

§ 1720B. Respite care

(a) The Secretary may furnish respite care services to a veteran who is enrolled to receive care under section 1710 of this title.

(b) For the purpose of this section, the term "respite care services" means care and services which—

(1) are of limited duration;

(2) are furnished on an intermittent basis to a veteran who is suffering from a chronic illness and who resides primarily at home; and

(3) are furnished for the purpose of helping the veteran to continue residing primarily at home.

(c) In furnishing respite care services, the Secretary may enter into contract arrangements.

(Added Pub. L. 99-576, title II, § 201(a)(1), Oct. 28, 1986, 100 Stat. 3254, § 620B; amended Pub. L. 101-237, title II, § 201(a), Dec. 18, 1989, 103 Stat. 2066; renumbered § 1720B and amended Pub. L. 102-83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-585, title V, § 502, Nov. 4, 1992, 106 Stat. 4955; Pub. L. 106-117, title I, § 101(e), Nov. 30, 1999, 113 Stat. 1549.)

AMENDMENTS

1999—Subsec. (a). Pub. L. 106-117, § 101(e)(1), substituted "enrolled" for "eligible".

Subsec. (b). Pub. L. 106-117, § 101(e)(2), in introductory provisions, substituted "the term 'respite care services' means care and services" for "the term 'respite care' means hospital or nursing home care", in par. (1) substituted "are" for "is", in par. (2) substituted "are" for "is" and struck out "in a Department facility" after "furnished", and in par. (3) substituted "are" for "is".

Subsec. (c). Pub. L. 106-117, § 101(e)(3), added subsec. (c).

1992—Subsec. (c). Pub. L. 102-585 struck out subsec. (c) which read as follows: "The authority provided by this section terminates on September 30, 1992."

1991—Pub. L. 102-83, § 5(a), renumbered section 620B of this title as this section.

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

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

Subsec. (b)(2). Pub. L. 102-83, § 4(a)(3), (4), substituted "Department" for "Veterans' Administration".

1989—Subsec. (c). Pub. L. 101-237 substituted "September 30, 1992" for "September 30, 1989".

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING TRANSITION PERIODS

Section 604 of Pub. L. 101-237 ratified actions of the Secretary of Veterans Affairs in carrying out this section, section 115 of Pub. L. 100-322 [38 U.S.C. 1712 note], section 618 of Pub. L. 100-440 [5 U.S.C. 6302 note], or section 1829 [now 3729] of this title, by contract or otherwise, during the period beginning Dec. 1, 1989, and ending Dec. 18, 1989.

Pub. L. 101-110, § 3(b), Oct. 6, 1989, 103 Stat. 682, ratified actions of the Secretary of Veterans Affairs in carrying out this section, section 115 of Pub. L. 100-322 [38 U.S.C. 1712 note], section 618 of Pub. L. 100-440 [5 U.S.C. 6302 note], or section 1829 [now 3729] of this title, by contract or otherwise, during the period beginning Oct. 1, 1989, and ending Oct. 6, 1989.

INTERIM EXTENSION OF RESPITE CARE PROGRAM

Pub. L. 101-110, § 1(a), Oct. 6, 1989, 103 Stat. 682, provided that: "Notwithstanding the provisions of subsection (c) of section 620B [now 1720B] of title 38, United States Code, the authority provided by such section shall terminate on November 30, 1989."

REPORT

Section 201(b) of Pub. L. 99-576 provided that if the Administrator of Veterans' Affairs furnished respite care under this section, the Administrator was to conduct an evaluation of the health efficacy and cost-effectiveness of furnishing such care and submit to the Committees on Veterans' Affairs of the Senate and House of Representatives not later than Feb. 1, 1989, a report containing the results of such evaluation and appropriate recommendations.

§ 1720C. Noninstitutional alternatives to nursing home care

(a) The Secretary may furnish medical, rehabilitative, and health-related services in non-institutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care. The Secretary shall give priority for participation in such program to veterans who—

(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

(2) have a service-connected disability rated at 50 percent or more.

(b)(1) Under the program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

(2) For the purposes of paragraph (1), the term "case management services" includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 1710 of this title during that fiscal year.

(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available.

(Added Pub. L. 101-366, title II, §201(a)(1), Aug. 15, 1990, 104 Stat. 437, §620C; renumbered §1720C and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-452, title I, §103(c), Nov. 2, 1994, 108 Stat. 4786; Pub. L. 104-110, title I, §101(c), Feb. 13, 1996, 110 Stat. 768; Pub. L. 105-114, title II, §206(a)-(b)(2), Nov. 21, 1997, 111 Stat. 2289.)

AMENDMENTS

1997—Pub. L. 105-114, §206(b)(2), struck out “: pilot program” after “home care” in section catchline.

Subsec. (a). Pub. L. 105-114, §206(a), substituted “The Secretary may furnish” for “During the period through December 31, 1997, the Secretary may conduct a pilot program for the furnishing of”.

Subsec. (b)(1). Pub. L. 105-114, §206(b)(1), substituted “Under the program” for “Under the pilot program”.

Subsec. (d). Pub. L. 105-114, §206(b)(1), substituted “under the program” for “under the pilot program”.

1996—Subsec. (a). Pub. L. 104-110 substituted “December 31, 1997” for “September 30, 1995” in introductory provisions.

1994—Subsec. (a). Pub. L. 103-452, in introductory provisions, substituted “During the period through September 30, 1995,” for “During the four-year period beginning on October 1, 1990,” and “care. The Secretary shall give priority for participation in such program to veterans who” for “care and who”.

1991—Pub. L. 102-83, §5(a), renumbered section 620C of this title as this section.

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted “1710” for “610”.

EFFECTIVE DATE OF 1994 AMENDMENT

Section 103(c)(1) of Pub. L. 103-452 provided that the amendment made by that section is effective Oct. 1, 1994.

RATIFICATION OF ACTIONS DURING PERIOD OF EXPIRED AUTHORITY

Any action taken by Secretary of Veterans Affairs before Feb. 13, 1996, under provision of law amended by title I of Pub. L. 104-