be included in an Act making an appropriation under an authorization under subsection (a) of this section for another fiscal year; but no funds may be made available from any appropriation under such authorization for obligation under sections 254d through 254h, section 254i, and section 254j of this title before the fiscal year for which such appropriation is authorized.

(July 1, 1944, ch. 373, title III, § 338, as added Pub. L. 94-484, title IV, § 407(b)(3), Oct. 12, 1976, 90 Stat. 2278; amended Pub. L. 95-626, title I, § 122, Nov. 10, 1978, 92 Stat. 3570; Pub. L. 96-76, title II, § 202(c), Sept. 29, 1979, 93 Stat. 582; Pub. L. 97-35, title XXVII, § 2708, Aug. 13, 1981, 95 Stat. 908; Pub. L. 100-177, title III, § 305, Dec. 1, 1987, 101 Stat. 1004; Pub. L. 101-597, title I, § 108, Nov. 16, 1990, 104 Stat. 3021; Pub. L. 107-251, title III, § 308, Oct. 26, 2002, 116 Stat. 1649.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-251 struck out par. (1) designation before “For the purpose”, substituted “2002 through 2006” for “1991 through 2000”, and struck out par. (2) which read as follows: “In the case of individuals who serve in the Corps other than pursuant to ob-

ligated service under the Scholarship or Loan Repayment Program, the Secretary each fiscal year shall, to the extent practicable, make assignments under section 254f of this title of such individuals who are certified nurse midwives, certified nurse practitioners, or physician assistants.”

1990—Subsec. (a). Pub. L. 101-597 added subsec. (a) and struck out former subsec. (a) which read as follows: “To carry out this subpart, there are authorized to be appropriated \$65,000,000 for fiscal year 1988, \$65,000,000 for fiscal year 1989, and \$65,000,000 for fiscal year 1990.”

1987—Subsec. (a). Pub. L. 100-177 amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “To carry out the purposes of this subpart, there are authorized to be appropriated \$47,000,000 for the fiscal year ending September 30, 1978; \$64,000,000 for the fiscal year ending September 30, 1979; \$82,000,000 for the fiscal year ending September 30, 1980; \$110,000,000 for the fiscal year ending September 30, 1982; \$120,000,000 for the fiscal year ending September 30, 1983; and \$130,000,000 for the fiscal year ending September 30, 1984.”

1981—Subsec. (a). Pub. L. 97-35, § 2708(a), inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1982, 1983, and 1984.

Subsec. (b). Pub. L. 97-35, § 2708(b), substituted reference to sections 254d to 254h, 254i, and 254j of this title for reference to this subpart.

1979—Subsec. (a). Pub. L. 96-76 substituted “\$82,000,000” for “\$70,000,000”.

1978—Subsec. (a). Pub. L. 95-626 substituted “\$64,000,000” for “\$57,000,000” as amount authorized to be appropriated for fiscal year ending Sept. 30, 1979.

SUBPART III—SCHOLARSHIP PROGRAM AND LOAN REPAYMENT PROGRAM

AMENDMENTS

1987—Pub. L. 100-177, title II, § 202(f), Dec. 1, 1987, 101 Stat. 999, inserted subpart III heading and redesignated former subpart III as IV.

§ 254l. National Health Service Corps Scholarship Program

(a) Establishment

The Secretary shall establish the National Health Service Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—

(1) an adequate supply of physicians, dentists, behavioral and mental health professionals, certified nurse midwives, certified nurse practitioners, and physician assistants; and

(2) if needed by the Corps, an adequate supply of other health professionals.

(b) Eligibility; application; written contract

To be eligible to participate in the Scholarship Program, an individual must—

(1) be accepted for enrollment, or be enrolled, as a full-time student (A) in an accredited (as determined by the Secretary) educational institution in a State and (B) in a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession, or an appropriate degree from a graduate program of behavioral and mental health;

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

(3) submit an application to participate in the Scholarship Program; and

(4) sign and submit to the Secretary, at the time of submittal of such application, a written contract (described in subsection (f) of this section) to accept payment of a scholarship and to serve (in accordance with this subpart) for the applicable period of obligated service in a health professional shortage area.

(c) Review and evaluation of information and forms by prospective applicant

(1) In disseminating application forms and contract forms to individuals desiring to participate in the Scholarship Program, the Secretary shall include with such forms—

(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 254o of this title in the case of the individual's breach of the contract; and

(B) information respecting meeting a service obligation through private practice under an agreement under section 254n of this title and such other information as may be necessary for the individual to understand the individual's prospective participation in the Scholarship Program and service in the Corps, including a statement of all factors considered in approving applications for participation in the Program and in making assignments for participants in the Program.

(2) The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Scholarship Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Scholarship Program on a date sufficiently early to insure that such individuals have adequate time to carefully review and evaluate such forms and information.

(3)(A) The Secretary shall distribute to health professions schools materials providing information on the Scholarship Program and shall encourage the schools to disseminate the materials to the students of the schools.

(B)(i) In the case of any health professional whose period of obligated service under the Scholarship Program is nearing completion, the Secretary shall encourage the individual to remain in a health professional shortage area and to continue providing primary health services.

(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Scholarship Program, the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health professional shortage area and is continuing to provide primary health services.

(C) In the case of entities to which participants in the Scholarship Program are assigned under section 254f of this title, the Secretary shall encourage the entities to provide options with respect to assisting the participants in re-

maining in the health professional shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Scholarship Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.

(d) Factors considered in providing contracts; priorities

(1) Subject to section 254f-1 of this title, in providing contracts under the Scholarship Program—

(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services;

(B) the Secretary, in considering applications from individuals accepted for enrollment or enrolled in dental school, shall consider applications from all individuals accepted for enrollment or enrolled in any accredited dental school in a State; and

(C) may¹ consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

(2) In providing contracts under the Scholarship Program, the Secretary shall give priority—

(A) first, to any application for such a contract submitted by an individual who has previously received a scholarship under this section or under section 294z¹ of this title;

(B) second, to any application for such a contract submitted by an individual who has characteristics that increase the probability that the individual will continue to serve in a health professional shortage area after the period of obligated service pursuant to subsection (f) of this section is completed; and

(C) third, subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.

(e) Commencement of participation in Scholarship Program; notice

(1) An individual becomes a participant in the Scholarship Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) of this section and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4) of this section.

(2) The Secretary shall provide written notice to an individual promptly upon the Secretary's approving, under paragraph (1), of the individual's participation in the Scholarship Program.

(f) Written contract; contents

The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

¹ So in original.

(A) subject to paragraph (2), the Secretary agrees (i) to provide the individual with a scholarship (described in subsection (g) of this section) in each such school year or years for a period of years (not to exceed four school years) determined by the individual, during which period the individual is pursuing a course of study described in subsection (b)(1)(B) of this section, and (ii) to accept (subject to the availability of appropriated funds for carrying out sections 254d through 254h and section 254j of this title) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (2), the individual agrees—

(i) to accept provision of such a scholarship to the individual;

(ii) to maintain enrollment in a course of study described in subsection (b)(1)(B) of this section until the individual completes the course of study;

(iii) while enrolled in such course of study, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study);

(iv) if pursuing a degree from a school of medicine or osteopathic medicine, to complete a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

(v) to serve for a time period (hereinafter in the subpart referred to as the “period of obligated service”) equal to—

(I) one year for each school year for which the individual was provided a scholarship under the Scholarship Program, or

(II) two years,

whichever is greater, as a provider of primary health services in a health professional shortage area (designated under section 254e of this title) to which he is assigned by the Secretary as a member of the Corps, or as otherwise provided in this subpart;

(2) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for scholarships under this subpart and to carry out the purposes of sections 254d through 254h and sections 254j and 254k of this title;

(3) a statement of the damages to which the United States is entitled, under section 254o of this title, for the individual’s breach of the contract; and

(4) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

(g) Scholarship provisions; contract with educational institution; increase in monthly stipend

(1) A scholarship provided to a student for a school year under a written contract under the Scholarship Program shall consist of—

(A) payment to, or (in accordance with paragraph (2)) on behalf of, the student of the amount (except as provided in section 292k² of this title) of—

(i) the tuition of the student in such school year; and

(ii) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the student in such school year; and

(B) payment to the student of a stipend of \$400 per month (adjusted in accordance with paragraph (3)) for each of the 12 consecutive months beginning with the first month of such school year.

(2) The Secretary may contract with an educational institution, in which a participant in the Scholarship Program is enrolled, for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in paragraph (1)(A). Payment to such an educational institution may be made without regard to section 3324(a) and (b) of title 31.

(3) The amount of the monthly stipend, specified in paragraph (1)(B) and as previously adjusted (if at all) in accordance with this paragraph, shall be increased by the Secretary for each school year ending in a fiscal year beginning after September 30, 1978, by an amount (rounded to the next highest multiple of \$1) equal to the amount of such stipend multiplied by the overall percentage (under section 5303 of title 5) of the adjustment (if such adjustment is an increase) in the rates of pay under the General Schedule made effective in the fiscal year in which such school year ends.

(h) Employment ceiling of Department unaffected

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department.

(July 1, 1944, ch. 373, title III, §338A, formerly title VII, §751, as added Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2281; amended Pub. L. 95-215, §5, Dec. 19, 1977, 91 Stat. 1506; Pub. L. 95-623, §12(c), Nov. 9, 1978, 92 Stat. 3457; Pub. L. 95-626, title I, §113(b), Nov. 10, 1978, 92 Stat. 3563; Pub. L. 96-32, §7(i), July 10, 1979, 93 Stat. 84; renumbered §338A and amended Pub. L. 97-35, title XXVII, §2709(a), (b), Aug. 13, 1981, 95 Stat. 908; Pub. L. 99-129, title II, §210(b), Oct. 22, 1985, 99 Stat. 537; Pub. L. 100-607, title VI, §629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101-509, title V, §529 [title I, §101(b)(4)(K)], Nov. 5, 1990, 104 Stat. 1427, 1440; Pub. L. 101-597, title II, §201, title IV, §401(b)(a)], Nov. 16, 1990, 104 Stat. 3021, 3035; Pub. L. 107-251, title III, §309,

² See References in Text note below.

Oct. 26, 2002, 116 Stat. 1649; Pub. L. 108-163, § 2(j), Dec. 6, 2003, 117 Stat. 2022.)

REFERENCES IN TEXT

Section 294z of this title, referred to in subsec. (d)(2)(A), was omitted in the general revision of subchapter V of this chapter by Pub. L. 102-408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994.

Section 292k of this title, referred to in subsec. (g)(1)(A), was in the original a reference to section 711 of act July 1, 1944. Section 711 of that Act was renumbered as section 710 by Pub. L. 97-35, title XXVII, § 2720(b), Aug. 13, 1981, 95 Stat. 915, and subsequently omitted in the general revision of subchapter V of this chapter by Pub. L. 102-408, title I, § 102, Oct. 13, 1992, 106 Stat. 1994. Pub. L. 102-408 enacted a new section 710 of act July 1, 1944, relating to insurance accounts, a new section 711, relating to powers and responsibilities of the Secretary, and a new section 712, relating to participation by Federal credit unions, which are classified to sections 292i, 292j, and 292k, respectively, of this title.

CODIFICATION

In subsec. (g)(2), “section 3324(a) and (b) of title 31” substituted for “section 3648 of the Revised Statutes (31 U.S.C. 529)” on authority of Pub. L. 97-258, § 4(b), Sept. 13, 1982, 96 Stat. 1067, the first section of which enacted Title 31, Money and Finance.

Section was formerly classified to section 294t of this title prior to its renumbering by Pub. L. 97-35.

AMENDMENTS

2003—Subsec. (d)(1)(B). Pub. L. 108-163 realigned margin.

2002—Subsec. (a)(1). Pub. L. 107-251, § 309(1), inserted “behavioral and mental health professionals,” after “dentists.”

Subsec. (b)(1)(B). Pub. L. 107-251, § 309(2), inserted “, or an appropriate degree from a graduate program of behavioral and mental health” after “other health profession”.

Subsec. (c)(1). Pub. L. 107-251, § 309(3), made technical amendment to references in original act which appear in subpar. (A) as reference to section 254o of this title and in subpar. (B) as reference to section 254n of this title.

Subsec. (d)(1)(B), (C). Pub. L. 107-251, § 309(4), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (f)(1)(B)(iv), (v). Pub. L. 107-251, § 309(5)(A), added cl. (iv) and redesignated former cl. (iv) as (v).

Subsec. (f)(3). Pub. L. 107-251, § 309(5)(B), made technical amendment to reference in original act which appears in text as reference to section 254o of this title.

Subsec. (i). Pub. L. 107-251, § 309(6), struck out subsec. (i), which required an annual report to Congress on the Scholarship Program.

1990—Subsec. (a). Pub. L. 101-597, § 201(a)(1), substituted “Corps Scholarship Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—” and pars. (1) and (2) for “Corps Scholarship Program (hereinafter in this subpart referred to as the ‘Scholarship Program’) to assure an adequate supply of trained physicians, dentists, and nurses for the National Health Service Corps (hereinafter in this subpart referred to as the ‘Corps’) and, if needed by the Corps, podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 296m of this title), and other health professionals.”

Subsec. (b)(4). Pub. L. 101-597, § 401(b)(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Subsec. (c). Pub. L. 101-597, § 401(b)(a)], substituted reference to health professional shortage area for ref-

erence to health manpower shortage area in par. (3)(B), (C).

Pub. L. 101-597, § 201(b), inserted par. (1) designation, redesignated former pars. (1) and (2) as subpars. (A) and (B), inserted before period at end of subpar. (B) “, including a statement of all factors considered in approving applications for participation in the Program and in making assignments for participants in the Program”, inserted par. (2) designation, and added par. (3).

Subsec. (d). Pub. L. 101-597, § 401(b)(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (2)(B).

Pub. L. 101-597, § 201(c), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In determining which applications under the Scholarship Program to approve (and which contracts to accept), the Secretary shall give priority—

“(1) first, to applications made (and contracts submitted) by individuals who have previously received scholarships under the Scholarship Program or under section 294z of this title; and

“(2) second, to applications made (and contracts submitted)—

“(A) for the school year beginning in calendar year 1978, by individuals who are entering their first, second, or third year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year;

“(B) for the school year beginning in calendar year 1979, by individuals who are entering their first or second year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year; and

“(C) for each school year thereafter, by individuals who are entering their first year of study in a course of study or program described in subsection (b)(1)(B) of this section in such school year.”

Subsec. (f)(1)(B)(iv). Pub. L. 101-597, § 401(b)(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in closing provisions.

Pub. L. 101-597, § 201(a)(2), substituted “as a provider of primary health services” after “whichever is greater.”

Subsec. (g)(3). Pub. L. 101-509 substituted “(under section 5303 of title 5)” for “(as set forth in the report transmitted to the Congress under section 5305 of title 5)”.

Subsec. (i). Pub. L. 101-597, § 201(d)(1), amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “The Secretary shall report to Congress on March 1 of each year—”

Subsec. (i)(4), (5). Pub. L. 101-597, § 201(d)(2), added pars. (4) and (5) and struck out former par. (4) which read as follows: “the amount of tuition paid in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.”

Subsec. (i)(6). Pub. L. 101-597, § 401(b)(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101-597, § 201(d)(2)(C), added par. (6).

1988—Subsec. (b)(1). Pub. L. 100-607 substituted “osteopathic medicine” for “osteopathy”.

1985—Subsec. (g)(1). Pub. L. 99-129 struck out “or under section 294z of this title (relating to scholarships for first-year students of exceptional financial need),” after “Scholarship Program”.

1981—Subsec. (a). Pub. L. 97-35, § 2709(b)(1), inserted reference to clinical psychologists.

Subsec. (c). Pub. L. 97-35, § 2709(b)(2), (3), substituted “254o” for “294w” in par. (1), and inserted provisions relating to information concerning meeting the service obligation in par. (2).

Subsec. (f). Pub. L. 97-35, § 2709(b)(4)-(6), in par. (1) substituted reference to sections 254d to 254h and 254j of this title, for reference to subpart II of part D of subchapter II of this chapter, in par. (2) substituted reference to sections 254d to 254h, 254j and 254k of this title, for reference to subpart II of part D of subchapter

II of this chapter, and in par. (3) substituted “254o” for “294w”.

Subsec. (j). Pub. L. 97-35, §2709(b)(7), struck out subsec. (j) which related to consultation and participation of schools.

1979—Subsec. (g)(3). Pub. L. 96-32 substituted “section 5305 of title 5” for “section 5303 of title 5”.

1978—Subsec. (f). Pub. L. 95-626 substituted “subpart II of part D” for “subpart II of part C” in pars. (1)(A) and (2).

Subsec. (i). Pub. L. 95-623 substituted March 1 for December 1 as the date for Secretary’s annual report to Congress.

1977—Subsec. (d)(2). Pub. L. 95-215 substituted provisions relating to the school years beginning in calendar years 1978 and 1979 for provisions relating to the school year ending in the fiscal year beginning Oct. 1, 1977.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 1985 AMENDMENT

Section 228 of Pub. L. 99-129 provided that:

“(a) Except as provided in subsection (b), this Act and the amendments and repeals made by this Act [enacting sections 294q-1 to 294q-3 of this title, amending this section and sections 292a, 292b, 292h, 292j, 293c, 294a, 294b, 294d, 294e, 294g, 294j, 294m to 294p, 294z, 295f to 295f-2, 295g, 295g-1, 295g-3, 295g-4, 295g-6 to 295g-8, 295g-8b, 295h, 295h-1a to 295h-1c, 296k, 296l, 296m, 297a, 298b-5, and 300aa-14 of this title, repealing sections 292c, 295 to 295e-5, 295g-2, 295g-5, 295g-8a, and 295g-9 of this title, enacting provisions set out as notes under sections 201, 292h, 293c, 294d, 294n, and 300aa-14 of this title and section 462 of the Appendix to Title 50, War and National Defense, and amending provisions set out as a note under section 298b-5 of this title] shall take effect on the date of enactment of this Act [Oct. 22, 1985].

“(b)(1) The amendments made by section 101(a) of this Act [amending section 294a of this title] shall take effect as of October 1, 1985.

“(2) The amendments made by section 208(e) of this Act [amending section 294e of this title] shall take effect nine months after the date of enactment of this Act [Oct. 22, 1985].

“(3) The amendment made by section 208(h) of this Act [amending section 294a of this title] shall take effect as of October 1, 1983.

“(4) The provisions of section 746 of the Public Health Service Act (as added by the amendment made by section 209(h)(2) of this Act) [section 294g-2 of this title] shall take effect as of June 30, 1984.

“(5) The amendments made by section 209(j) of this Act [amending sections 294m and 297a of this title] shall take effect as of June 30, 1984.

“(6) The amendments made by section 213(a) of this Act [amending section 295g-1 of this title] shall take effect as of October 1, 1985.”

EFFECTIVE DATE OF 1977 AMENDMENT

Section 5 of Pub. L. 95-215 provided that the amendment made by that section is effective Oct. 1, 1977.

EFFECTIVE DATE

Section 408(b)(1) of Pub. L. 94-484 provided that the enactment of sections 254i to 254r of this title and re-

peal of section 234 of this title by Pub. L. 94-484 is effective Oct. 1, 1977.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

Section 408(b)(2) of Pub. L. 94-484, as amended, eff. Oct. 12, 1976, by Pub. L. 95-83, title III, §307(p), Aug. 1, 1977, 91 Stat. 394, provided that:

“(A) Except as provided in subparagraphs (B) and (C), the amendment made by paragraph (1) of this subsection [enacting this section and sections 2541-1 to 254r of this title and repealing section 234 of this title] shall apply with respect to scholarships awarded under the National Health Service Corps Scholarship Program from appropriations for such Program for fiscal years beginning after September 30, 1977.

“(B) The provisions of section 225(f)(1) of the Public Health Service Act (as in effect on September 30, 1977) [former section 234(f)(1) of this title] prescribing the financial obligation of a participant in the Public Health and National Health Service Corps Scholarship Program who fails to complete an active duty service obligation incurred under that Program shall apply to any individual who received a scholarship under such Program from appropriations for such Program for any fiscal year ending before October 1, 1977.

“(C) If an individual received a scholarship under the Public Health and National Health Service Corps Scholarship Program for any school year beginning before the date of the enactment of this Act [Oct. 12, 1976], periods of internship or residency served by such individual in a facility of the National Health Service Corps or other facility of the Public Health Service shall be creditable in satisfying such individual’s service obligation incurred under that Program for such scholarship or for any scholarship received under the National Health Service Corps Scholarship Program for any subsequent school year. If an individual received a scholarship under the Public Health and National Health Service Corps Program for the first time from appropriations for such Program for the fiscal year ending September 30, 1977, periods of internship or residency served by such individual in such a facility shall be creditable in satisfying such individual’s service obligation incurred under that Program for such scholarship.”

SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

Pub. L. 107-251, title III, §302(c), Oct. 26, 2002, 116 Stat. 1644, provided that: “The Secretary of Health and Human Services, in consultation with organizations representing individuals in the dental field and organizations representing publicly funded health care providers, shall develop and implement a plan for increasing the participation of dentists and dental hygienists in the National Health Service Corps Scholarship Program under section 338A of the Public Health Service Act (42 U.S.C. 254i) and the Loan Repayment Program under section 338B of such Act (42 U.S.C. 2541-1).”

§ 2541-1. National Health Service Corps Loan Repayment Program

(a) Establishment

The Secretary shall establish a program to be known as the National Health Service Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—

(1) an adequate supply of physicians, dentists, behavioral and mental health professionals, certified nurse midwives, certified nurse practitioners, and physician assistants; and

(2) if needed by the Corps, an adequate supply of other health professionals.

(b) Eligibility

To be eligible to participate in the Loan Repayment Program, an individual must—

(1)(A) have a degree in medicine, osteopathic medicine, dentistry, or another health profession, or an appropriate degree from a graduate program of behavioral and mental health, or be certified as a nurse midwife, nurse practitioner, or physician assistant;

(B) be enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, behavioral and mental health, or other health profession; or

(C) be enrolled as a full-time student—

(i) in an accredited (as determined by the Secretary) educational institution in a State; and

(ii) in the final year of a course of a study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession;

(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps; and

(3) submit to the Secretary an application for a contract described in subsection (f) of this section (relating to the payment by the Secretary of the educational loans of the individual in consideration of the individual serving for a period of obligated service).

(c) Information to be included with application and contract forms; understandability; availability**(1) Summary and information**

In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms—

(A) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 254o of this title in the case of the individual's breach of the contract; and

(B) information respecting meeting a service obligation through private practice under an agreement under section 254n of this title and such other information as may be necessary for the individual to understand the individual's prospective participation in the Loan Repayment Program and service in the Corps.

(2) Understandability

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

(3) Availability

The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date

sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

(4) Recruitment and retention

(A) The Secretary shall distribute to health professions schools materials providing information on the Loan Repayment Program and shall encourage the schools to disseminate the materials to the students of the schools.

(B)(i) In the case of any health professional whose period of obligated service under the Loan Repayment Program is nearing completion, the Secretary shall encourage the individual to remain in a health professional shortage area and to continue providing primary health services.

(ii) During the period in which a health professional is planning and making the transition to private practice from obligated service under the Loan Repayment Program, the Secretary may provide assistance to the professional regarding such transition if the professional is remaining in a health professional shortage area and is continuing to provide primary health services.

(C) In the case of entities to which participants in the Loan Repayment Program are assigned under section 254f of this title, the Secretary shall encourage the entities to provide options with respect to assisting the participants in remaining in the health professional shortage areas involved, and in continuing to provide primary health services, after the period of obligated service under the Loan Repayment Program is completed. The options with respect to which the Secretary provides such encouragement may include options regarding the sharing of a single employment position in the health professions by 2 or more health professionals, and options regarding the recruitment of couples where both of the individuals are health professionals.

(d) Factors considered in providing contracts; priorities

(1) Subject to section 254f-1 of this title, in providing contracts under the Loan Repayment Program—

(A) the Secretary shall consider the extent of the demonstrated interest of the applicants for the contracts in providing primary health services; and

(B) may consider such other factors regarding the applicants as the Secretary determines to be relevant to selecting qualified individuals to participate in such Program.

(2) In providing contracts under the Loan Repayment Program, the Secretary shall give priority—

(A) to any application for such a contract submitted by an individual whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps;

(B) to any application for such a contract submitted by an individual who has (and whose spouse, if any, has) characteristics that increase the probability that the individual will continue to serve in a health professional shortage area after the period of obligated service pursuant to subsection (f) of this section is completed; and

(C) subject to subparagraph (B), to any application for such a contract submitted by an individual who is from a disadvantaged background.

(e) Approval required for participation

An individual becomes a participant in the Loan Repayment Program only upon the Secretary and the individual entering into a written contract described in subsection (f) of this section.

(f) Contents of contracts

The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

(1) an agreement that—

(A) subject to paragraph (3), the Secretary agrees—

(i) to pay on behalf of the individual loans in accordance with subsection (g) of this section; and

(ii) to accept (subject to the availability of appropriated funds for carrying out sections 254d through 254h of this title and section 254j of this title) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

(B) subject to paragraph (3), the individual agrees—

(i) to accept loan payments on behalf of the individual;

(ii) in the case of an individual described in subsection (b)(1)(C) of this section, to maintain enrollment in a course of study or training described in such subsection until the individual completes the course of study or training;

(iii) in the case of an individual described in subsection (b)(1)(C) of this section, while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

(iv) to serve for a time period (hereinafter in this subpart referred to as the “period of obligated service”) equal to 2 years or such longer period as the individual may agree to, as a provider of primary health services in a health professional shortage area (designated under section 254e of this title) to which such individual is assigned by the Secretary as a member of the Corps or released under section 254n of this title;

(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iv), including extensions resulting in an aggregate period of obligated service in excess of 4 years;

(3) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual that is conditioned thereon, is contingent on funds being appropriated for loan repayments under this subpart and to carry out the purposes of sections 254d

through 254h of this title and sections 254j and 254k of this title;

(4) a statement of the damages to which the United States is entitled, under section 254o of this title for the individual’s breach of the contract; and

(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this subpart.

(g) Payments

(1) In general

A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual regarding the undergraduate or graduate education of the individual (or both), which loans were made for—

(A) tuition expenses;

(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

(C) reasonable living expenses as determined by the Secretary.

(2) Payments for years served

(A) In general

For each year of obligated service that an individual contracts to serve under subsection (f) of this section the Secretary may pay up to \$35,000 on behalf of the individual for loans described in paragraph (1). In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—

(i) affects the ability of the Secretary to maximize the number of contracts that can be provided under the Loan Repayment Program from the amounts appropriated for such contracts;

(ii) provides an incentive to serve in health professional shortage areas with the greatest such shortages; and

(iii) provides an incentive with respect to the health professional involved remaining in a health professional shortage area, and continuing to provide primary health services, after the completion of the period of obligated service under the Loan Repayment Program.

(B) Repayment schedule

Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

(3) Tax liability

For the purpose of providing reimbursements for tax liability resulting from payments under paragraph (2) on behalf of an individual—

(A) the Secretary shall, in addition to such payments, make payments to the individual

in an amount equal to 39 percent of the total amount of loan repayments made for the taxable year involved; and

(B) may make such additional payments as the Secretary determines to be appropriate with respect to such purpose.

(4) Payment schedule

The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

(h) Employment ceiling

Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic or other training, shall not be counted against any employment ceiling affecting the Department.

(July 1, 1944, ch. 373, title III, § 338B, as added Pub. L. 100-177, title II, § 201(3), Dec. 1, 1987, 101 Stat. 992; amended Pub. L. 100-607, title VI, § 629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101-597, title II, § 202(a)-(g)(1), (h), title IV, § 401(b)[(a)], Nov. 16, 1990, 104 Stat. 3023-3026, 3035; Pub. L. 105-392, title I, § 109, Nov. 13, 1998, 112 Stat. 3562; Pub. L. 107-251, title III, § 310, Oct. 26, 2002, 116 Stat. 1650; Pub. L. 108-163, § 2(k), Dec. 6, 2003, 117 Stat. 2022.)

PRIOR PROVISIONS

A prior section 338B of act July 1, 1944, was renumbered section 338C by section 201(2) of Pub. L. 100-177 and is classified to section 254m of this title.

AMENDMENTS

2003—Subsec. (e). Pub. L. 108-163 made technical amendment.

2002—Subsec. (a)(1). Pub. L. 107-251, § 310(1)(A), inserted “behavioral and mental health professionals,” after “dentists.”

Subsec. (a)(2). Pub. L. 107-251, § 310(1)(B), struck out “(including mental health professionals)” before period at end.

Subsec. (b)(1)(A). Pub. L. 107-251, § 310(2), added subpar. (A) and struck out former subpar. (A) which read as follows: “must have a degree in medicine, osteopathic medicine, dentistry, or other health profession, or be certified as a nurse midwife, nurse practitioner, or physician assistant;”

Subsec. (e)(1). Pub. L. 107-251, § 310(3), struck out par. (1) designation and heading.

Subsec. (i). Pub. L. 107-251, § 310(4), struck out subsec. (i), which required an annual report to Congress about the Loan Repayment Program.

1998—Subsec. (b)(1)(B). Pub. L. 105-392 substituted “behavioral and mental health, or other health profession” for “or other health profession”.

1990—Subsec. (a). Pub. L. 101-597, § 202(a)(1), substituted “Corps Loan Repayment Program to assure, with respect to the provision of primary health services pursuant to section 254d(a)(2) of this title—” and pars. (1) and (2) for “Corps Loan Repayment Program (hereinafter in this subpart referred to as the ‘Loan Repayment Program’) in order to assure—

“(1) an adequate supply of trained physicians, dentists, and nurses for the Corps; and

“(2) if needed by the Corps, an adequate supply of podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practi-

tioners (as defined in section 296m of this title), and other health professionals.”

Subsec. (b)(1). Pub. L. 101-597, § 202(b)(1)(A), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

“(A) be enrolled—

“(i) as a full-time student—

“(I) in an accredited (as determined by the Secretary) educational institution in a State; and

“(II) in the final year of a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathic medicine, dentistry, or other health profession; or

“(ii) in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession; or

“(B) have—

“(i) a degree in medicine, osteopathic medicine, dentistry, or other health profession;

“(ii) completed an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

“(iii) a license to practice medicine, osteopathic medicine, dentistry, or other health profession in a State;”

Subsec. (b)(2) to (4). Pub. L. 101-597, § 202(b)(2)(A), inserted “and” at end of par. (2), added par. (3), and struck out former pars. (3) and (4) which read as follows:

“(3) submit an application to participate in the Loan Repayment Program; and

“(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (f) of this section) to accept repayment of educational loans and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.”

Subsec. (c)(4). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in subpars. (B) and (C).

Pub. L. 101-597, § 202(c), added par. (4).

Subsec. (d). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (2)(B).

Pub. L. 101-597, § 202(d), amended subsec. (d) generally. Prior to amendment, subsec. (d) read as follows: “In determining which applications under the Loan Repayment Program to approve (and which contracts to accept), the Secretary shall give priority to applications made by—

“(1) individuals whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps; and

“(2) individuals who are committed to service in medically underserved areas.”

Subsec. (e). Pub. L. 101-597, § 202(b)(2)(B), substituted “only upon the Secretary and the individual entering into a written contract described in subsection (f) of this section.” for “only on the Secretary’s approval of the individual’s application submitted under subsection (b)(3) of this section and the Secretary’s acceptance of the contract submitted by the individual under subsection (b)(4) of this section.” in par. (1) and struck out par. (2) which read as follows: “The Secretary shall provide written notice to an individual promptly on—

“(A) the Secretary’s approving, under paragraph (1), of the individual’s participation in the Loan Repayment Program; or

“(B) the Secretary’s disapproving an individual’s participation in such Program.”

Subsec. (f)(1)(B)(ii), (iii). Pub. L. 101-597, § 202(b)(1)(B), substituted “subsection (b)(1)(C)” for “subsection (b)(1)(A)”.

Subsec. (f)(1)(B)(iv). Pub. L. 101-597, § 401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

Pub. L. 101-597, §202(a)(2), inserted “as a provider of primary health services” before “in a health”.

Subsec. (f)(2). Pub. L. 101-597, §202(e), inserted before semicolon at end “, including extensions resulting in an aggregate period of obligated service in excess of 4 years”.

Subsec. (g)(1). Pub. L. 101-597, §202(f)(1), inserted “regarding the undergraduate or graduate education of the individual (or both), which loans were made” after “loans received by the individual”.

Subsec. (g)(2)(A). Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in cls. (ii) and (iii).

Pub. L. 101-597, §202(f)(2)(A), substituted “For each year” for “Except as provided in subparagraph (B) and paragraph (3), for each year” and “\$35,000” for “\$20,000”, inserted at end “In making a determination of the amount to pay for a year of such service by an individual, the Secretary shall consider the extent to which each such determination—”, and added immediately thereafter cls. (i) to (iii).

Subsec. (g)(2)(B), (C). Pub. L. 101-597, §202(f)(2)(B), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows: “For each year of obligated service that an individual contracts under subsection (f) of this section to serve in the Indian Health Service, or to serve in a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (25 U.S.C. 450f et seq.), the Secretary may pay up to \$25,000 on behalf of the individual for loans described in paragraph (1).”

Subsec. (g)(3). Pub. L. 101-597, §202(g)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.”

Subsec. (i). Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area in par. (8).

Pub. L. 101-597, §202(h), amended subsec. (i) generally. Prior to amendment, subsec. (i) read as follows: “The Secretary shall, not later than March 1 of each year, submit to the Congress a report specifying—

“(1) the number, and type of health profession training, of individuals receiving loan payments under the Loan Repayment Program;

“(2) the educational institution at which such individuals are receiving their training;

“(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

“(4) the amount of loan payments made in the year reported on.”

1988—Subsec. (b)(1). Pub. L. 100-607 substituted “osteopathic medicine” for “osteopathy” wherever appearing.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 202(g)(2) of Pub. L. 101-597 provided that: “The amendment made by paragraph (1) [amending this section] shall apply only with respect to contracts under section 338B of the Public Health Service Act [this section] (relating to service in the National Health Service Corps) that are entered into on or after the effective date of this Act [Nov. 16, 1990].”

REGULATIONS

Section 205 of title II of Pub. L. 100-177 provided that: “Not later than 180 days after the effective date of the

amendments made by this title [Dec. 21, 1987], the Secretary of Health and Human Services shall issue regulations for the loan repayment programs established by the amendments [enacting this section and sections 254q and 254q-1 of this title, amending sections 242a, 254d, 254g, 254h-1, and 254o of this title, and repealing former section 254q of this title].”

§ 254m. Obligated service under contract

(a) Service in full-time clinical practice

Except as provided in section 254n of this title, each individual who has entered into a written contract with the Secretary under section 254l or 254l-1 of this title shall provide service in the full-time clinical practice of such individual's profession as a member of the Corps for the period of obligated service provided in such contract.

(b) Notice to individual; information for informed decision; eligibility; notice to Secretary; qualification and appointment as commissioned officer; appointment as civilian member; designation of non-United States employee as member; deferment of obligated service

(1) If an individual is required under subsection (a) of this section to provide service as specified in section 254l(f)(1)(B)(v) or 254l-1(f)(1)(B)(iv) of this title (hereinafter in this subsection referred to as “obligated service”), the Secretary shall, not later than ninety days before the date described in paragraph (5), determine if the individual shall provide such service—

(A) as a member of the Corps who is a commissioned officer in the Regular or Reserve Corps of the Service or who is a civilian employee of the United States, or

(B) as a member of the Corps who is not such an officer or employee,

and shall notify such individual of such determination.

(2) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is a commissioned officer in the Service or a civilian employee of the United States, the Secretary shall, not later than sixty days before the date described in paragraph (5), provide such individual with sufficient information regarding the advantages and disadvantages of service as such a commissioned officer or civilian employee to enable the individual to make a decision on an informed basis. To be eligible to provide obligated service as a commissioned officer in the Service, an individual shall notify the Secretary, not later than thirty days before the date described in paragraph (5), of the individual's desire to provide such service as such an officer. If an individual qualifies for an appointment as such an officer, the Secretary shall, as soon as possible after the date described in paragraph (5), appoint the individual as a commissioned officer of the Regular or Reserve Corps of the Service and shall designate the individual as a member of the Corps.

(3) If an individual provided notice by the Secretary under paragraph (2) does not qualify for appointment as a commissioned officer in the Service, the Secretary shall, as soon as possible after the date described in paragraph (5), ap-

point such individual as a civilian employee of the United States and designate the individual as a member of the Corps.

(4) If the Secretary determines that an individual shall provide obligated service as a member of the Corps who is not an employee of the United States, the Secretary shall, as soon as possible after the date described in paragraph (5), designate such individual as a member of the Corps to provide such service.

(5)(A) In the case of the Scholarship Program, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for the degree for which the individual receives the scholarship, except that—

(i) for an individual receiving such a degree after September 30, 2000, from a school of medicine or osteopathic medicine, such date shall be the date the individual completes a residency in a specialty that the Secretary determines is consistent with the needs of the Corps; and

(ii) at the request of an individual, the Secretary may, consistent with the needs of the Corps, defer such date until the end of a period of time required for the individual to complete advanced training (including an internship or residency).

(B) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

(C) In the case of the Loan Repayment Program, if an individual is required to provide obligated service under such Program, the date referred to in paragraphs (1) through (4)—

(i) shall be the date determined under subparagraph (A) in the case of an individual who is enrolled in the final year of a course of study;

(ii) shall, in the case of an individual who is enrolled in an approved graduate training program in medicine, osteopathic medicine, dentistry, or other health profession, be the date the individual completes such training program; and

(iii) shall, in the case of an individual who has a degree in medicine, osteopathic medicine, dentistry, or other health profession and who has completed graduate training, be the date the individual enters into an agreement with the Secretary under section 254l-1 of this title.

(c) Obligated service period; commencement

An individual shall be considered to have begun serving a period of obligated service—

(1) on the date such individual is appointed as an officer in a Regular or Reserve Corps of the Service or is designated as a member of the Corps under subsection (b)(3) or (b)(4) of this section, or

(2) in the case of an individual who has entered into an agreement with the Secretary under section 254n of this title, on the date specified in such agreement,

whichever is earlier.

(d) Assignment of personnel

The Secretary shall assign individuals performing obligated service in accordance with a

written contract under the Scholarship Program to health professional shortage areas in accordance with sections 254d through 254h and sections 254j and 254k of this title. If the Secretary determines that there is no need in a health professional shortage area (designated under section 254e of this title) for a member of the profession in which an individual is obligated to provide service under a written contract and if such individual is an officer in the Service or a civilian employee of the United States, the Secretary may detail such individual to serve his period of obligated service as a full-time member of such profession in such unit of the Department as the Secretary may determine.

(July 1, 1944, ch. 373, title III, §338C, formerly title VII, §752, as added Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2284; amended Pub. L. 95-626, title I, §113(b), Nov. 10, 1978, 92 Stat. 3563; Pub. L. 96-76, title II, §202(a), (b), Sept. 29, 1979, 93 Stat. 582; renumbered §338B and amended Pub. L. 97-35, title XXVII, §2709(a), (c), Aug. 13, 1981, 95 Stat. 908, 909; Pub. L. 97-414, §8(g)(1), Jan. 4, 1983, 96 Stat. 2061; renumbered §338C and amended Pub. L. 100-177, title II, §201(2), title III, §306, Dec. 1, 1987, 101 Stat. 992, 1004; Pub. L. 100-607, title VI, §629(a)(2), Nov. 4, 1988, 102 Stat. 3146; Pub. L. 101-597, title IV, §401(b)(a), Nov. 16, 1990, 104 Stat. 3035; Pub. L. 107-251, title III, §311, Oct. 26, 2002, 116 Stat. 1650.)

CODIFICATION

Section was formerly classified to section 294u of this title prior to its renumbering by Pub. L. 97-35.

PRIOR PROVISIONS

A prior section 338C of act July 1, 1944, was renumbered section 338D by section 201(2) of Pub. L. 100-177 and is classified to section 254n of this title.

AMENDMENTS

2002—Subsec. (b)(1). Pub. L. 107-251, §311(1)(A), substituted “section 254l(f)(1)(B)(v)” for “254l(f)(1)(B)(iv)” in introductory provisions.

Subsec. (b)(5)(A). Pub. L. 107-251, §311(1)(B)(i), added subpar. (A) and struck out former subpar. (A) which read as follows: “In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the training required for such degree, except that—

“(i) at the request of such an individual with whom the Secretary has entered into a contract under section 254l of this title prior to October 1, 1985, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

“(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 254l of this title on or after October 1, 1985, the Secretary may defer such date in accordance with clause (i).”

Subsec. (b)(5)(B). Pub. L. 107-251, §311(1)(B)(i), (iii), redesignated subpar. (C) as (B) and struck out former subpar. (B) which read as follows:

“(B)(i) In the case of the Scholarship Program, with respect to an individual receiving a degree from a

school of medicine, osteopathic medicine, or dentistry, the number of years referred to in subparagraph (A)(i) shall be 3 years.

“(ii) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be 1 year.”

Subsec. (b)(5)(C). Pub. L. 107-251, §311(1)(B)(iii), redesignated subpar. (E) as (C). Former subpar. (C) redesignated (B).

Subsec. (b)(5)(C)(i). Pub. L. 107-251, §311(1)(B)(iv), substituted “subparagraph (A)” for “subparagraph (A), (B), or (D)”.

Subsec. (b)(5)(D). Pub. L. 107-251, §311(1)(B)(ii), struck out subpar. (D) which read as follows: “In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date on which the individual completes the academic training of the individual leading to such degree.”

Subsec. (b)(5)(E). Pub. L. 107-251, §311(1)(B)(iii), redesignated subpar. (E) as (C).

Subsec. (e). Pub. L. 107-251, §311(2), struck out subsec. (e) which related to service under National Research Service Award program as credit against obligated service time.

1990—Subsec. (d). Pub. L. 101-597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1988—Subsec. (b)(5). Pub. L. 100-607 substituted “osteopathic medicine” for “osteopathy” wherever appearing.

1987—Subsec. (a). Pub. L. 100-177, §306(1), inserted “or 254l-1”, and made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

Subsec. (b)(1). Pub. L. 100-177, §306(2), inserted reference to section 254l-1(f)(1)(B)(iv).

Subsec. (b)(5). Pub. L. 100-177, §306(3), substituted par. (5) consisting of subpars. (A) to (E) for former par. (5) consisting of subpars. (A) and (B).

Subsec. (c)(2). Pub. L. 100-177, §306(4), made technical amendment to reference to section 254n of this title to reflect renumbering of corresponding section of original act.

1983—Subsec. (e). Pub. L. 97-414 inserted “or under section 234 of this title as in effect on September 30, 1977” after “Scholarship Program”.

1981—Subsec. (a). Pub. L. 97-35, §2709(c)(1), substituted “254n” for “294v” and “254l” for “294t”.

Subsec. (b). Pub. L. 97-35, §2709(c)(2), substituted provisions relating to notice, information, etc., for individuals required to give obligated service, for provisions relating to notice, information, etc., for individuals required to provide service under the Scholarship Program.

Subsec. (c). Pub. L. 97-35, §2709(c)(3), (4), in par. (1) inserted reference to designation under subsec. (b)(3) or (4) of this section, and in par. (2) substituted “254n” for “294v”.

Subsec. (d). Pub. L. 97-35, §2709(c)(5), inserted provision relating to individuals who are officers in the Service or civilian employees of the United States, and substituted reference to sections 254d to 254h, 254j, and 254k of this title, for reference to subpart II of part D of subchapter II of this chapter.

Subsec. (e). Pub. L. 97-35, §2709(c)(6), substituted provisions respecting mandatory determination of service requirement, for provisions respecting discretionary determination of service requirement.

1979—Subsec. (b)(5)(A). Pub. L. 96-76, §202(a), (b)(1), (2), inserted provisions authorizing a greater period than three years for individuals receiving degrees from schools of medicine, osteopathy, and dentistry, and provisions respecting individuals receiving degrees from schools of veterinary medicine, optometry, podiatry, and pharmacy, and substituted “No period” for “No such period”.

Subsec. (b)(5)(B). Pub. L. 96-76, §202(b)(3), substituted “referred to in subparagraph (A)” for “of medicine, osteopathy, or dentistry”.

1978—Subsec. (d). Pub. L. 95-626 substituted “subpart II of part D” for “subpart II of part C”.

EFFECTIVE DATE OF 1981 AMENDMENT

Section 2709(h) of Pub. L. 97-35 provided that: “The amendments made by paragraphs (2), (3), and (5)(B) of subsection (c) [amending this section] shall apply with respect to contracts entered into under the National Health Service Corps scholarship program under subpart III of part C of title VII of the Public Health Service Act [section 294r et seq. of this title] after the date of the enactment of this Act [Aug. 13, 1981]. An individual who before such date has entered into such a contract and who has not begun the period of obligated service required under such contract shall be given the opportunity to revise such contract to permit the individual to serve such period as a member of the National Health Service Corps who is not an employee of the United States.”

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254l of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254l of this title.

SPECIAL RETENTION PAY FOR REGULAR OR RESERVE OFFICERS FOR PERIOD OFFICER IS OBLIGATED UNDER THIS SECTION

Pub. L. 100-446, title II, Sept. 27, 1988, 102 Stat. 1816, provided that: “the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B [now 338C] of the Public Health Service Act [this section] and assigned and providing direct health services or serving the officer’s obligation as a specialist”.

Similar provisions were contained in the following prior appropriation acts:

Pub. L. 100-202, §101(g) [title II], Dec. 22, 1987, 101 Stat. 1329-213, 1329-246.

Pub. L. 99-500, §101(h) [title II], Oct. 18, 1986, 100 Stat. 1783-242, 1783-277, and Pub. L. 99-591, §101(h) [title II], Oct. 30, 1986, 100 Stat. 3341-242, 3341-277.

§ 254n. Private practice

(a) Application for release of obligations; conditions

The Secretary shall, to the extent permitted by, and consistent with, the requirements of applicable State law, release an individual from all or part of his service obligation under section 254m(a) of this title or under section 234¹ of this title (as in effect on September 30, 1977) if the individual applies for such a release under this section and enters into a written agreement with the Secretary under which the individual agrees to engage for a period equal to the remaining period of his service obligation in the full-time private clinical practice (including service as a salaried employee in an entity directly providing health services) of his health profession—

(1) in the case of an individual who received a scholarship under the Scholarship Program

¹ See References in Text note below.

or a loan repayment under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of his application for such a release, in the health professional shortage area in which such individual is serving on such date or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health professional shortage area on the date of the application of the individual for such a release, in the health professional shortage area selected by the Secretary; or

(2) in the case of any other individual, in a health professional shortage area (designated under section 254e of this title) selected by the Secretary.

(b) Written agreement; actions to ensure compliance

(1) The written agreement described in subsection (a) of this section shall—

(A) provide that, during the period of private practice by an individual pursuant to the agreement, the individual shall comply with the requirements of section 254g of this title that apply to entities; and

(B) contain such additional provisions as the Secretary may require to carry out the objectives of this section.

(2) The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to.

(c) Breach of service contract

If an individual breaches the contract entered into under section 254l or 254l-1 of this title by failing (for any reason) to begin his service obligation in accordance with an agreement entered into under subsection (a) of this section or to complete such service obligation, the Secretary may permit such individual to perform such service obligation as a member of the Corps.

(d) Travel expenses

The Secretary may pay an individual who has entered into an agreement with the Secretary under subsection (a) of this section an amount to cover all or part of the individual's expenses reasonably incurred in transporting himself, his family, and his possessions to the location of his private clinical practice.

(e) Sale of equipment and supplies

Upon the expiration of the written agreement under subsection (a) of this section, the Secretary may (notwithstanding any other provision of law) sell to the individual who has entered into an agreement with the Secretary under subsection (a) of this section, equipment and other property of the United States utilized by such individual in providing health services. Sales made under this subsection shall be made at the fair market value (as determined by the Secretary) of the equipment or such other property, except that the Secretary may make such sales for a lesser value to the individual if he determines that the individual is financially unable to pay the full market value.

(f) Malpractice insurance

The Secretary may, out of appropriations authorized under section 254k of this title, pay to individuals participating in private practice under this section the cost of such individual's malpractice insurance and the lesser of—

(1)(A) \$10,000 in the first year of obligated service;

(B) \$7,500 in the second year of obligated service;

(C) \$5,000 in the third year of obligated service; and

(D) \$2,500 in the fourth year of obligated service; or

(2) an amount determined by subtracting such individual's net income before taxes from the income the individual would have received as a member of the Corps for each such year of obligated service.

(g) Technical assistance

The Secretary shall, upon request, provide to each individual released from service obligation under this section technical assistance to assist such individual in fulfilling his or her agreement under this section.

(July 1, 1944, ch. 373, title III, §338D, formerly title VII, §753, as added Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2285; amended Pub. L. 96-538, title IV, §403, Dec. 17, 1980, 94 Stat. 3192; renumbered §338C and amended Pub. L. 97-35, title XXVII, §2709(a), (d), Aug. 13, 1981, 95 Stat. 908, 910; renumbered §338D and amended Pub. L. 100-177, title II, §201(2), title III, §307, Dec. 1, 1987, 101 Stat. 992, 1005; Pub. L. 101-597, title IV, §401(b)[(a)], Nov. 16, 1990, 104 Stat. 3035; Pub. L. 107-251, title III, §312, Oct. 26, 2002, 116 Stat. 1650.)

REFERENCES IN TEXT

Section 234 of this title, referred to in subsec. (a), was repealed by Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

CODIFICATION

Section was formerly classified to section 294v of this title prior to its renumbering by Pub. L. 97-35.

PRIOR PROVISIONS

A prior section 338D of act July 1, 1944, was renumbered section 338E by section 201(2) of Pub. L. 100-177 and is classified to section 254o of this title.

AMENDMENTS

2002—Subsec. (b). Pub. L. 107-251 added subsec. (b) and struck out former subsec. (b) which related to written agreements, regulations, and actions to ensure compliance.

1990—Subsec. (a)(1), (2). Pub. L. 101-597 substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing.

1987—Subsec. (a). Pub. L. 100-177, §307(1)–(3), made technical amendment to reference to section 254m of this title to reflect renumbering of corresponding section of original act, in introductory provisions, in par. (1) inserted “who received a scholarship under the Scholarship Program or a loan repayment under the Loan Repayment Program and” after “individual” the first time it appeared as the probable intent of Congress, and inserted “or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health manpower short-

age area on the date of the application of the individual for such a release, in the health manpower shortage area selected by the Secretary", and in par. (2) inserted "selected by the Secretary".

Subsec. (b). Pub. L. 100-177, §307(4), inserted at end "The Secretary shall take such action as may be appropriate to ensure that the conditions of the written agreement prescribed by this subsection are adhered to."

Subsec. (c). Pub. L. 100-177, §307(5), inserted reference to section 254l-1.

Subsec. (e). Pub. L. 100-177, §307(b), designated par. (2) as entire subsection and struck out par. (1) which read as follows: "The Secretary may make such arrangements as he determines are necessary for the individual for the use of equipment and supplies and for the lease or acquisition of other equipment and supplies."

1981—Subsec. (a). Pub. L. 97-35, §2709(d)(1), inserted provision respecting requirements of applicable State law, substituted references to sections 254m(a) and 234 of this title, for reference to section 294u(a) of this title, and in cl. (2) struck out priority requirement under section 254f(c) of this title.

Subsec. (b)(1)(B). Pub. L. 97-35, §2709(d)(2), inserted "(i)" before "shall not" and added cl. (ii).

Subsecs. (c) to (g). Pub. L. 97-35, §2709(d)(3), added subsecs. (c) to (g).

1980—Subsec. (a). Pub. L. 96-538 substituted in par. (2) "which has" for "which (A) has" and struck out subpar. (B) which referred to a health manpower shortage area which has a sufficient financial base to sustain private practice and provide the individual with income of not less than the income of members of the Corps, and struck out provision following par. (2) which provided that in the case of an individual described in par. (1), the Secretary release the individual from his service obligation under this subsection only if the Secretary determines that the area in which the individual is serving met the requirements of cl. (B) of par. (2).

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254l of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254l of this title.

§ 254o. Breach of scholarship contract or loan repayment contract

(a) Failure to maintain academic standing; dismissal from institution; voluntary termination; liability; failure to accept payment

(1) An individual who has entered into a written contract with the Secretary under section 254l of this title and who—

(A) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

(B) is dismissed from such educational institution for disciplinary reasons; or

(C) voluntarily terminates the training in such an educational institution for which he is provided a scholarship under such contract, before the completion of such training,

in lieu of any service obligation arising under such contract, shall be liable to the United States for the amount which has been paid to him, or on his behalf, under the contract.

(2) An individual who has entered into a written contract with the Secretary under section 254l-1 of this title and who—

(A) in the case of an individual who is enrolled in the final year of a course of study, fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled (such level determined by the educational institution under regulations of the Secretary) or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study; or

(B) in the case of an individual who is enrolled in a graduate training program, fails to complete such training program and does not receive a waiver from the Secretary under section 254l-1(b)(1)(B)(ii) of this title,

in lieu of any service obligation arising under such contract shall be liable to the United States for the amount that has been paid on behalf of the individual under the contract.

(b) Failure to commence or complete service obligations; formula to determine liability; payment to United States; recovery of delinquent damages; disclosure to credit reporting agencies

(1)(A) Except as provided in paragraph (2), if an individual breaches his written contract by failing (for any reason not specified in subsection (a) of this section or section 254p(d) of this title) to begin such individual's service obligation under section 254l of this title in accordance with section 254m or 254n of this title, to complete such service obligation, or to complete a required residency as specified in section 254l(f)(1)(B)(iv) of this title, the United States shall be entitled to recover from the individual an amount determined in accordance with the formula

$$A=3\phi \left(\frac{t-s}{t} \right)$$

in which "A" is the amount the United States is entitled to recover, "φ" is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States; "t" is the total number of months in the individual's period of obligated service; and "s" is the number of months of such period served by him in accordance with section 254m of this title or a written agreement under section 254n of this title.

(B)(i) Any amount of damages that the United States is entitled to recover under this subsection or under subsection (c) of this section shall, within the 1-year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary), be paid to the United States. Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of this title.

(ii) If damages described in clause (i) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

(I) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

(II) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary.

(iii) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31 shall apply to any such contract to the extent not inconsistent with this subsection.

(iv) To the extent not otherwise prohibited by law, the Secretary shall disclose to all appropriate credit reporting agencies information relating to damages of more than \$100 that are entitled to be recovered by the United States under this subsection and that are delinquent by more than 60 days or such longer period as is determined by the Secretary.

(2) If an individual is released under section 254n¹ of this title from a service obligation under section 234¹ of this title (as in effect on September 30, 1977) and if the individual does not meet the service obligation incurred under section 254n¹ of this title, subsection (f) of such section 234¹ of this title shall apply to such individual in lieu of paragraph (1) of this subsection.

(3) The Secretary may terminate a contract with an individual under section 254l of this title if, not later than 30 days before the end of the school year to which the contract pertains, the individual—

(A) submits a written request for such termination; and

(B) repays all amounts paid to, or on behalf of, the individual under section 254l(g) of this title.

(c) Failure to commence or complete service obligations for other reasons; determination of liability; payment to United States; waiver of recovery for extreme hardship or good cause shown

(1) If (for any reason not specified in subsection (a) of this section or section 254p(d) of this title) an individual breaches the written contract of the individual under section 254l-1 of this title by failing either to begin such individual's service obligation in accordance with section 254m or 254n of this title or to complete such service obligation, the United States shall be entitled to recover from the individual an amount equal to the sum of—

(A) the total of the amounts paid by the United States under section 254l-1(g) of this title on behalf of the individual for any period of obligated service not served;

(B) an amount equal to the product of the number of months of obligated service that were not completed by the individual, multiplied by \$7,500; and

(C) the interest on the amounts described in subparagraphs (A) and (B), at the maximum legal prevailing rate, as determined by the Treasurer of the United States, from the date of the breach;

except that the amount the United States is entitled to recover under this paragraph shall not be less than \$31,000.

(2) The Secretary may terminate a contract with an individual under section 254l-1 of this title if, not later than 45 days before the end of the fiscal year in which the contract was entered into, the individual—

(A) submits a written request for such termination; and

(B) repays all amounts paid on behalf of the individual under section 254l-1(g) of this title.

(3) Damages that the United States is entitled to recover shall be paid in accordance with subsection (b)(1)(B) of this section.

(d) Cancellation of obligation upon death of individual; waiver or suspension of obligation for impossibility, hardship, or unconscionability; release of debt by discharge in bankruptcy, time limitations

(1) Any obligation of an individual under the Scholarship Program (or a contract thereunder) or the Loan Repayment Program (or a contract thereunder) for service or payment of damages shall be canceled upon the death of the individual.

(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Scholarship Program (or a contract thereunder) or the Loan Repayment Program (or a contract thereunder) whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable.

(3)(A) Any obligation of an individual under the Scholarship Program (or a contract thereunder) or the Loan Repayment Program (or a contract thereunder) for payment of damages may be released by a discharge in bankruptcy under title 11 only if such discharge is granted after the expiration of the 7-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

(B)(i) Subparagraph (A) shall apply to any financial obligation of an individual under the provision of law specified in clause (ii) to the same extent and in the same manner as such subparagraph applies to any obligation of an individual under the Scholarship or Loan Repayment Program (or contract thereunder) for payment of damages.

(ii) The provision of law referred to in clause (i) is subsection (f) of section 234² of this title, as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94-484.

(e) Inapplicability of Federal and State statute of limitations on actions for collection

Notwithstanding any other provision of Federal or State law, there shall be no limitation on the period within which suit may be filed, a judgment may be enforced, or an action relating to an offset or garnishment, or other action, may be initiated or taken by the Secretary, the Attorney General, or the head of another Federal agency, as the case may be, for the repayment of the amount due from an individual under this section.

¹ See References in Text note below.

² See References in Text note below.

(f) Effective date

The amendment made by section 313(a)(4) of the Health Care Safety Net Amendments of 2002 (Public Law 107-251) shall apply to any obligation for which a discharge in bankruptcy has not been granted before the date that is 31 days after October 26, 2002.

(July 1, 1944, ch. 373, title III, § 338E, formerly title VII, § 754, as added Pub. L. 94-484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2286; amended Pub. L. 95-83, title III, § 307(g), Aug. 1, 1977, 91 Stat. 391; renumbered § 338D and amended Pub. L. 97-35, title XXVII, § 2709(a), (e)(1)-(4)(A), Aug. 13, 1981, 95 Stat. 908, 911; Pub. L. 97-414, § 8(g)(2), Jan. 4, 1983, 96 Stat. 2061; renumbered § 338E and amended Pub. L. 100-177, title II, §§ 201(2), 202(e), title III, § 308(a), Dec. 1, 1987, 101 Stat. 992, 997, 1006; Pub. L. 100-203, title IV, § 4052(b), Dec. 22, 1987, 101 Stat. 1330-97; Pub. L. 100-360, title IV, § 411(f)(10)(B), July 1, 1988, 102 Stat. 780; Pub. L. 101-597, title II, § 203(a), Nov. 16, 1990, 104 Stat. 3027; Pub. L. 107-251, title III, § 313(a), Oct. 26, 2002, 116 Stat. 1651; Pub. L. 108-163, § 2(l)(1), Dec. 6, 2003, 117 Stat. 2022.)

REFERENCES IN TEXT

Section 234 of this title, referred to in subsecs. (b)(2) and (d)(3)(B)(ii), was repealed by Pub. L. 94-484, title IV, § 408(b)(1), Oct. 12, 1976, 90 Stat. 2281, effective Oct. 1, 1977.

Section 254n of this title, referred to in subsec. (b)(2), in the original referred to section 753, meaning section 753 of the Public Health Service Act, which was classified to section 294v of this title. Section 753 was redesignated section 338C of the Public Health Service Act by Pub. L. 97-35, title XXVII, § 2709(a), Aug. 13, 1981, 95 Stat. 908, and was transferred to section 254n of this title. Section 338C of the Public Health Service Act was renumbered section 338D by Pub. L. 100-177, title II, § 201(2), Dec. 1, 1987, 101 Stat. 992.

Section 313(a)(4) of the Health Care Safety Net Amendments of 2002, referred to in subsec. (f), is section 313(a)(4) of Pub. L. 107-251, which amended subsec. (d)(3)(A) of this section. See 2002 Amendment note below.

CODIFICATION

Section was formerly classified to section 294w of this title prior to its renumbering by Pub. L. 97-35.

PRIOR PROVISIONS

A prior section 338E of act July 1, 1944, was renumbered section 338F by Pub. L. 100-177 and classified to section 254p of this title, and subsequently renumbered 338G by Pub. L. 101-597.

AMENDMENTS

2003—Subsec. (c)(1). Pub. L. 108-163, § 2(l)(1)(A), realigned margins.

Subsec. (f). Pub. L. 108-163, § 2(l)(1)(B), added subsec. (f).

2002—Subsec. (a)(1). Pub. L. 107-251, § 313(a)(1), substituted semicolon for comma at end of subpar. (A) and “; or” for comma at end of subpar. (B), struck out “or” at end of subpar. (C), and struck out subpar. (D) which read as follows: “fails to accept payment, or instructs the educational institution in which he is enrolled not to accept payment, in whole or in part, of a scholarship under such contract.”

Subsec. (b)(1)(A). Pub. L. 107-251, § 313(a)(2)(A)(ii)-(iv), struck out “either” before “to begin”, substituted “254n of this title,” for “254n of this title or”, and inserted “or to complete a required residency as specified in section 254(f)(1)(B)(iv) of this title,” before “the United States” the first time appearing.

Pub. L. 107-251, § 313(a)(2)(A)(i), made technical amendment to reference in original act which appears in text as reference to section 254p of this title.

Subsec. (b)(3). Pub. L. 107-251, § 313(a)(2)(B), added par. (3).

Subsec. (c)(1). Pub. L. 107-251, § 313(a)(3)(A)(ii), added subpars. (A) to (C) and concluding provisions and struck out former subpars. (A) to (C) which related, respectively, to amounts to be recovered in the case of a contract for a 2-year period of obligated service, in the case of a contract for a period of obligated service of greater than 2 years where the breach occurred before the end of the first 2 years of such period, and in the case of a contract for a period of obligated service of greater than 2 years, where the breach occurred after the first 2 years of such period.

Pub. L. 107-251, § 313(a)(3)(A)(i), in introductory provisions, made technical amendment to reference in original act which appears in text as reference to section 254p(d) of this title.

Subsec. (c)(2). Pub. L. 107-251, § 313(a)(3)(B), added par. (2) and struck out former par. (2) which read as follows: “For purposes of paragraph (1), the term ‘unserved obligation penalty’ means the amount equal to the product of the number of months of obligated service that were not completed by an individual, multiplied by \$1,000, except that in any case in which the individual fails to serve 1 year, the unserved obligation penalty shall be equal to the full period of obligated service multiplied by \$1,000.”

Subsec. (c)(3), (4). Pub. L. 107-251, § 313(a)(3)(B), (C), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.”

Subsec. (d)(3)(A). Pub. L. 107-251, § 313(a)(4), substituted “7-year period” for “five-year period”.

Subsec. (e). Pub. L. 107-251, § 313(a)(5), added subsec. (e).

1990—Subsec. (d)(3). Pub. L. 101-597 designated existing provision as subpar. (A) and added subpar. (B).

1988—Subsec. (b)(1)(B)(i). Pub. L. 100-360 made technical amendment to directory language of Pub. L. 100-203, see 1987 Amendment note below.

1987—Pub. L. 100-177, § 202(e)(6), inserted “or loan repayment contract” in section catchline.

Subsec. (a). Pub. L. 100-177, § 202(e)(1), designated existing provisions as par. (1), and former pars. (1) to (4) as subpars. (A) to (D), respectively, and added par. (2).

Subsec. (b)(1). Pub. L. 100-177, § 202(e)(2), designated existing provisions as subpar. (A), made technical amendments to references to sections 254m, 254n, and 254p of this title wherever appearing to reflect renumbering of corresponding sections of original act, inserted “under section 254l of this title” after first reference to “service obligation” as the probable intent of Congress, struck out at end “Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary for good cause shown), be paid to the United States.”, and added subpar. (B).

Subsec. (b)(1)(B)(i). Pub. L. 100-203, as amended by Pub. L. 100-360, inserted at end “Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of this title.”

Subsec. (c). Pub. L. 100-177, § 202(e)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-177, §§ 202(e)(3), (5), 308(a), redesignated subsec. (c) as (d), in pars. (1), (2), and (3), inserted “or the Loan Repayment Program (or a contract thereunder”, and in par. (3) inserted “, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable”.

1983—Subsec. (b)(1). Pub. L. 97-414 substituted “section 254p(d)” for “section 254q(b)”.

1981—Subsec. (a). Pub. L. 97-35, §2709(e)(1), (2), redesignated subsec. (b) as (a) and, as so redesignated, in introductory text substituted “254f” for “294t” and added par. (4). Former subsec. (a), which related to liability of individual upon failure to accept payment, was struck out.

Subsec. (b). Pub. L. 97-35, §2709(e)(1), (3), redesignated subsec. (c) as (b) and, as so redesignated, designated existing provisions as par. (1) and made numerous changes to reflect renumbering of subpart sections, and added par. (2). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 97-35, §2709(e)(1), (4)(A), redesignated subsec. (d) as (c) and, as so redesignated, in par. (2) inserted reference to partial or total waiver. Former subsec. (c) redesignated (b).

1977—Subsec. (c). Pub. L. 95-83 substituted “ ϕ ” is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans” for “ ϕ ” is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendments by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-251, title III, §313(b), Oct. 26, 2002, 116 Stat. 1652, which provided that the amendment to this section made by section 313(a)(4) of Pub. L. 107-251 was applicable to any obligation for which a discharge in bankruptcy had not been granted before the date that was 31 days after Oct. 26, 2002, was repealed by Pub. L. 108-163, §§2(f)(2), 3, Dec. 6, 2003, 117 Stat. 2023, effective immediately after enactment of Pub. L. 107-251.

EFFECTIVE DATE OF 1990 AMENDMENT

Section 203(b) of Pub. L. 101-597 provided that: “With respect to any financial obligation of an individual under subsection (f) of section 225 of the Public Health Service Act [former section 234 of this title], as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94-484, the amendment made by subsection (a) of this section [amending this section] applies to any bankruptcy [sic] proceeding in which discharge of such an obligation has not been granted before the date that is 31 days after the date of the enactment of this Act [Nov. 16, 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254f of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254f of this title.

SPECIAL REPAYMENT PROVISIONS

Section 204 of Pub. L. 100-177 provided that an individual who breached a written contract entered into

under section 254f of this title by failing either to begin such individual’s service obligation in accordance with section 254m of this title or to complete such service obligation; or otherwise breached such a contract; and, as of Nov. 1, 1987, was liable to United States under subsec. (b) of this section was to be relieved of liability to United States under such section if the individual provided notice to Secretary and service in accordance with a written contract with the Secretary that obligated the individual to provide service in accordance with section and authorized Secretary to exclude an individual from relief from liability under this section for reasons related to the individual’s professional competence or conduct.

EXISTING PROCEEDINGS

Section 308(b) of Pub. L. 100-177 provided that: “The amendment made by subsection (a) [amending this section] applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act [subsec. (d)(3) of this section] (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date that is 31 days after the date of enactment of this Act [Dec. 1, 1987].”

§ 2540-1. Fund regarding use of amounts recovered for contract breach to replace services lost as result of breach

(a) Establishment of Fund

There is established in the Treasury of the United States a fund to be known as the National Health Service Corps Member Replacement Fund (hereafter in this section referred to as the “Fund”). The Fund shall consist of such amounts as may be appropriated under subsection (b) of this section to the Fund. Amounts appropriated for the Fund shall remain available until expended.

(b) Authorization of appropriations to Fund

For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to the liability of individuals under section 254o of this title for the breach of contracts entered into under section 254f or 254f-1 of this title;

(2) the amount by which grants under section 254q-1 of this title have, for such preceding fiscal year, been reduced under subsection (g)(2)(B) of such section; and

(3) the aggregate of the amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) of this section and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

(c) Use of Fund

(1) Payments to certain health facilities

Amounts in the Fund and available pursuant to appropriations Act may, subject to paragraph (2), be expended by the Secretary to make payments to any entity—

(A) to which a Corps member has been assigned under section 254f of this title; and

(B) that has a need for a health professional to provide primary health services as a result of the Corps member having breached the contract entered into under

section 254l or 254l-1 of this title by the individual.

(2) Purpose of payments

An entity receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ a health professional to provide primary health services to patients of the entity, or to enter into a contract with such a professional to provide the services to the patients.

(d) Investment

(1) In general

The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(July 1, 1944, ch. 373, title III, §338F, as added Pub. L. 101-597, title II, §204, Nov. 16, 1990, 104 Stat. 3027.)

PRIOR PROVISIONS

A prior section 338F of act July 1, 1944, was renumbered section 338G by Pub. L. 101-597 and is classified to section 254p of this title.

Another prior section 338F of act July 1, 1944, was renumbered section 338G by section 201(2) of Pub. L. 100-177 and classified to section 254q of this title, prior to repeal by Pub. L. 100-177, title II, §203, Dec. 1, 1987, 101 Stat. 999.

§ 254p. Special loans for former Corps members to enter private practice

(a) Persons entitled; conditions

The Secretary may, out of appropriations authorized under section 254k of this title, make one loan to a Corps member who has agreed in writing—

(1) to engage in the private full-time clinical practice of the profession of the member in a health professional shortage area (designated under section 254e of this title) for a period of not less than 2 years which—

(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than 1 year after the date on which such individual completes such period of obligated service; and

(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

(2) to conduct such practice in accordance with section 254n(b)(1) of this title; and

(3) to such additional conditions as the Secretary may require to carry out this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accord-

ance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

(b) Amount of loan; maximum interest rate

(1) The amount of a loan under subsection (a) of this section to an individual shall not exceed \$25,000.

(2) The interest rate for any such loan shall not exceed an annual rate of 5 percent.

(c) Application for loan; submission and approval; interest rates and repayment terms

The Secretary may not make a loan under this section unless an application therefor has been submitted to, and approved by, the Secretary. The Secretary shall, by regulation, set interest rates and repayment terms for loans under this section.

(d) Breach of agreement; notice; determination of liability

If the Secretary determines that an individual has breached a written agreement entered into under subsection (a) of this section, he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 60 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual—

(1) in the case of an individual who has received a grant under this section (as in effect prior to October 1, 1984), an amount determined under section 254o(b) of this title, except that in applying the formula contained in such section "φ" shall be the sum of the amount of the grant made under subsection (a) of this section to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, "t" shall be the number of months that such individual agreed to practice his profession under such agreement, and "s" shall be the number of months that such individual practices his profession in accordance with such agreement; and

(2) in the case of an individual who has received a loan under this section, the full amount of the principal and interest owed by such individual under this section.

(July 1, 1944, ch. 373, title III, §338G, formerly title VII, §755, as added Pub. L. 94-484, title IV, §408(b)(1), Oct. 12, 1976, 90 Stat. 2287; renumbered §338E and amended Pub. L. 97-35, title XXVII, §2709(a), (f), Aug. 13, 1981, 95 Stat. 908, 911; Pub. L. 97-414, §8(g)(3), Jan. 4, 1983, 96 Stat. 2061; renumbered §338F and amended Pub. L. 100-177, title II, §201(2), title III, §309, Dec. 1, 1987, 101 Stat. 992, 1006; renumbered §338G and amended Pub. L. 101-597, title II, §204, title IV, §401(b)[(a)], Nov. 16, 1990, 104 Stat. 3027, 3035.)

CODIFICATION

Section was formerly classified to section 294x of this title prior to renumbering by Pub. L. 97-35.

PRIOR PROVISIONS

A prior section 338G of act July 1, 1944, was renumbered section 338H by Pub. L. 101-597 and is classified to section 254q of this title.

Another prior section 338G of act July 1, 1944, was renumbered section 338I by section 201(1) of Pub. L. 100-177 and classified to section 254r of this title, prior to repeal by Pub. L. 100-713, title I, §104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

Another prior section 338G of act July 1, 1944, was classified to section 254q of this title prior to repeal by Pub. L. 100-177, title II, §203, Dec. 1, 1987, 101 Stat. 999.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area.

1987—Subsec. (a). Pub. L. 100-177, §309(1), substituted subsec. (a) consisting of pars. (1) to (3) for former subsec. (a) consisting of pars. (1) and (2).

Subsec. (b). Pub. L. 100-177, §309(1), added subsec. (b) and struck out former subsec. (b) which read as follows: “The amount of the grant or loan under subsection (a) of this section to an individual shall be—

“(1) \$12,500 if the individual agrees to practice his profession in accordance with the agreement for a period of at least one year, but less than two years; or

“(2) \$25,000 if the individual agrees to practice his profession in accordance with the agreement for a period of at least two years.”

Subsec. (c). Pub. L. 100-177, §309(2), struck out “grant or” before “loan” in first sentence.

Subsec. (d)(1). Pub. L. 100-177, §309(3), substituted “under this section (as in effect prior to October 1, 1984)” for “under this section”, and made technical amendment to reference to section 254o(b) of this title to reflect renumbering of corresponding section of original act.

1983—Subsec. (d)(1). Pub. L. 97-414 substituted “section 254o(b)” for “section 254o(c)”.

1981—Subsec. (a). Pub. L. 97-35, §2709(f)(2)-(4), made numerous changes to reflect renumbering of subpart sections, among them inserting references to section 254k of this title and striking out references to section 294v of this title, and added applicability to loans.

Subsec. (b). Pub. L. 97-35, §2709(f)(5), inserted applicability to loans.

Subsec. (c). Pub. L. 97-35, §2709(f)(6), inserted provisions relating to loans and interest rates, etc.

Subsec. (d). Pub. L. 97-35, §2709(f)(7), restructured and revised criteria determining amount of liability of individual within 60 days after the date of notice instead of within 120 days after the date of notice.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254l of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254l of this title.

§ 254q. Authorization of appropriations**(a) Authorization of appropriations**

For the purposes of carrying out this subpart, there are authorized to be appropriated \$146,250,000 for fiscal year 2002, and such sums as may be necessary for each of fiscal years 2003 through 2006.

(b) Scholarships for new participants

Of the amounts appropriated under subsection (a) of this section for a fiscal year, the Secretary

shall obligate not less than 10 percent for the purpose of providing contracts for—

(1) scholarships under this subpart to individuals who have not previously received such scholarships; or

(2) scholarships or loan repayments under the Loan Repayment Program under section 254l-1 of this title to individuals from disadvantaged backgrounds.

(c) Scholarships and loan repayments

With respect to certification as a nurse practitioner, nurse midwife, or physician assistant, the Secretary shall, from amounts appropriated under subsection (a) of this section for a fiscal year, obligate not less than a total of 10 percent for contracts for both scholarships under the Scholarship Program under section 254l of this title and loan repayments under the Loan Repayment Program under section 254l-1 of this title to individuals who are entering the first year of a course of study or program described in section 254l(b)(1)(B) of this title that leads to such a certification or individuals who are eligible for the loan repayment program as specified in section 254l-1(b) of this title for a loan related to such certification.

(July 1, 1944, ch. 373, title III, §338H, formerly §338G, as added Pub. L. 100-177, title II, §203, Dec. 1, 1987, 101 Stat. 999; renumbered §338H and amended Pub. L. 101-597, title II, §§204, 205, Nov. 16, 1990, 104 Stat. 3027, 3028; Pub. L. 107-251, title III, §314, Oct. 26, 2002, 116 Stat. 1652.)

PRIOR PROVISIONS

A prior section 254q, act July 1, 1944, ch. 373, title III, §338G, formerly title VII, §756, as added Oct. 12, 1976, Pub. L. 94-484, title IV, §408(b)(1), 90 Stat. 2288; renumbered §338F and amended Aug. 13, 1981, Pub. L. 97-35, title XXVII, §2709(a), (g), 95 Stat. 908, 912; renumbered §338G, Dec. 1, 1987, Pub. L. 100-177, title II, §201(2), 101 Stat. 992, authorized appropriations for fiscal years 1978 to 1987, prior to repeal by Pub. L. 100-177, §203.

A prior section 338H of act July 1, 1944, was renumbered section 338I by Pub. L. 101-597 and is classified to section 254q-1 of this title.

AMENDMENTS

2002—Pub. L. 107-251 amended section generally. Prior to amendment, section related to annual report to Congress, authorization of appropriations for fiscal years 1991 through 2000, and reservation of percentage of appropriated amounts for scholarships for new participants and for first-year study in certain fields.

1990—Subsec. (a). Pub. L. 101-597, §205(a), substituted “March 1” for “January 20” and “5 fiscal years” for “3 fiscal years” wherever appearing.

Subsec. (b). Pub. L. 101-597, §205(b), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: “There are authorized to be appropriated such sums as may be necessary for scholarships and loan repayments under this subpart.”

§ 254q-1. Grants to States for loan repayment programs**(a) In general****(1) Authority for grants**

The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability

of primary health care services in health professional shortage areas. The National Advisory Council established under section 254j of this title shall advise the Administrator regarding the program under this section.

(2) Loan repayment programs

The programs referred to in paragraph (1) are, subject to subsection (c) of this section, programs of entering into contracts under which the State involved agrees to pay all or part of the principal, interest, and related expenses of the educational loans of health professionals in consideration of the professionals agreeing to provide primary health services in health professional shortage areas.

(3) Direct administration by State agency

The Secretary may not make a grant under paragraph (1) unless the State involved agrees that the program operated with the grant will be administered directly by a State agency.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State agrees that, with respect to the costs of making payments on behalf of individuals under contracts made pursuant to paragraph (2) of such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash toward such costs in an amount equal to not less than \$1 for each \$1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

In determining the amount of non-Federal contributions in cash that a State has provided pursuant to paragraph (1), the Secretary may not include any amounts provided to the State by the Federal Government.

(c) Coordination with Federal program

(1) Assignments for health professional shortage areas under Federal program

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, in carrying out the program operated with the grant, the State will assign health professionals participating in the program only to public and nonprofit private entities located in and providing health services in health professional shortage areas.

(2) Remedies for breach of contracts

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will provide remedies for any breach of the contracts by the health professionals involved.

(3) Limitation regarding contract inducements

(A) Except as provided in subparagraph (B), the Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the contracts provided by the State pursuant to paragraph (2) of such subsection will not be provided on terms that

are more favorable to health professionals than the most favorable terms that the Secretary is authorized to provide for contracts under the Loan Repayment Program under section 254l-1 of this title, including terms regarding—

(i) the annual amount of payments provided on behalf of the professionals regarding educational loans; and

(ii) the availability of remedies for any breach of the contracts by the health professionals involved.

(B) With respect to the limitation established in subparagraph (A) regarding the annual amount of payments that may be provided to a health professional under a contract provided by a State pursuant to subsection (a)(2) of this section, such limitation shall not apply with respect to a contract if—

(i) the excess of such annual payments above the maximum amount authorized in section 254l-1(g)(2)(A) of this title for annual payments regarding contracts is paid solely from non-Federal contributions under subsection (b) of this section; and

(ii) the contract provides that the health professional involved will satisfy the requirement of obligated service under the contract solely through the provision of primary health services in a health professional shortage area that is receiving priority for purposes of section 254f-1(a)(1) of this title and that is authorized to receive assignments under section 254f of this title of individuals who are participating in the Scholarship Program under section 254l of this title.

(d) Restrictions on use of funds

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that the grant will not be expended—

(1) to conduct activities for which Federal funds are expended—

(A) within the State to provide technical or other nonfinancial assistance under subsection (f) of section 254c¹ of this title;

(B) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

(C) under a grant under section 254r of this title; or

(2) for any purpose other than making payments on behalf of health professionals under contracts entered into pursuant to subsection (a)(2) of this section.

(e) Reports

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees—

(1) to submit to the Secretary such reports regarding the States loan repayment program, as are determined to be appropriate by the Secretary; and

(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

¹ See References in Text note below.

(f) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

(g) Noncompliance**(1) In general**

The Secretary may not make payments under subsection (a) of this section to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

(2) Reduction in grant relative to number of breached contracts

(A) Before making a grant under subsection (a) of this section to a State for a fiscal year, the Secretary shall determine the number of contracts provided by the State under paragraph (2) of such subsection with respect to which there has been an initial breach by the health professionals involved during the fiscal year preceding the fiscal year for which the State is applying to receive the grant.

(B) Subject to paragraph (3), in the case of a State with 1 or more initial breaches for purposes of subparagraph (A), the Secretary shall reduce the amount of a grant under subsection (a) of this section to the State for the fiscal year involved by an amount equal to the sum of the expenditures of Federal funds made regarding the contracts involved and an amount representing interest on the amount of such expenditures, determined with respect to each contract on the basis of the maximum legal rate prevailing for loans made during the time amounts were paid under the contract, as determined by the Treasurer of the United States.

(3) Waiver regarding reduction in grant

The Secretary may waive the requirement established in paragraph (2)(B) with respect to the initial breach of a contract if the Secretary determines that such breach by the health professional involved was attributable solely to the professional having a serious illness.

(h) "State" defined

For purposes of this section, the term "State" means each of the several States.

(i) Authorization of appropriations**(1) In general**

For the purpose of making grants under subsection (a) of this section, there are authorized to be appropriated \$12,000,000 for fiscal year 2002 and such sums as may be necessary for each of fiscal years 2003 through 2006.

(2) Availability

Amounts appropriated under paragraph (1) shall remain available until expended.

(j) Public health loan repayment**(1) In general**

The Secretary may award grants to States for the purpose of assisting such States in operating loan repayment programs under which such States enter into contracts to repay all or part of the eligible loans borrowed by, or on behalf of, individuals who agree to serve in State, local, or tribal health departments that serve health professional shortage areas or other areas at risk of a public health emergency, as designated by the Secretary.

(2) Loans eligible for repayment

To be eligible for repayment under this subsection, a loan shall be a loan made, insured, or guaranteed by the Federal Government that is borrowed by, or on behalf of, an individual to pay the cost of attendance for a program of education leading to a degree appropriate for serving in a State, local, or tribal health department as determined by the Secretary and the chief executive officer of the State in which the grant is administered, at an institution of higher education (as defined in section 1002 of title 20), including principal, interest, and related expenses on such loan.

(3) Applicability of existing requirements

With respect to awards made under paragraph (1)—

(A) the requirements of subsections (b), (f), and (g) shall apply to such awards; and

(B) the requirements of subsection (c) shall apply to such awards except that with respect to paragraph (1) of such subsection, the State involved may assign an individual only to public and nonprofit private entities that serve health professional shortage areas or areas at risk of a public health emergency, as determined by the Secretary.

(4) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection, such sums as may be necessary for each of fiscal years 2007 through 2010.

(July 1, 1944, ch. 373, title III, §338I, formerly §338H, as added Pub. L. 100-177, title II, §203, Dec. 1, 1987, 101 Stat. 999; renumbered §338I and amended Pub. L. 101-597, title II, §204, title III, §301, title IV, §401(b)(a), Nov. 16, 1990, 104 Stat. 3027, 3029, 3035; Pub. L. 105-392, title IV, §408, Nov. 13, 1998, 112 Stat. 3589; Pub. L. 107-251, title III, §315, Oct. 26, 2002, 116 Stat. 1653; Pub. L. 109-417, title II, §203(b), Dec. 19, 2006, 120 Stat. 2849.)

REFERENCES IN TEXT

Section 254c of this title, referred to in subsec. (d)(1)(A), was in the original a reference to section 330, meaning section 330 of act July 1, 1944, which was omitted in the general amendment of subpart I (§254b et seq.) of this part by Pub. L. 104-299, §2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104-299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

PRIOR PROVISIONS

A prior section 338I of act July 1, 1944, was classified to section 254r of this title prior to repeal by Pub. L. 100-713, title I, §104(b)(1), Nov. 23, 1988, 102 Stat. 4787.

AMENDMENTS

2006—Subsec. (j). Pub. L. 109-417 added subsec. (j).

2002—Subsec. (a)(1). Pub. L. 107-251, §315(1), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to States for the purpose of assisting the States in operating programs described in paragraph (2) in order to provide for the increased availability of primary health services in health professional shortage areas.”

Subsec. (e)(1). Pub. L. 107-251, §315(2), added par. (1) and struck out former par. (1) which read as follows: “to submit to the Secretary reports providing the same types of information regarding the program operated pursuant to such subsection as reports submitted pursuant to subsection (i) of section 254l-1 of this title provide regarding the Loan Repayment Program under such section; and”.

Subsec. (i)(1). Pub. L. 107-251, §315(3), added par. (1) and struck out heading and text of former par. (1). Text read as follows: “For the purpose of making grants under subsection (a) of this section, there is authorized to be appropriated \$10,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary for each of the fiscal years 1998 through 2002.”

1998—Subsec. (i)(1). Pub. L. 105-392 inserted “, and such sums as may be necessary for each of the fiscal years 1998 through 2002” before period at end.

1990—Pub. L. 101-597, §401(b)[(a)], substituted reference to health professional shortage area for reference to health manpower shortage area wherever appearing in subsecs. (a)(1), (2) and (c)(1), (3)(B)(ii).

Pub. L. 101-597, §301, amended section generally, substituting present provisions for provisions which related to: in subsec. (a), grants; in subsec. (b), applications; in subsec. (c), Federal share; and in subsec. (d), authorization of appropriations.

§ 254r. Grants to States for operation of offices of rural health

(a) In general

The Secretary, acting through the Director of the Office of Rural Health Policy (established in section 912 of this title), may make grants to States for the purpose of improving health care in rural areas through the operation of State offices of rural health.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, to provide non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than \$1 for each \$3 of Federal funds provided in the grant;

(B) for any second fiscal year of such payments, not less than \$1 for each \$1 of Federal funds provided in the grant; and

(C) for any third fiscal year of such payments, not less than \$3 for each \$1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

(A) Subject to subparagraph (B), non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts pro-

vided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(B) The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that—

(i) for the first fiscal year of payments under the grant, 100 percent or less of the non-Federal contributions required in paragraph (1) will be provided in the form of in-kind contributions;

(ii) for any second fiscal year of such payments, not more than 50 percent of such non-Federal contributions will be provided in the form of in-kind contributions; and

(iii) for any third fiscal year of such payments, such non-Federal contributions will be provided solely in the form of cash.

(c) Certain required activities

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that activities carried out by an office operated pursuant to such subsection will include—

(1) establishing and maintaining within the State a clearinghouse for collecting and disseminating information on—

(A) rural health care issues;

(B) research findings relating to rural health care; and

(C) innovative approaches to the delivery of health care in rural areas;

(2) coordinating the activities carried out in the State that relate to rural health care, including providing coordination for the purpose of avoiding redundancy in such activities; and

(3) identifying Federal and State programs regarding rural health, and providing technical assistance to public and nonprofit private entities regarding participation in such programs.

(d) Requirement regarding annual budget for office

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, for any fiscal year for which the State receives such a grant, the office operated pursuant to subsection (a) of this section will be provided with an annual budget of not less than \$50,000.

(e) Certain uses of funds

(1) Restrictions

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that—

(A) if research with respect to rural health is conducted pursuant to the grant, not more than 10 percent of the grant will be expended for such research; and

(B) the grant will not be expended—

(i) to provide health care (including providing cash payments regarding such care);

(ii) to conduct activities for which Federal funds are expended—

(I) within the State to provide technical and other nonfinancial assistance

under subsection (f) of section 254c¹ of this title;

(II) under a memorandum of agreement entered into with the State under subsection (h) of such section; or

(III) under a grant under section 254q-1 of this title;

(iii) to purchase medical equipment, to purchase ambulances, aircraft, or other vehicles, or to purchase major communications equipment;

(iv) to purchase or improve real property; or

(v) to carry out any activity regarding a certificate of need.

(2) Authorities

Activities for which a State may expend a grant under subsection (a) of this section include—

(A) paying the costs of establishing an office of rural health for purposes of subsection (a) of this section;

(B) subject to paragraph (1)(B)(ii)(III), paying the costs of any activity carried out with respect to recruiting and retaining health professionals to serve in rural areas of the State; and

(C) providing grants and contracts to public and nonprofit private entities to carry out activities authorized in this section.

(f) Reports

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees—

(1) to submit to the Secretary reports containing such information as the Secretary may require regarding activities carried out under this section by the State; and

(2) to submit such a report not later than January 10 of each fiscal year immediately following any fiscal year for which the State has received such a grant.

(g) Requirement of application

The Secretary may not make a grant under subsection (a) of this section unless an application for the grant is submitted to the Secretary and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out such subsection.

(h) Noncompliance

The Secretary may not make payments under subsection (a) of this section to a State for any fiscal year subsequent to the first fiscal year of such payments unless the Secretary determines that, for the immediately preceding fiscal year, the State has complied with each of the agreements made by the State under this section.

(i) "State" defined

For purposes of this section, the term "State" means each of the several States.

(j) Authorization of appropriations

(1) In general

For the purpose of making grants under subsection (a) of this section, there are authorized

to be appropriated \$3,000,000 for fiscal year 1991, \$4,000,000 for fiscal year 1992, \$3,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1998 through 2002.

(2) Availability

Amounts appropriated under paragraph (1) shall remain available until expended.

(k) Termination of program

No grant may be made under this section after the aggregate amounts appropriated under subsection (j)(1) of this section are equal to \$36,000,000.

(July 1, 1944, ch. 373, title III, §338J, as added Pub. L. 101-597, title III, §302, Nov. 16, 1990, 104 Stat. 3032; amended Pub. L. 105-392, title III, §301, Nov. 13, 1998, 112 Stat. 3585.)

REFERENCES IN TEXT

Section 254c of this title, referred to in subsec. (e)(1)(B)(ii)(I), was in the original a reference to section 330, meaning section 330 of act July 1, 1944, which was omitted in the general amendment of subpart I (§254b et seq.) of this part by Pub. L. 104-299, §2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104-299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

PRIOR PROVISIONS

A prior section 254r, act July 1, 1944, ch. 373, title III, §338I, formerly title VII, §757, as added Aug. 1, 1977, Pub. L. 95-83, title III, §307(n)(1), 91 Stat. 392; amended Dec. 17, 1980, Pub. L. 96-537, §3(d), 94 Stat. 3174; renumbered §338G, Aug. 13, 1981, Pub. L. 97-35, title XXVII, §2709(a), 95 Stat. 908; Oct. 30, 1984, Pub. L. 98-551, §3, 98 Stat. 2817; renumbered §338I, Dec. 1, 1987, Pub. L. 100-177, title II, §201(1), 101 Stat. 992; Nov. 4, 1988, Pub. L. 100-607, title VI, §629(a)(3), 102 Stat. 3146, which related to Indian Health Scholarships and was classified to section 294y-1 of this title prior to renumbering by Pub. L. 97-35, was repealed by Pub. L. 100-713, title I, §104(b)(1), Nov. 23, 1988, 102 Stat. 4787. For provisions continuing scholarships provided on or before Nov. 23, 1988, see section 104(b)(2) of Pub. L. 100-713.

A prior section 338J of act July 1, 1944, was renumbered section 338K by Pub. L. 101-597 and is classified to section 254s of this title.

AMENDMENTS

1998—Subsec. (b)(1). Pub. L. 105-392, §301(1), struck out "in cash" after "contributions" in introductory provisions.

Subsec. (j)(1). Pub. L. 105-392, §301(2), struck out "and" after "1992," and inserted before period at end "; and such sums as may be necessary for each of the fiscal years 1998 through 2002".

Subsec. (k). Pub. L. 105-392, §301(3), substituted "\$36,000,000" for "\$10,000,000".

COMMUNICATIONS FOR RURAL HEALTH PROVIDERS

Pub. L. 102-538, title I, §154, formerly §134, Oct. 27, 1992, 106 Stat. 3541, renumbered §154 by Pub. L. 103-66, title VI, §6001(a)(2), Aug. 10, 1993, 107 Stat. 379, directed Secretary of Commerce, in conjunction with Secretary of Health and Human Services, to establish an advisory panel to develop recommendations for the improvement of rural health care through the collection of information needed by providers and the improvement in the use of communications to disseminate such information and, not later than 1 year after establishment of Panel to prepare and submit to Congress a report summarizing the recommendations made by the Panel.

Similar provisions were contained in Pub. L. 101-555, §3, Nov. 15, 1990, 104 Stat. 2760.

¹ See References in Text note below.

§ 254s. Native Hawaiian Health Scholarships**(a) Eligibility**

Subject to the availability of funds appropriated under the authority of subsection (d) of this section, the Secretary shall provide funds to Papa Ola Lokahi for the purpose of providing scholarship assistance to students who—

- (1) meet the requirements of section 254l(b) of this title, and
- (2) are Native Hawaiians.

(b) Terms and conditions

(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 254l of this title.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

(c) “Native Hawaiian” defined

For purposes of this section, the term “Native Hawaiian” means any individual who is—

- (1) a citizen of the United States,
- (2) a resident of the State of Hawaii, and
- (3) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—
 - (A) genealogical records,
 - (B) Kupuna (elders) or Kama’aina (long-term community residents) verification, or
 - (C) birth records of the State of Hawaii.

(d) Authorization of appropriations

There are authorized to be appropriated \$1,800,000 for each of the fiscal years 1990, 1991, and 1992 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

(July 1, 1944, ch. 373, title III, § 338K, formerly § 338J, as added Pub. L. 100-713, title I, § 106, Nov. 23, 1988, 102 Stat. 4787; renumbered § 338K, Pub. L. 101-597, title III, § 302, Nov. 16, 1990, 104 Stat. 3032; amended Pub. L. 101-644, title IV, § 401, Nov. 29, 1990, 104 Stat. 4668; Pub. L. 107-116, title V, § 514(b), Jan. 10, 2002, 115 Stat. 2220.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107-116, which directed the amendment of subsec. (a) by substituting “Papa Ola Lokahi” for “Kamehameha School/Bishop Estate”, was executed by making the substitution for “Kamehameha Schools/Bishop Estate” to reflect the probable intent of Congress.

1990—Subsec. (a). Pub. L. 101-644, which directed the general amendment of subsec. (a) of section 338J of the Public Health Service Act, was executed to subsec. (a) of this section, to reflect the probable intent of Congress and the intervening renumbering of section 338J as 338K by Pub. L. 101-597. Prior to amendment, subsec. (a) read as follows: “Subject to the availability of funds appropriated under the authority of subsection (d) of this section, the Secretary shall provide scholarship assistance, pursuant to a contract with the Kamehameha Schools/Bishop Estate, to students who—

- “(1) meet the requirements of section 254l(b) of this title, and
- “(2) are Native Hawaiians.”

§ 254t. Demonstration project**(a) Program authorized**

The Secretary shall establish a demonstration project to provide for the participation of individuals who are chiropractic doctors or pharmacists in the Loan Repayment Program described in section 254l-1 of this title.

(b) Procedure

An individual that receives assistance under this section with regard to the program described in section 254l-1 of this title shall comply with all rules and requirements described in such section (other than subparagraphs (A) and (B) of section 254l-1(b)(1) of this title) in order to receive assistance under this section.

(c) Limitations**(1) In general**

The demonstration project described in this section shall provide for the participation of individuals who shall provide services in rural and urban areas.

(2) Availability of other health professionals

The Secretary may not assign an individual receiving assistance under this section to provide obligated service at a site unless—

(A) the Secretary has assigned a physician (as defined in section 1395x(r) of this title) or other health professional licensed to prescribe drugs to provide obligated service at such site under section 254m or 254n of this title; and

(B) such physician or other health professional will provide obligated service at such site concurrently with the individual receiving assistance under this section.

(3) Rules of construction**(A) Supervision of individuals**

Nothing in this section shall be construed to require or imply that a physician or other health professional licensed to prescribe drugs must supervise an individual receiving assistance under the demonstration project under this section, with respect to such project.

(B) Licensure of health professionals

Nothing in this section shall be construed to supersede State law regarding licensure of health professionals.

(d) Designations

The demonstration project described in this section, and any providers who are selected to participate in such project, shall not be considered by the Secretary in the designation of a health professional shortage area under section 254e of this title during fiscal years 2002 through 2004.

(e) Rule of construction

This section shall not be construed to require any State to participate in the project described in this section.

(f) Report**(1) In general**

The Secretary shall evaluate the participation of individuals in the demonstration

projects under this section and prepare and submit a report containing the information described in paragraph (2) to—

(A) the Committee on Health, Education, Labor, and Pensions of the Senate;

(B) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;

(C) the Committee on Energy and Commerce of the House of Representatives; and

(D) the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives.

(2) Content

The report described in paragraph (1) shall detail—

(A) the manner in which the demonstration project described in this section has affected access to primary care services, patient satisfaction, quality of care, and health care services provided for traditionally underserved populations;

(B) how the participation of chiropractic doctors and pharmacists in the Loan Repayment Program might affect the designation of health professional shortage areas; and

(C) whether adding chiropractic doctors and pharmacists as permanent members of the National Health Service Corps would be feasible and would enhance the effectiveness of the National Health Service Corps.

(g) Authorization of appropriations

(1) In general

There are authorized to be appropriated to carry out this section, such sums as may be necessary for fiscal years 2002 through 2004.

(2) Fiscal year 2005

If the Secretary determines and certifies to Congress by not later than September 30, 2004, that the number of individuals participating in the demonstration project established under this section is insufficient for purposes of performing the evaluation described in subsection (f)(1) of this section, the authorization of appropriations under paragraph (1) shall be extended to include fiscal year 2005.

(July 1, 1944, ch. 373, title III, §338L, as added Pub. L. 107-251, title III, §317, Oct. 26, 2002, 116 Stat. 1653.)

PRIOR PROVISIONS

A prior section 254t, act July 1, 1944, ch. 373, title III, §338L, as added Pub. L. 101-527, §8, Nov. 6, 1990, 104 Stat. 2328, related to demonstration grants to States for community scholarship programs, prior to repeal by Pub. L. 107-251, title III, §316, Oct. 26, 2002, 116 Stat. 1653.

§ 254u. Public health departments

(a) In general

To the extent that funds are appropriated under subsection (e), the Secretary shall establish a demonstration project to provide for the participation of individuals who are eligible for the Loan Repayment Program described in section 254l-1 of this title and who agree to complete their service obligation in a State health

department that provides a significant amount of service to health professional shortage areas or areas at risk of a public health emergency, as determined by the Secretary, or in a local or tribal health department that serves a health professional shortage area or an area at risk of a public health emergency.

(b) Procedure

To be eligible to receive assistance under subsection (a), with respect to the program described in section 254l-1 of this title, an individual shall—

(1) comply with all rules and requirements described in such section (other than section 254l-1(f)(1)(B)(iv) of this title); and

(2) agree to serve for a time period equal to 2 years, or such longer period as the individual may agree to, in a State, local, or tribal health department, described in subsection (a).

(c) Designations

The demonstration project described in subsection (a), and any healthcare providers who are selected to participate in such project, shall not be considered by the Secretary in the designation of health professional shortage areas under section 254e of this title during fiscal years 2007 through 2010.

(d) Report

Not later than 3 years after December 19, 2006, the Secretary shall submit a report to the relevant committees of Congress that evaluates the participation of individuals in the demonstration project under subsection (a), the impact of such participation on State, local, and tribal health departments, and the benefit and feasibility of permanently allowing such placements in the Loan Repayment Program.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of fiscal years 2007 through 2010.

(July 1, 1944, ch. 373, title III, §338M, as added Pub. L. 109-417, title II, §203(a), Dec. 19, 2006, 120 Stat. 2848.)

SUBPART IV—HOME HEALTH SERVICES

AMENDMENTS

1987—Pub. L. 100-177, title II, §202(f)(1), Dec. 1, 1987, 101 Stat. 999, substituted “IV” for “III” as subpart designation.

1983—Pub. L. 97-414, §6(a), Jan. 4, 1983, 96 Stat. 2057, added heading “Subpart III—Home Health Services”.

1978—Pub. L. 95-626, title I, §105(b), title II, §207(a), Nov. 10, 1978, 92 Stat. 3560, 3585, struck out heading “Part D—Lepers” and added heading “Subpart III—Home Health Services”.

§ 255. Home health services

(a) Purpose; authorization of grants and loans; considerations; conditions on loans; appropriations

(1) For the purpose of encouraging the establishment and initial operation of home health programs to provide home health services in areas in which such services are inadequate or not readily accessible, the Secretary may, in accordance with the provisions of this section,

make grants to public and nonprofit private entities and loans to proprietary entities to meet the initial costs of establishing and operating such home health programs. Such grants and loans may include funds to provide training for paraprofessionals (including homemaker home health aides) to provide home health services.

(2) In making grants and loans under this subsection, the Secretary shall—

(A) consider the relative needs of the several States for home health services;

(B) give preference to areas in which a high percentage of the population proposed to be served is composed of individuals who are elderly, medically indigent, or disabled; and

(C) give special consideration to areas with inadequate means of transportation to obtain necessary health services.

(3)(A) No loan may be made to a proprietary entity under this section unless the application of such entity for such loan contains assurances satisfactory to the Secretary that—

(i) at the time the application is made the entity is fiscally sound;

(ii) the entity is unable to secure a loan for the project for which the application is submitted from non-Federal lenders at the rate of interest prevailing in the area in which the entity is located; and

(iii) during the period of the loan, such entity will remain fiscally sound.

(B) Loans under this section shall be made at an interest rate comparable to the rate of interest prevailing on the date the loan is made with respect to the marketable obligations of the United States of comparable maturities, adjusted to provide for administrative costs.

(4) Applications for grants and loans under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

(5) There are authorized to be appropriated for grants and loans under this subsection \$5,000,000 for each of the fiscal years ending on September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(b) Grants and contracts for training programs for paraprofessionals; considerations; applications; appropriations

(1) The Secretary may make grants to and enter into contracts with public and private entities to assist them in developing appropriate training programs for paraprofessionals (including homemaker home health aides) to provide home health services.

(2) Any program established with a grant or contract under this subsection to train homemaker home health aides shall—

(A) extend for at least forty hours, and consist of classroom instruction and at least twenty hours (in the aggregate) of supervised clinical instruction directed toward preparing students to deliver home health services;

(B) be carried out under appropriate professional supervision and be designed to train students to maintain or enhance the personal care of an individual in his home in a manner which promotes the functional independence of the individual; and

(C) include training in—

(i) personal care services designed to assist an individual in the activities of daily living such as bathing, exercising, personal grooming, and getting in and out of bed; and

(ii) household care services such as maintaining a safe living environment, light housekeeping, and assisting in providing good nutrition (by the purchasing and preparation of food).

(3) In making grants and entering into contracts under this subsection, special consideration shall be given to entities which establish or will establish programs to provide training for persons fifty years of age and older who wish to become paraprofessionals (including homemaker home health aides) to provide home health services.

(4) Applications for grants and contracts under this subsection shall be in such form and contain such information as the Secretary shall prescribe.

(5) There are authorized to be appropriated for grants and contracts under this subsection \$2,000,000 for each of the fiscal years ending September 30, 1983, September 30, 1984, September 30, 1985, September 30, 1986, and September 30, 1987.

(c) Report to Congress with respect to grants and loans and training of personnel

The Secretary shall report to the Committee on Labor and Human Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives on or before January 1, 1984, with respect to—

(1) the impact of grants made and contracts entered into under subsections (a) and (b) of this section (as such subsections were in effect prior to October 1, 1981);

(2) the need to continue grants and loans under subsections (a) and (b) of this section (as such subsections are in effect on the day after January 4, 1983); and

(3) the extent to which standards have been applied to the training of personnel who provide home health services.

(d) "Home health services" defined

For purposes of this section, the term "home health services" has the meaning prescribed for the term by section 1395x(m) of this title.

(July 1, 1944, ch. 373, title III, §339, as added Pub. L. 97-414, §6(a), Jan. 4, 1983, 96 Stat. 2057; amended Pub. L. 98-555, §6, Oct. 30, 1984, 98 Stat. 2856.)

REFERENCES IN TEXT

Subsections (a) and (b) of this section (as such subsections were in effect prior to October 1, 1981), referred to in subsec. (c)(1), mean subsections (a) and (b) of section 255 of this title prior to repeal of section 255 by Pub. L. 97-35, title IX, §902(b), Aug. 13, 1981, 95 Stat. 559, effective Oct. 1, 1981.

PRIOR PROVISIONS

A prior section 255, act July 1, 1944, ch. 373, title III, §339, as added Nov. 10, 1978, Pub. L. 95-626, title II, §207(a), 92 Stat. 3585, related to grant authority, etc., for home health services, prior to repeal by Pub. L. 97-35, title IX, §902(b), (h), Aug. 13, 1981, 95 Stat. 559, 561, eff. Oct. 1, 1981.

Another prior section 339 of act July 1, 1944, ch. 373, title III, formerly §331, 58 Stat. 698; June 25, 1948, ch.

654, § 4, 62 Stat. 1018; June 25, 1952, ch. 460, 66 Stat. 157; July 12, 1960, Pub. L. 86-624, § 29(b), 74 Stat. 419; renumbered § 339, Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(2), 90 Stat. 2268, which related to reception of persons suffering from leprosy in any hospital, was renumbered section 320 of act July 1, 1944, and transferred to section 247e of this title.

AMENDMENTS

1984—Subsecs. (a)(5), (b)(5). Pub. L. 98-555 inserted provisions authorizing appropriations for fiscal years ending Sept. 30, 1985, 1986, and 1987.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

REPORT TO CONGRESS CONCERNING RESULTS OF STUDIES EVALUATING HOME AND COMMUNITY BASED HEALTH SERVICES; STUDIES OF REIMBURSEMENT METHODOLOGIES; INVESTIGATION OF FRAUD; DEMONSTRATION PROJECTS; HOME HEALTH SERVICES, DEFINED

Section 6(b)-(f) of Pub. L. 97-414 directed Secretary of Health and Human Services to report results of studies evaluating home and community based health services, and any recommendations for legislative action which might improve the provision of such services, to Congress prior to Jan. 1, 1985, to compile and analyze results of significant public or private studies relating to reimbursement methodologies for home health services and to report recommendations to Congress within 180 days after Jan. 4, 1983, to investigate methods available to stem medicare and medicaid fraud and abuse and extent to which such methods are applied and to report results to Congress within 18 months of Jan. 4, 1983, and to develop and carry out demonstration projects commencing no later than Jan. 1, 1984, to test methods for identifying patients at risk of institutionalization who could be treated more cost-effectively with home health services, and to test alternative reimbursement methodologies for home health agencies in order to determine most cost-effective way of providing home health services, and to report to Congress with regard to the demonstrations no later than Jan. 1, 1985; and defined "home health services" for purposes of this section.

SUBPART V—HEALTHY COMMUNITIES ACCESS PROGRAM

PRIOR PROVISIONS

A prior subpart VI, consisting of section 256a, related to health services for residents of public housing, prior to repeal by Pub. L. 104-299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

§ 256. Grants to strengthen the effectiveness, efficiency, and coordination of services for the uninsured and underinsured

(a) In general

The Secretary may award grants to eligible entities to assist in the development of inte-

grated health care delivery systems to serve communities of individuals who are uninsured and individuals who are underinsured—

(1) to improve the efficiency of, and coordination among, the providers providing services through such systems;

(2) to assist communities in developing programs targeted toward preventing and managing chronic diseases; and

(3) to expand and enhance the services provided through such systems.

(b) Eligible entities

To be eligible to receive a grant under this section, an entity shall be an entity that—

(1) represents a consortium—

(A) whose principal purpose is to provide a broad range of coordinated health care services for a community defined in the entity's grant application as described in paragraph (2); and

(B) that includes at least one of each of the following providers that serve the community (unless such provider does not exist within the community, declines or refuses to participate, or places unreasonable conditions on their participation)—

(i) a Federally qualified health center (as defined in section 1395x(aa) of this title);

(ii) a hospital with a low-income utilization rate (as defined in section 1396r-4(b)(3) of this title), that is greater than 25 percent;

(iii) a public health department; and

(iv) an interested public or private sector health care provider or an organization that has traditionally served the medically uninsured and underserved; and

(2) submits to the Secretary an application, in such form and manner as the Secretary shall prescribe, that—

(A) defines a community or geographic area of uninsured and underinsured individuals;

(B) identifies the providers who will participate in the consortium's program under the grant, and specifies each provider's contribution to the care of uninsured and underinsured individuals in the community, including the volume of care the provider provides to beneficiaries under the medicare, medicaid, and State child health insurance programs and to patients who pay privately for services;

(C) describes the activities that the applicant and the consortium propose to perform under the grant to further the objectives of this section;

(D) demonstrates the consortium's ability to build on the current system (as of the date of submission of the application) for serving a community or geographic area of uninsured and underinsured individuals by involving providers who have traditionally provided a significant volume of care for that community;

(E) demonstrates the consortium's ability to develop coordinated systems of care that either directly provide or ensure the prompt provision of a broad range of high-quality, accessible services, including, as appro-

appropriate, primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services in a manner that assures continuity of care in the community or geographic area;

(F) provides evidence of community involvement in the development, implementation, and direction of the program that the entity proposes to operate;

(G) demonstrates the consortium's ability to ensure that individuals participating in the program are enrolled in public insurance programs for which the individuals are eligible or know of private insurance programs where available;

(H) presents a plan for leveraging other sources of revenue, which may include State and local sources and private grant funds, and integrating current and proposed new funding sources in a way to assure long-term sustainability of the program;

(I) describes a plan for evaluation of the activities carried out under the grant, including measurement of progress toward the goals and objectives of the program and the use of evaluation findings to improve program performance;

(J) demonstrates fiscal responsibility through the use of appropriate accounting procedures and appropriate management systems;

(K) demonstrates the consortium's commitment to serve the community without regard to the ability of an individual or family to pay by arranging for or providing free or reduced charge care for the poor; and

(L) includes such other information as the Secretary may prescribe.

(c) Limitations

(1) Number of awards

(A) In general

For each of fiscal years 2003, 2004, 2005, and 2006, the Secretary may not make more than 35 new awards under subsection (a) of this section (excluding renewals of such awards).

(B) Rule of construction

This paragraph shall not be construed to affect awards made before fiscal year 2003.

(2) In general

An eligible entity may not receive a grant under this section (including with respect to any such grant made before fiscal year 2003) for more than 3 consecutive fiscal years, except that such entity may receive such a grant award for not more than 1 additional fiscal year if—

(A) the eligible entity submits to the Secretary a request for a grant for such an additional fiscal year;

(B) the Secretary determines that extraordinary circumstances (as defined in paragraph (3)) justify the granting of such request; and

(C) the Secretary determines that granting such request is necessary to further the objectives described in subsection (a) of this section.

(3) Extraordinary circumstances

(A) In general

In paragraph (2), the term "extraordinary circumstances" means an event (or events) that is outside of the control of the eligible entity that has prevented the eligible entity from fulfilling the objectives described by such entity in the application submitted under subsection (b)(2) of this section.

(B) Examples

Extraordinary circumstances include—

(i) natural disasters or other major disruptions to the security or health of the community or geographic area served by the eligible entity; or

(ii) a significant economic deterioration in the community or geographic area served by such eligible entity, that directly and adversely affects the entity receiving an award under subsection (a) of this section.

(d) Priorities

In awarding grants under this section, the Secretary—

(1) shall accord priority to applicants that demonstrate the extent of unmet need in the community involved for a more coordinated system of care; and

(2) may accord priority to applicants that best promote the objectives of this section, taking into consideration the extent to which the application involved—

(A) identifies a community whose geographical area has a high or increasing percentage of individuals who are uninsured;

(B) demonstrates that the applicant has included in its consortium providers, support systems, and programs that have a tradition of serving uninsured individuals and underinsured individuals in the community;

(C) shows evidence that the program would expand utilization of preventive and primary care services for uninsured and underinsured individuals and families in the community, including behavioral and mental health services, oral health services, or substance abuse services;

(D) proposes a program that would improve coordination between health care providers and appropriate social service providers;

(E) demonstrates collaboration with State and local governments;

(F) demonstrates that the applicant makes use of non-Federal contributions to the greatest extent possible; or

(G) demonstrates a likelihood that the proposed program will continue after support under this section ceases.

(e) Use of funds

(1) Use by grantees

(A) In general

Except as provided in paragraphs (2) and (3), a grantee may use amounts provided under this section only for—

(i) direct expenses associated with achieving the greater integration of a health care delivery system so that the

system either directly provides or ensures the provision of a broad range of culturally competent services, as appropriate, including primary, secondary, and tertiary services, as well as substance abuse treatment and mental health services; and

(ii) direct patient care and service expansions to fill identified or documented gaps within an integrated delivery system.

(B) Specific uses

The following are examples of purposes for which a grantee may use grant funds under this section, when such use meets the conditions stated in subparagraph (A):

(i) Increases in outreach activities and closing gaps in health care service.

(ii) Improvements to case management.

(iii) Improvements to coordination of transportation to health care facilities.

(iv) Development of provider networks and other innovative models to engage physicians in voluntary efforts to serve the medically underserved within a community.

(v) Recruitment, training, and compensation of necessary personnel.

(vi) Acquisition of technology for the purpose of coordinating care.

(vii) Improvements to provider communication, including implementation of shared information systems or shared clinical systems.

(viii) Development of common processes for determining eligibility for the programs provided through the system, including creating common identification cards and single sliding scale discounts.

(ix) Development of specific prevention and disease management tools and processes.

(x) Translation services.

(xi) Carrying out other activities that may be appropriate to a community and that would increase access by the uninsured to health care, such as access initiatives for which private entities provide non-Federal contributions to supplement the Federal funds provided through the grants for the initiatives.

(2) Direct patient care limitation

Not more than 15 percent of the funds provided under a grant awarded under this section may be used for providing direct patient care and services.

(3) Reservation of funds for national program purposes

The Secretary may use not more than 3 percent of funds appropriated to carry out this section for providing technical assistance to grantees, obtaining assistance of experts and consultants, holding meetings, developing of tools, disseminating of information, evaluation, and carrying out activities that will extend the benefits of programs funded under this section to communities other than the community served by the program funded.

(f) Grantee requirements

(1) Evaluation of effectiveness

A grantee under this section shall—

(A) report to the Secretary annually regarding—

(i) progress in meeting the goals and measurable objectives set forth in the grant application submitted by the grantee under subsection (b) of this section; and

(ii) the extent to which activities conducted by such grantee have—

(I) improved the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the communities or geographic areas served by such grantee;

(II) resulted in the provision of better quality health care for such individuals; and

(III) resulted in the provision of health care to such individuals at lower cost than would have been possible in the absence of the activities conducted by such grantee; and

(B) provide for an independent annual financial audit of all records that relate to the disposition of funds received through the grant.

(2) Progress

The Secretary may not renew an annual grant under this section for an entity for a fiscal year unless the Secretary is satisfied that the consortium represented by the entity has made reasonable and demonstrable progress in meeting the goals and measurable objectives set forth in the entity's grant application for the preceding fiscal year.

(g) Maintenance of effort

With respect to activities for which a grant under this section is authorized, the Secretary may award such a grant only if the applicant for the grant, and each of the participating providers, agree that the grantee and each such provider will maintain its expenditures of non-Federal funds for such activities at a level that is not less than the level of such expenditures during the fiscal year immediately preceding the fiscal year for which the applicant is applying to receive such grant.

(h) Technical assistance

The Secretary may, either directly or by grant or contract, provide any entity that receives a grant under this section with technical and other nonfinancial assistance necessary to meet the requirements of this section.

(i) Evaluation of program

Not later than September 30, 2005, the Secretary shall prepare and submit to the appropriate committees of Congress a report that describes the extent to which projects funded under this section have been successful in improving the effectiveness, efficiency, and coordination of services for uninsured and underinsured individuals in the communities or geographic areas served by such projects, including whether the projects resulted in the provision of better quality health care for such individuals, and whether such care was provided at lower costs, than would have been provided in the absence of such projects.

(j) Demonstration authority

The Secretary may make demonstration awards under this section to historically black health professions schools for the purposes of—

(1) developing patient-based research infrastructure at historically black health professions schools, which have an affiliation, or affiliations, with any of the providers identified in subsection (b)(1)(B) of this section;

(2) establishment of joint and collaborative programs of medical research and data collection between historically black health professions schools and such providers, whose goal is to improve the health status of medically underserved populations; or

(3) supporting the research-related costs of patient care, data collection, and academic training resulting from such affiliations.

(k) Authorization of appropriations

There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2002 through 2006.

(l) Date certain for termination of program

Funds may not be appropriated to carry out this section after September 30, 2006.

(July 1, 1944, ch. 373, title III, § 340, as added Pub. L. 107-251, title IV, § 402, Oct. 26, 2002, 116 Stat. 1655.)

PRIOR PROVISIONS

A prior section 256, act July 1, 1944, ch. 373, title III, § 340, as added July 22, 1987, Pub. L. 100-77, title VI, § 601, 101 Stat. 511; amended Nov. 4, 1988, Pub. L. 100-607, title VIII, §§ 801(a), (c), 802(a), (b)(1), 803, 804, 102 Stat. 3168, 3169; Nov. 7, 1988, Pub. L. 100-628, title VI, §§ 601(a), (c), 602(a), (b)(1), 603, 604, 102 Stat. 3241, 3242; Aug. 16, 1989, Pub. L. 101-93, § 5(t)(1), (3), 103 Stat. 615; Nov. 29, 1990, Pub. L. 101-645, title V, §§ 501-503, 104 Stat. 4724; Oct. 27, 1992, Pub. L. 102-531, title III, § 309(c), 106 Stat. 3501, related to grant program for certain health services for the homeless, prior to repeal by Pub. L. 104-299, § 4(a)(3), Oct. 11, 1996, 110 Stat. 3645, eff. Oct. 1, 1996.

Another prior section 256, act July 1, 1944, ch. 373, title III, § 340, as added Nov. 10, 1978, Pub. L. 95-626, title I, § 115(2), 92 Stat. 3567; amended Dec. 12, 1979, Pub. L. 96-142, title III, § 301(a), 93 Stat. 1073; Aug. 13, 1981, Pub. L. 97-35, title IX, § 903(b)(1), 95 Stat. 561; Jan. 4, 1983, Pub. L. 97-414, § 8(h), 96 Stat. 2061, related to primary care research and demonstration projects to serve medically underserved population, prior to repeal by Pub. L. 97-35, title IX, § 903(c), Aug. 13, 1981, 95 Stat. 561, eff. Oct. 1, 1982.

Another prior section 256, act July 1, 1944, ch. 373, title III, § 340, formerly § 332, 58 Stat. 698; renumbered § 340, Oct. 12, 1976, Pub. L. 94-484, title IV, § 407(b)(2), 90 Stat. 2268, related to apprehension, detention, treatment, and release of persons being treated for leprosy, prior to repeal by Pub. L. 95-626, title I, § 105(b), Nov. 10, 1978, 92 Stat. 3560.

PURPOSE

Pub. L. 107-251, title IV, § 401, Oct. 26, 2002, 116 Stat. 1655, provided that: "The purpose of this title [enacting this subpart and subpart X (§ 256f et seq.) of this part and provisions set out as a note under section 1396a of this title] is to provide assistance to communities and consortia of health care providers and others, to develop or strengthen integrated community health care delivery systems that coordinate health care services for individuals who are uninsured or underinsured and to develop or strengthen activities related to providing coordinated care for individuals with chronic conditions who are uninsured or underinsured, through the—

"(1) coordination of services to allow individuals to receive efficient and higher quality care and to gain entry into and receive services from a comprehensive system of care;

"(2) development of the infrastructure for a health care delivery system characterized by effective collaboration, information sharing, and clinical and financial coordination among all providers of care in the community; and

"(3) provision of new Federal resources that do not supplant funding for existing Federal categorical programs that support entities providing services to low-income populations."

§ 256a. Patient navigator grants**(a) Grants**

The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to eligible entities for the development and operation of demonstration programs to provide patient navigator services to improve health care outcomes. The Secretary shall coordinate with, and ensure the participation of, the Indian Health Service, the National Cancer Institute, the Office of Rural Health Policy, and such other offices and agencies as deemed appropriate by the Secretary, regarding the design and evaluation of the demonstration programs.

(b) Use of funds

The Secretary shall require each recipient of a grant under this section to use the grant to recruit, assign, train, and employ patient navigators who have direct knowledge of the communities they serve to facilitate the care of individuals, including by performing each of the following duties:

(1) Acting as contacts, including by assisting in the coordination of health care services and provider referrals, for individuals who are seeking prevention or early detection services for, or who following a screening or early detection service are found to have a symptom, abnormal finding, or diagnosis of, cancer or other chronic disease.

(2) Facilitating the involvement of community organizations in assisting individuals who are at risk for or who have cancer or other chronic diseases to receive better access to high-quality health care services (such as by creating partnerships with patient advocacy groups, charities, health care centers, community hospice centers, other health care providers, or other organizations in the targeted community).

(3) Notifying individuals of clinical trials and, on request, facilitating enrollment of eligible individuals in these trials.

(4) Anticipating, identifying, and helping patients to overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

(5) Coordinating with the relevant health insurance ombudsman programs to provide information to individuals who are at risk for or who have cancer or other chronic diseases about health coverage, including private insurance, health care savings accounts, and other publicly funded programs (such as Medicare, Medicaid, health programs operated by

the Department of Veterans Affairs or the Department of Defense, the State children's health insurance program, and any private or governmental prescription assistance programs).

(6) Conducting ongoing outreach to health disparity populations, including the uninsured, rural populations, and other medically underserved populations, in addition to assisting other individuals who are at risk for or who have cancer or other chronic diseases to seek preventative care.

(c) Prohibitions

(1) Referral fees

The Secretary shall require each recipient of a grant under this section to prohibit any patient navigator providing services under the grant from accepting any referral fee, kick-back, or other thing of value in return for referring an individual to a particular health care provider.

(2) Legal fees and costs

The Secretary shall prohibit the use of any grant funds received under this section to pay any fees or costs resulting from any litigation, arbitration, mediation, or other proceeding to resolve a legal dispute.

(d) Grant period

(1) In general

Subject to paragraphs (2) and (3), the Secretary may award grants under this section for periods of not more than 3 years.

(2) Extensions

Subject to paragraph (3), the Secretary may extend the period of a grant under this section. Each such extension shall be for a period of not more than 1 year.

(3) Limitations on grant period

In carrying out this section, the Secretary—

(A) shall ensure that the total period of a grant does not exceed 4 years; and

(B) may not authorize any grant period ending after September 30, 2010.

(e) Application

(1) In general

To seek a grant under this section, an eligible entity shall submit an application to the Secretary in such form, in such manner, and containing such information as the Secretary may require.

(2) Contents

At a minimum, the Secretary shall require each such application to outline how the eligible entity will establish baseline measures and benchmarks that meet the Secretary's requirements to evaluate program outcomes.

(f) Uniform baseline measures

The Secretary shall establish uniform baseline measures in order to properly evaluate the impact of the demonstration projects under this section.

(g) Preference

In making grants under this section, the Secretary shall give preference to eligible entities

that demonstrate in their applications plans to utilize patient navigator services to overcome significant barriers in order to improve health care outcomes in their respective communities.

(h) Duplication of services

An eligible entity that is receiving Federal funds for activities described in subsection (b) of this section on the date on which the entity submits an application under subsection (e) of this section may not receive a grant under this section unless the entity can demonstrate that amounts received under the grant will be utilized to expand services or provide new services to individuals who would not otherwise be served.

(i) Coordination with other programs

The Secretary shall ensure coordination of the demonstration grant program under this section with existing authorized programs in order to facilitate access to high-quality health care services.

(j) Study; reports

(1) Final report by Secretary

Not later than 6 months after the completion of the demonstration grant program under this section, the Secretary shall conduct a study of the results of the program and submit to the Congress a report on such results that includes the following:

(A) An evaluation of the program outcomes, including—

(i) quantitative analysis of baseline and benchmark measures; and

(ii) aggregate information about the patients served and program activities.

(B) Recommendations on whether patient navigator programs could be used to improve patient outcomes in other public health areas.

(2) Interim reports by Secretary

The Secretary may provide interim reports to the Congress on the demonstration grant program under this section at such intervals as the Secretary determines to be appropriate.

(3) Reports by grantees

The Secretary may require grant recipients under this section to submit interim and final reports on grant program outcomes.

(k) Rule of construction

This section shall not be construed to authorize funding for the delivery of health care services (other than the patient navigator duties listed in subsection (b) of this section).

(l) Definitions

In this section:

(1) The term "eligible entity" means a public or nonprofit private health center (including a Federally qualified health center (as that term is defined in section 1395x(aa)(4) of this title)), a health facility operated by or pursuant to a contract with the Indian Health Service, a hospital, a cancer center, a rural health clinic, an academic health center, or a nonprofit entity that enters into a partnership or coordinates referrals with such a center, clinic, facility, or hospital to provide patient navigator services.

(2) The term “health disparity population” means a population that, as determined by the Secretary, has a significant disparity in the overall rate of disease incidence, prevalence, morbidity, mortality, or survival rates as compared to the health status of the general population.

(3) The term “patient navigator” means an individual who has completed a training program approved by the Secretary to perform the duties listed in subsection (b) of this section.

(m) Authorization of appropriations

(1) In general

To carry out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 2006, \$5,000,000 for fiscal year 2007, \$8,000,000 for fiscal year 2008, \$6,500,000 for fiscal year 2009, and \$3,500,000 for fiscal year 2010.

(2) Availability

The amounts appropriated pursuant to paragraph (1) shall remain available for obligation through the end of fiscal year 2010.

(July 1, 1944, ch. 373, title III, § 340A, as added Pub. L. 109-18, § 2, June 29, 2005, 119 Stat. 340.)

PRIOR PROVISIONS

A prior section 256a, act July 1, 1944, ch. 373, title III, § 340A, as added Nov. 6, 1990, Pub. L. 101-527, § 3, 104 Stat. 2314; amended Oct. 27, 1992, Pub. L. 102-531, title III, § 309(d), 106 Stat. 3502, related to health services for residents of public housing, prior to repeal by Pub. L. 104-299, §§ 4(a)(3), 5, Oct. 11, 1996, 110 Stat. 3645, effective Oct. 1, 1996.

Another prior section 256a, act July 1, 1944, ch. 373, title III, § 340A, as added Nov. 10, 1978, Pub. L. 95-626, title I, § 106(a), 92 Stat. 3560, related to technical assistance demonstration grants and contracts, prior to repeal by Pub. L. 100-77, title VI, § 601, July 22, 1987, 101 Stat. 511.

SUBPART VII—DRUG PRICING AGREEMENTS

§ 256b. Limitation on prices of drugs purchased by covered entities

(a) Requirements for agreement with Secretary

(1) In general

The Secretary shall enter into an agreement with each manufacturer of covered drugs under which the amount required to be paid (taking into account any rebate or discount, as provided by the Secretary) to the manufacturer for covered drugs (other than drugs described in paragraph (3)) purchased by a covered entity on or after the first day of the first month that begins after November 4, 1992, does not exceed an amount equal to the average manufacturer price for the drug under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] in the preceding calendar quarter, reduced by the rebate percentage described in paragraph (2).

(2) “Rebate percentage” defined

(A) In general

For a covered outpatient drug purchased in a calendar quarter, the “rebate percentage” is the amount (expressed as a percentage) equal to—

(i) the average total rebate required under section 1927(c) of the Social Security

Act [42 U.S.C. 1396r-8(c)] with respect to the drug (for a unit of the dosage form and strength involved) during the preceding calendar quarter; divided by

(ii) the average manufacturer price for such a unit of the drug during such quarter.

(B) Over the counter drugs

(i) In general

For purposes of subparagraph (A), in the case of over the counter drugs, the “rebate percentage” shall be determined as if the rebate required under section 1927(c) of the Social Security Act [42 U.S.C. 1396r-8(c)] is based on the applicable percentage provided under section 1927(c)(4) of such Act.

(ii) “Over the counter drug” defined

The term “over the counter drug” means a drug that may be sold without a prescription and which is prescribed by a physician (or other persons authorized to prescribe such drug under State law).

(3) Drugs provided under State Medicaid plans

Drugs described in this paragraph are drugs purchased by the entity for which payment is made by the State under the State plan for medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(4) “Covered entity” defined

In this section, the term “covered entity” means an entity that meets the requirements described in paragraph (5) and is one of the following:

(A) A Federally-qualified health center (as defined in section 1905(l)(2)(B) of the Social Security Act [42 U.S.C. 1396d(l)(2)(B)]).

(B) An entity receiving a grant under section 256a¹ of this title.

(C) A family planning project receiving a grant or contract under section 300 of this title.

(D) An entity receiving a grant under subpart II¹ of part C of subchapter XXIV of this chapter (relating to categorical grants for outpatient early intervention services for HIV disease).

(E) A State-operated AIDS drug purchasing assistance program receiving financial assistance under subchapter XXIV of this chapter.

(F) A black lung clinic receiving funds under section 937(a) of title 30.

(G) A comprehensive hemophilia diagnostic treatment center receiving a grant under section 501(a)(2) of the Social Security Act [42 U.S.C. 701(a)(2)].

(H) A Native Hawaiian Health Center receiving funds under the Native Hawaiian Health Care Act of 1988.

(I) An urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.].

(J) Any entity receiving assistance under subchapter XXIV of this chapter (other than a State or unit of local government or an entity described in subparagraph (D)), but only

¹ See References in Text note below.

if the entity is certified by the Secretary pursuant to paragraph (7).

(K) An entity receiving funds under section 247c of this title (relating to treatment of sexually transmitted diseases) or section 247b(j)(2)¹ of this title (relating to treatment of tuberculosis) through a State or unit of local government, but only if the entity is certified by the Secretary pursuant to paragraph (7).

(L) A subsection (d) hospital (as defined in section 1886(d)(1)(B) of the Social Security Act [42 U.S.C. 1395ww(d)(1)(B)]) that—

(i) is owned or operated by a unit of State or local government, is a public or private non-profit corporation which is formally granted governmental powers by a unit of State or local government, or is a private non-profit hospital which has a contract with a State or local government to provide health care services to low income individuals who are not entitled to benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or eligible for assistance under the State plan under this subchapter;

(ii) for the most recent cost reporting period that ended before the calendar quarter involved, had a disproportionate share adjustment percentage (as determined under section 1886(d)(5)(F) of the Social Security Act [42 U.S.C. 1395ww(d)(5)(F)]) greater than 11.75 percent or was described in section 1886(d)(5)(F)(i)(II) of such Act [42 U.S.C. 1395ww(d)(5)(F)(i)(II)]; and

(iii) does not obtain covered outpatient drugs through a group purchasing organization or other group purchasing arrangement.

(5) Requirements for covered entities

(A) Prohibiting duplicate discounts or rebates

(i) In general

A covered entity shall not request payment under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for medical assistance described in section 1905(a)(12) of such Act [42 U.S.C. 1396d(a)(12)] with respect to a drug that is subject to an agreement under this section if the drug is subject to the payment of a rebate to the State under section 1927 of such Act [42 U.S.C. 1396r-8].

(ii) Establishment of mechanism

The Secretary shall establish a mechanism to ensure that covered entities comply with clause (i). If the Secretary does not establish a mechanism within 12 months under the previous sentence, the requirements of section 1927(a)(5)(C) of the Social Security Act [42 U.S.C. 1396r-8(a)(5)(C)] shall apply.

(B) Prohibiting resale of drugs

With respect to any covered outpatient drug that is subject to an agreement under this subsection, a covered entity shall not resell or otherwise transfer the drug to a person who is not a patient of the entity.

(C) Auditing

A covered entity shall permit the Secretary and the manufacturer of a covered outpatient drug that is subject to an agreement under this subsection with the entity (acting in accordance with procedures established by the Secretary relating to the number, duration, and scope of audits) to audit at the Secretary's or the manufacturer's expense the records of the entity that directly pertain to the entity's compliance with the requirements described in subparagraphs² (A) or (B) with respect to drugs of the manufacturer.

(D) Additional sanction for noncompliance

If the Secretary finds, after notice and hearing, that a covered entity is in violation of a requirement described in subparagraphs² (A) or (B), the covered entity shall be liable to the manufacturer of the covered outpatient drug that is the subject of the violation in an amount equal to the reduction in the price of the drug (as described in subparagraph (A)) provided under the agreement between the entity and the manufacturer under this paragraph.

(6) Treatment of distinct units of hospitals

In the case of a covered entity that is a distinct part of a hospital, the hospital shall not be considered a covered entity under this paragraph unless the hospital is otherwise a covered entity under this subsection.

(7) Certification of certain covered entities

(A) Development of process

Not later than 60 days after November 4, 1992, the Secretary shall develop and implement a process for the certification of entities described in subparagraphs (J) and (K) of paragraph (4).

(B) Inclusion of purchase information

The process developed under subparagraph (A) shall include a requirement that an entity applying for certification under this paragraph submit information to the Secretary concerning the amount such entity expended for covered outpatient drugs in the preceding year so as to assist the Secretary in evaluating the validity of the entity's subsequent purchases of covered outpatient drugs at discounted prices.

(C) Criteria

The Secretary shall make available to all manufacturers of covered outpatient drugs a description of the criteria for certification under this paragraph.

(D) List of purchasers and dispensers

The certification process developed by the Secretary under subparagraph (A) shall include procedures under which each State shall, not later than 30 days after the submission of the descriptions under subparagraph (C), prepare and submit a report to the Secretary that contains a list of entities described in subparagraphs (J) and (K) of paragraph (4) that are located in the State.

² So in original. Probably should be "subparagraph".

(E) Recertification

The Secretary shall require the recertification of entities certified pursuant to this paragraph on a not more frequent than annual basis, and shall require that such entities submit information to the Secretary to permit the Secretary to evaluate the validity of subsequent purchases by such entities in the same manner as that required under subparagraph (B).

(8) Development of prime vendor program

The Secretary shall establish a prime vendor program under which covered entities may enter into contracts with prime vendors for the distribution of covered outpatient drugs. If a covered entity obtains drugs directly from a manufacturer, the manufacturer shall be responsible for the costs of distribution.

(9) Notice to manufacturers

The Secretary shall notify manufacturers of covered outpatient drugs and single State agencies under section 1902(a)(5) of the Social Security Act [42 U.S.C. 1396a(a)(5)] of the identities of covered entities under this paragraph, and of entities that no longer meet the requirements of paragraph (5) or that are no longer certified pursuant to paragraph (7).

(10) No prohibition on larger discount

Nothing in this subsection shall prohibit a manufacturer from charging a price for a drug that is lower than the maximum price that may be charged under paragraph (1).

(b) Other definitions

In this section, the terms “average manufacturer price”, “covered outpatient drug”, and “manufacturer” have the meaning given such terms in section 1927(k) of the Social Security Act [42 U.S.C. 1396r-8(k)].

(c) References to Social Security Act

Any reference in this section to a provision of the Social Security Act [42 U.S.C. 301 et seq.] shall be deemed to be a reference to the provision as in effect on November 4, 1992.

(d) Compliance with requirements

A manufacturer is deemed to meet the requirements of subsection (a) of this section if the manufacturer establishes to the satisfaction of the Secretary that the manufacturer would comply (and has offered to comply) with the provisions of this section (as in effect immediately after November 4, 1992), as applied by the Secretary, and would have entered into an agreement under this section (as such section was in effect at such time), but for a legislative change in this section (or the application of this section) after November 4, 1992.

(July 1, 1944, ch. 373, title III, §340B, as added Pub. L. 102-585, title VI, §602(a), Nov. 4, 1992, 106 Stat. 4967; amended Pub. L. 103-43, title XX, §2008(i)(1)(A), June 10, 1993, 107 Stat. 212.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (3), (4)(L)(i), (5)(A)(i), and (c), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of this title. Titles XVIII and XIX of the Act are classified generally to sub-

chapters XVIII (§1395 et seq.) and XIX (§1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Section 256a of this title, referred to in subsec. (a)(4)(B), was repealed by Pub. L. 104-299, §4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

Subpart II of part C of subchapter XXIV of this chapter, referred to in subsec. (a)(4)(D), was redesignated subpart I of part C of subchapter XXIV of this chapter by Pub. L. 106-345, title III, §301(b)(1), Oct. 20, 2000, 114 Stat. 1345, and is classified to section 300ff-51 et seq. of this title.

The Native Hawaiian Health Care Act of 1988, referred to in subsec. (a)(4)(H), was Pub. L. 100-579, Oct. 31, 1988, 102 Stat. 2916, and subtitle D of title II of Pub. L. 100-690, Nov. 18, 1988, 102 Stat. 4222, which were classified generally to chapter 122 (§11701 et seq.) of this title prior to being amended generally and renamed the Native Hawaiian Health Care Improvement Act by Pub. L. 102-396. For complete classification of this Act to the Code, see Tables.

The Indian Health Care Improvement Act, referred to in subsec. (a)(4)(I), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400, as amended. Title V of the Act is classified generally to subchapter IV (§1651 et seq.) of chapter 18 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

Section 247b(j)(2) of this title, referred to in subsec. (a)(4)(K), was repealed and section 247b(j)(1)(B) was redesignated section 247b(j)(2) by Pub. L. 103-183, title III, §301(b)(1)(A), (C), Dec. 14, 1993, 107 Stat. 2235.

CODIFICATION

Another section 340B of act July 1, 1944, was renumbered section 340C and is classified to section 256c of this title.

AMENDMENTS

1993—Pub. L. 103-43 made technical amendment to directory language of Pub. L. 102-585, §602(a), which enacted this section.

STUDY OF TREATMENT OF CERTAIN CLINICS AS COVERED ENTITIES ELIGIBLE FOR PRESCRIPTION DRUG DISCOUNTS

Section 602(b) of Pub. L. 102-585 directed Secretary of Health and Human Services to conduct a study of feasibility and desirability of including specified entities receiving funds from a State as covered entities eligible for limitations on prices of covered outpatient drugs under 42 U.S.C. 256b(a) and, not later than 1 year after Nov. 4, 1992, to submit a report to Congress on the study, including in the report a description of the entities that were the subject of the study, an analysis of the extent to which such entities procured prescription drugs, and an analysis of the impact of the inclusion of such entities as covered entities on the quality of care provided to and the health status of the patients of such entities.

SUBPART VIII—BULK PURCHASES OF VACCINES FOR CERTAIN PROGRAMS

AMENDMENTS

1993—Pub. L. 103-43, title XX, §2008(i)(2)(A)(i), June 10, 1993, 107 Stat. 213, made technical amendment relating to placement of subpart VIII within part D of this subchapter.

§256c. Bulk purchases of vaccines for certain programs**(a) Agreements for purchases****(1) In general**

Not later than 180 days after October 27, 1992, the Secretary, acting through the Director of the Centers for Disease Control and Preven-

tion and in consultation with the Administrator of the Health Resources and Services Administration, shall enter into negotiations with manufacturers of vaccines for the purpose of establishing and maintaining agreements under which entities described in paragraph (2) may purchase vaccines from the manufacturers at the prices specified in the agreements.

(2) Relevant entities

The entities referred to in paragraph (1) are entities that provide immunizations against vaccine-preventable diseases with assistance provided under section 254b of this title.

(b) Negotiation of prices

In carrying out subsection (a) of this section, the Secretary shall, to the extent practicable, ensure that the prices provided for in agreements under such subsection are comparable to the prices provided for in agreements negotiated by the Secretary on behalf of grantees under section 247b(j)(1) of this title.

(c) Authority of Secretary

In carrying out subsection (a) of this section, the Secretary, in the discretion of the Secretary, may enter into the agreements described in such subsection (and may decline to enter into such agreements), may modify such agreements, may extend such agreements, and may terminate such agreements.

(d) Rule of construction

This section may not be construed as requiring any State to reduce or terminate the supply of vaccines provided by the State to any of the entities described in subsection (a)(2) of this section.

(July 1, 1944, ch. 373, title III, §340C, formerly §340B, as added Pub. L. 102-531, title III, §305, Oct. 27, 1992, 106 Stat. 3494; renumbered §340C, Pub. L. 103-43, title XX, §2008(i)(2)(A)(ii), June 10, 1993, 107 Stat. 213; amended Pub. L. 104-299, §4(a)(2), Oct. 11, 1996, 110 Stat. 3645.)

AMENDMENTS

1996—Subsec. (a)(2). Pub. L. 104-299 substituted “with assistance provided under section 254b of this title” for “under the programs established in sections 254b, 254c, 256, and 256a of this title.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-299 effective Oct. 1, 1996, see section 5 of Pub. L. 104-299, as amended, set out as a note under section 233 of this title.

§ 256d. Breast and cervical cancer information

(a) In general

As a condition of receiving grants, cooperative agreements, or contracts under this chapter, each of the entities specified in subsection (c) of this section shall, to the extent determined to be appropriate by the Secretary, make available information concerning breast and cervical cancer.

(b) Certain authorities

In carrying out subsection (a) of this section, an entity specified in subsection (c) of this section—

(1) may make the information involved available to such individuals as the entity determines appropriate;

(2) may, as appropriate, provide information under subsection (a) of this section on the need for self-examination of the breasts and on the skills for such self-examinations;

(3) shall provide information under subsection (a) of this section in the language and cultural context most appropriate to the individuals to whom the information is provided; and

(4) shall refer such clients as the entities determine appropriate for breast and cervical cancer screening, treatment, or other appropriate services.

(c) Relevant entities

The entities specified in this subsection are the following:

(1) Entities receiving assistance under section 247b-7¹ of this title (relating to tuberculosis).

(2) Entities receiving assistance under section 247c of this title (relating to sexually transmitted diseases).

(3) Migrant health centers receiving assistance under section 254b¹ of this title.

(4) Community health centers receiving assistance under section 254c¹ of this title.

(5) Entities receiving assistance under section 254b(h) of this title (relating to homeless individuals).

(6) Entities receiving assistance under section 256a¹ of this title (relating to health services for residents of public housing).

(7) Entities providing services with assistance under subchapter III-A of this chapter or subchapter XVII of this chapter.

(8) Entities receiving assistance under section 300 of this title (relating to family planning).

(9) Entities receiving assistance under subchapter XXIV of this chapter (relating to services with respect to acquired immune deficiency syndrome).

(10) Non-Federal entities authorized under the Indian Self-Determination Act [25 U.S.C. 450f et seq.].

(July 1, 1944, ch. 373, title III, §340D, as added Pub. L. 103-183, title I, §104, Dec. 14, 1993, 107 Stat. 2230; amended Pub. L. 106-310, div. A, title XXV, §2502(b), Oct. 17, 2000, 114 Stat. 1163; Pub. L. 107-251, title VI, §601(a), Oct. 26, 2002, 116 Stat. 1664.)

REFERENCES IN TEXT

Section 247b-7 of this title, referred to in subsec. (c)(1), relates to loan repayment program and not to assistance relating to tuberculosis.

Sections 254b and 254c of this title, referred to in subsec. (c)(3), (4), were in the original references to sections 329 and 330, meaning sections 329 and 330 of act July 1, 1944, which were omitted in the general amendment of subpart I (§254b et seq.) of this part by Pub. L. 104-299, §2, Oct. 11, 1996, 110 Stat. 3626. Sections 2 and 3(a) of Pub. L. 104-299 enacted new sections 330 and 330A of act July 1, 1944, which are classified, respectively, to sections 254b and 254c of this title.

Section 256a of this title, referred to in subsec. (c)(6), was repealed by Pub. L. 104-299, §4(a)(3), Oct. 11, 1996, 110 Stat. 3645.

¹ See References in Text note below.

The Indian Self-Determination Act, referred to in subsec. (c)(10), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, as amended, which is classified principally to part A (§450f et seq.) of subchapter II of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

AMENDMENTS

2002—Subsec. (c)(5). Pub. L. 107-251 substituted “254b(h)” for “256”.

2000—Subsec. (c)(1). Pub. L. 106-310 substituted “section 247b-7 of this title” for “section 247b-6 of this title”.

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center, considered reference to health center, see section 4(c) of Pub. L. 104-299, set out as a note under section 254b of this title.

SUBPART IX—SUPPORT OF GRADUATE MEDICAL EDUCATION PROGRAMS IN CHILDREN’S HOSPITALS

§ 256e. Program of payments to children’s hospitals that operate graduate medical education programs

(a) Payments

The Secretary shall make two payments under this section to each children’s hospital for each of fiscal years 2000 through 2005 and each of fiscal years 2007 through 2011, one for the direct expenses and the other for indirect expenses associated with operating approved graduate medical residency training programs. The Secretary shall promulgate regulations pursuant to the rulemaking requirements of title 5 which shall govern payments made under this subpart.

(b) Amount of payments

(1) In general

Subject to paragraphs (2) and (3), the amounts payable under this section to a children’s hospital for an approved graduate medical residency training program for a fiscal year are each of the following amounts:

(A) Direct expense amount

The amount determined under subsection (c) of this section for direct expenses associated with operating approved graduate medical residency training programs.

(B) Indirect expense amount

The amount determined under subsection (d) of this section for indirect expenses associated with the treatment of more severely ill patients and the additional costs relating to teaching residents in such programs.

(2) Capped amount

(A) In general

The total of the payments made to children’s hospitals under paragraph (1)(A) or paragraph (1)(B) in a fiscal year shall not exceed the funds appropriated under paragraph (1) or (2), respectively, of subsection (f) of this section for such payments for that fiscal year.

(B) Pro rata reductions of payments for direct expenses

If the Secretary determines that the amount of funds appropriated under sub-

section (f)(1) of this section for a fiscal year is insufficient to provide the total amount of payments otherwise due for such periods under paragraph (1)(A), the Secretary shall reduce the amounts so payable on a pro rata basis to reflect such shortfall.

(3) Annual reporting required

(A) Reduction in payment for failure to report

(i) In general

The amount payable under this section to a children’s hospital for a fiscal year (beginning with fiscal year 2008 and after taking into account paragraph (2)) shall be reduced by 25 percent if the Secretary determines that—

(I) the hospital has failed to provide the Secretary, as an addendum to the hospital’s application under this section for such fiscal year, the report required under subparagraph (B) for the previous fiscal year; or

(II) such report fails to provide the information required under any clause of such subparagraph.

(ii) Notice and opportunity to provide missing information

Before imposing a reduction under clause (i) on the basis of a hospital’s failure to provide information described in clause (i)(II), the Secretary shall provide notice to the hospital of such failure and the Secretary’s intention to impose such reduction and shall provide the hospital with the opportunity to provide the required information within a period of 30 days beginning on the date of such notice. If the hospital provides such information within such period, no reduction shall be made under clause (i) on the basis of the previous failure to provide such information.

(B) Annual report

The report required under this subparagraph for a children’s hospital for a fiscal year is a report that includes (in a form and manner specified by the Secretary) the following information for the residency academic year completed immediately prior to such fiscal year:

(i) The types of resident training programs that the hospital provided for residents described in subparagraph (C), such as general pediatrics, internal medicine/pediatrics, and pediatric subspecialties, including both medical subspecialties certified by the American Board of Pediatrics (such as pediatric gastroenterology) and non-medical subspecialties approved by other medical certification boards (such as pediatric surgery).

(ii) The number of training positions for residents described in subparagraph (C), the number of such positions recruited to fill, and the number of such positions filled.

(iii) The types of training that the hospital provided for residents described in

subparagraph (C) related to the health care needs of different populations, such as children who are underserved for reasons of family income or geographic location, including rural and urban areas.

(iv) The changes in residency training for residents described in subparagraph (C) which the hospital has made during such residency academic year (except that the first report submitted by the hospital under this subparagraph shall be for such changes since the first year in which the hospital received payment under this section), including—

(I) changes in curricula, training experiences, and types of training programs, and benefits that have resulted from such changes; and

(II) changes for purposes of training the residents in the measurement and improvement of the quality and safety of patient care.

(v) The numbers of residents described in subparagraph (C) who completed their residency training at the end of such residency academic year and care for children within the borders of the service area of the hospital or within the borders of the State in which the hospital is located. Such numbers shall be disaggregated with respect to residents who completed residencies in general pediatrics or internal medicine/pediatrics, subspecialty residencies, and dental residencies.

(C) Residents

The residents described in this subparagraph are those who—

(i) are in full-time equivalent resident training positions in any training program sponsored by the hospital; or

(ii) are in a training program sponsored by an entity other than the hospital, but who spend more than 75 percent of their training time at the hospital.

(D) Report to Congress

Not later than the end of fiscal year 2011, the Secretary, acting through the Administrator of the Health Resources and Services Administration, shall submit a report to the Congress—

(i) summarizing the information submitted in reports to the Secretary under subparagraph (B);

(ii) describing the results of the program carried out under this section; and

(iii) making recommendations for improvements to the program.

(c) Amount of payment for direct graduate medical education

(1) In general

The amount determined under this subsection for payments to a children's hospital for direct graduate expenses relating to approved graduate medical residency training programs for a fiscal year is equal to the product of—

(A) the updated per resident amount for direct graduate medical education, as determined under paragraph (2); and

(B) the average number of full-time equivalent residents in the hospital's graduate approved medical residency training programs (as determined under section 1395ww(h)(4) of this title during the fiscal year.

(2) Updated per resident amount for direct graduate medical education

The updated per resident amount for direct graduate medical education for a hospital for a fiscal year is an amount determined as follows:

(A) Determination of hospital single per resident amount

The Secretary shall compute for each hospital operating an approved graduate medical education program (regardless of whether or not it is a children's hospital) a single per resident amount equal to the average (weighted by number of full-time equivalent residents) of the primary care per resident amount and the non-primary care per resident amount computed under section 1395ww(h)(2) of this title for cost reporting periods ending during fiscal year 1997.

(B) Determination of wage and non-wage-related proportion of the single per resident amount

The Secretary shall estimate the average proportion of the single per resident amounts computed under subparagraph (A) that is attributable to wages and wage-related costs.

(C) Standardizing per resident amounts

The Secretary shall establish a standardized per resident amount for each such hospital—

(i) by dividing the single per resident amount computed under subparagraph (A) into a wage-related portion and a non-wage-related portion by applying the proportion determined under subparagraph (B);

(ii) by dividing the wage-related portion by the factor applied under section 1395ww(d)(3)(E) of this title for discharges occurring during fiscal year 1999 for the hospital's area; and

(iii) by adding the non-wage-related portion to the amount computed under clause (ii).

(D) Determination of national average

The Secretary shall compute a national average per resident amount equal to the average of the standardized per resident amounts computed under subparagraph (C) for such hospitals, with the amount for each hospital weighted by the average number of full-time equivalent residents at such hospital.

(E) Application to individual hospitals

The Secretary shall compute for each such hospital that is a children's hospital a per resident amount—

(i) by dividing the national average per resident amount computed under subparagraph (D) into a wage-related portion and a non-wage-related portion by applying

the proportion determined under subparagraph (B);

(ii) by multiplying the wage-related portion by the factor applied under section 1395ww(d)(3)(E) of this title for discharges occurring during the preceding fiscal year for the hospital's area; and

(iii) by adding the non-wage-related portion to the amount computed under clause (ii).

(F) Updating rate

The Secretary shall update such per resident amount for each such children's hospital by the estimated percentage increase in the consumer price index for all urban consumers during the period beginning October 1997 and ending with the midpoint of the Federal fiscal year for which payments are made.

(d) Amount of payment for indirect medical education

(1) In general

The amount determined under this subsection for payments to a children's hospital for indirect expenses associated with the treatment of more severely ill patients and the additional costs associated with the teaching of residents for a fiscal year is equal to an amount determined appropriate by the Secretary.

(2) Factors

In determining the amount under paragraph (1), the Secretary shall—

(A) take into account variations in case mix among children's hospitals and the ratio of the number of full-time equivalent residents in the hospitals' approved graduate medical residency training programs to beds (but excluding beds or bassinets assigned to healthy newborn infants); and

(B) assure that the aggregate of the payments for indirect expenses associated with the treatment of more severely ill patients and the additional costs related to the teaching of residents under this section in a fiscal year are equal to the amount appropriated for such expenses for the fiscal year involved under subsection (f)(2) of this section.

(e) Making of payments

(1) Interim payments

The Secretary shall determine, before the beginning of each fiscal year involved for which payments may be made for a hospital under this section, the amounts of the payments for direct graduate medical education and indirect medical education for such fiscal year and shall (subject to paragraph (2)) make the payments of such amounts in 12 equal interim installments during such period. Such interim payments to each individual hospital shall be based on the number of residents reported in the hospital's most recently filed Medicare cost report prior to the application date for the Federal fiscal year for which the interim payment amounts are established. In the case of a hospital that does not report residents on a Medicare cost report, such interim

payments shall be based on the number of residents trained during the hospital's most recently completed Medicare cost report filing period.

(2) Withholding

The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1) as necessary to ensure a hospital will not be overpaid on an interim basis.

(3) Reconciliation

Prior to the end of each fiscal year, the Secretary shall determine any changes to the number of residents reported by a hospital in the application of the hospital for the current fiscal year to determine the final amount payable to the hospital for the current fiscal year for both direct expense and indirect expense amounts. Based on such determination, the Secretary shall recoup any overpayments made and pay any balance due to the extent possible. The final amount so determined shall be considered a final intermediary determination for the purposes of section 1395oo of this title and shall be subject to administrative and judicial review under that section in the same manner as the amount of payment under section 1395ww(d)¹ of this title is subject to review under such section.

(f) Authorization of appropriations

(1) Direct graduate medical education

(A) In general

There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection (b)(1)(A) of this section—

(i) for fiscal year 2000, \$90,000,000;

(ii) for fiscal year 2001, \$95,000,000;

(iii) for each of the fiscal years 2002 through 2005, such sums as may be necessary; and

(iv) for each of fiscal years 2007 through 2011, \$110,000,000.

(B) Carryover of excess

The amounts appropriated under subparagraph (A) for fiscal year 2000 shall remain available for obligation through the end of fiscal year 2001.

(2) Indirect medical education

There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, for payments under subsection (b)(1)(B) of this section—

(A) for fiscal year 2000, \$190,000,000;

(B) for fiscal year 2001, \$190,000,000;

(C) for each of the fiscal years 2002 through 2005, such sums as may be necessary; and

(D) for each of fiscal years 2007 through 2011, \$220,000,000.

(g) Definitions

In this section:

(1) Approved graduate medical residency training program

The term "approved graduate medical residency training program" has the meaning

¹ See References in Text note below.

given the term “approved medical residency training program” in section 1395ww(h)(5)(A) of this title.

(2) Children’s hospital

The term “children’s hospital” means a hospital with a Medicare payment agreement and which is excluded from the Medicare inpatient prospective payment system pursuant to section 1395ww(d)(1)(B)(iii) of this title and its accompanying regulations.

(3) Direct graduate medical education costs

The term “direct graduate medical education costs” has the meaning given such term in section 1395ww(h)(5)(C) of this title.

(July 1, 1944, ch. 373, title III, §340E, as added Pub. L. 106-129, §4, Dec. 6, 1999, 113 Stat. 1671; amended Pub. L. 106-310, div. A, title XX, §2001, Oct. 17, 2000, 114 Stat. 1155; Pub. L. 108-490, §1(a), Dec. 23, 2004, 118 Stat. 3972; Pub. L. 109-307, §2, Oct. 6, 2006, 120 Stat. 1721.)

REFERENCES IN TEXT

Section 1395ww(d) of this title, referred to in subsec. (e)(3), was in the original “section 1186(d) of such Act” and was translated as reading “section 1886(d) of such Act”, meaning section 1886(d) of the Social Security Act, to reflect the probable intent of Congress, because the Social Security Act does not contain a section 1186 and section 1395ww(d) of this title relates to review of inpatient hospital service payments.

AMENDMENTS

2006—Subsec. (a). Pub. L. 109-307, §2(a)(1), inserted “and each of fiscal years 2007 through 2011” after “for each of fiscal years 2000 through 2005”.

Subsec. (b)(1). Pub. L. 109-307, §2(b)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)” in introductory provisions.

Subsec. (b)(3). Pub. L. 109-307, §2(b)(2), added par. (3).
Subsec. (c)(2)(E)(ii). Pub. L. 109-307, §2(c)(1), substituted “applied under section 1395ww(d)(3)(E) of this title for discharges occurring during the preceding fiscal year” for “described in subparagraph (C)(ii)”.

Subsec. (e)(1). Pub. L. 109-307, §2(a)(2), substituted “12” for “26”.

Subsec. (e)(2). Pub. L. 109-307, §2(c)(2), struck out first sentence which read as follows: “The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1).”

Subsec. (e)(3). Pub. L. 109-307, §2(c)(3), substituted “made and pay” for “made to pay”.

Subsec. (f)(1)(A)(iv). Pub. L. 109-307, §2(a)(3), added cl. (iv).

Subsec. (f)(2). Pub. L. 109-307, §2(a)(4)(A), substituted “subsection (b)(1)(B)” for “subsection (b)(1)(A)” in introductory provisions.

Subsec. (f)(2)(D). Pub. L. 109-307, §2(a)(4)(B)-(D), added subpar. (D).

2004—Subsec. (d)(1). Pub. L. 108-490, §1(a)(1), substituted “costs associated with” for “costs related to”.

Subsec. (d)(2)(A). Pub. L. 108-490, §1(a)(2), inserted “ratio of the” after “hospitals and the” and “to beds (but excluding beds or bassinets assigned to healthy newborn infants)” before semicolon.

2000—Subsec. (a). Pub. L. 106-310, §2001(a), substituted “2000 through 2005” for “2000 and 2001” and inserted at end “The Secretary shall promulgate regulations pursuant to the rulemaking requirements of title 5 which shall govern payments made under this subpart.”.

Subsec. (c)(2)(F). Pub. L. 106-310, §2001(b), substituted “Federal fiscal year for which payments are made” for “hospital’s cost reporting period that begins during fiscal year 2000”.

Subsec. (e)(1). Pub. L. 106-310, §2001(c), inserted at end “Such interim payments to each individual hospital

shall be based on the number of residents reported in the hospital’s most recently filed Medicare cost report prior to the application date for the Federal fiscal year for which the interim payment amounts are established. In the case of a hospital that does not report residents on a Medicare cost report, such interim payments shall be based on the number of residents trained during the hospital’s most recently completed Medicare cost report filing period.”

Subsec. (e)(2). Pub. L. 106-310, §2001(d), inserted “and indirect” after “interim installment for direct” and inserted at end “The Secretary shall withhold up to 25 percent from each interim installment for direct and indirect graduate medical education paid under paragraph (1) as necessary to ensure a hospital will not be overpaid on an interim basis.”

Subsec. (e)(3). Pub. L. 106-310, §2001(e), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “At the end of each fiscal year for which payments may be made under this section, the hospital shall submit to the Secretary such information as the Secretary determines to be necessary to determine the percent (if any) of the total amount withheld under paragraph (2) that is due under this section for the hospital for the fiscal year. Based on such determination, the Secretary shall recoup any overpayments made, or pay any balance due. The amount so determined shall be considered a final intermediary determination for purposes of applying section 1395oo of this title and shall be subject to review under that section in the same manner as the amount of payment under section 1395ww(d) of this title is subject to review under such section.”

Subsec. (f)(1)(A)(iii). Pub. L. 106-310, §2001(f)(1), added cl. (iii).

Subsec. (f)(2)(C). Pub. L. 106-310, §2001(f)(2), added subpar. (C).

Subsec. (g)(2). Pub. L. 106-310, §2001(g), substituted “with a Medicare payment agreement and which is excluded from the Medicare inpatient prospective payment system pursuant to section 1395ww(d)(1)(B)(iii) of this title and its accompanying regulations” for “described in section 1395ww(d)(1)(B)(iii) of this title”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-490, §1(b), Dec. 23, 2004, 118 Stat. 3972, provided that: “The amendments made by subsection (a) [amending this section] shall apply to payments for periods beginning with fiscal year 2005.”

SUBPART X—PRIMARY DENTAL PROGRAMS

§ 256f. Designated dental health professional shortage area

In this subpart, the term “designated dental health professional shortage area” means an area, population group, or facility that is designated by the Secretary as a dental health professional shortage area under section 254e of this title or designated by the applicable State as having a dental health professional shortage.

(July 1, 1944, ch. 373, title III, §340F, as added Pub. L. 107-251, title IV, §403, Oct. 26, 2002, 116 Stat. 1660.)

§ 256g. Grants for innovative programs

(a) Grant program authorized

The Secretary, acting through the Administrator of the Health Resources and Services Administration, is authorized to award grants to States for the purpose of helping States develop and implement innovative programs to address the dental workforce needs of designated dental health professional shortage areas in a manner that is appropriate to the States’ individual needs.

(b) State activities

A State receiving a grant under subsection (a) of this section may use funds received under the grant for—

(1) loan forgiveness and repayment programs for dentists who—

(A) agree to practice in designated dental health professional shortage areas;

(B) are dental school graduates who agree to serve as public health dentists for the Federal, State, or local government; and

(C) agree to—

(i) provide services to patients regardless of such patients' ability to pay; and

(ii) use a sliding payment scale for patients who are unable to pay the total cost of services;

(2) dental recruitment and retention efforts;

(3) grants and low-interest or no-interest loans to help dentists who participate in the medicaid program under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) to establish or expand practices in designated dental health professional shortage areas by equipping dental offices or sharing in the overhead costs of such practices;

(4) the establishment or expansion of dental residency programs in coordination with accredited dental training institutions in States without dental schools;

(5) programs developed in consultation with State and local dental societies to expand or establish oral health services and facilities in designated dental health professional shortage areas, including services and facilities for children with special needs, such as—

(A) the expansion or establishment of a community-based dental facility, free-standing dental clinic, consolidated health center dental facility, school-linked dental facility, or United States dental school-based facility;

(B) the establishment of a mobile or portable dental clinic; and

(C) the establishment or expansion of private dental services to enhance capacity through additional equipment or additional hours of operation;

(6) placement and support of dental students, dental residents, and advanced dentistry trainees;

(7) continuing dental education, including distance-based education;

(8) practice support through teledentistry conducted in accordance with State laws;

(9) community-based prevention services such as water fluoridation and dental sealant programs;

(10) coordination with local educational agencies within the State to foster programs that promote children going into oral health or science professions;

(11) the establishment of faculty recruitment programs at accredited dental training institutions whose mission includes community outreach and service and that have a demonstrated record of serving underserved States;

(12) the development of a State dental officer position or the augmentation of a State dental

office to coordinate oral health and access issues in the State; and

(13) any other activities determined to be appropriate by the Secretary.

(c) Application**(1) In general**

Each State desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(2) Assurances

The application shall include assurances that the State will meet the requirements of subsection (d) of this section and that the State possesses sufficient infrastructure to manage the activities to be funded through the grant and to evaluate and report on the outcomes resulting from such activities.

(d) Matching requirement

The Secretary may not make a grant to a State under this section unless that State agrees that, with respect to the costs to be incurred by the State in carrying out the activities for which the grant was awarded, the State will provide non-Federal contributions in an amount equal to not less than 40 percent of Federal funds provided under the grant. The State may provide the contributions in cash or in kind, fairly evaluated, including plant, equipment, and services and may provide the contributions from State, local, or private sources.

(e) Report

Not later than 5 years after October 26, 2002, the Secretary shall prepare and submit to the appropriate committees of Congress a report containing data relating to whether grants provided under this section have increased access to dental services in designated dental health professional shortage areas.

(f) Authorization of appropriations

There is authorized to be appropriated to carry out this section, \$50,000,000 for the 5-fiscal year period beginning with fiscal year 2002.

(July 1, 1944, ch. 373, title III, §340G, as added Pub. L. 107-251, title IV, §403, Oct. 26, 2002, 116 Stat. 1661.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(3), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PART E—NARCOTIC ADDICTS AND OTHER DRUG ABUSERS

§257. Repealed. Pub. L. 106-310, div. B, title XXXIV, §3405(a), Oct. 17, 2000, 114 Stat. 1221

Section, acts July 1, 1944, ch. 373, title III, §341, 58 Stat. 698; May 8, 1954, ch. 195, §3, 68 Stat. 80; July 24, 1956, ch. 676, title III, §302(a), 70 Stat. 622; Pub. L. 89-793, title VI, §601, Nov. 8, 1966, 80 Stat. 1449; 1967 Reorg. Plan No. 3, §401, eff. Nov. 3, 1967 (in part), 32 F.R. 11669, 81 Stat. 951; Pub. L. 91-513, title I, §2(a)(1), Oct. 27, 1970, 84 Stat. 1240; Pub. L. 92-255, title IV, §402, Mar. 21, 1972, 86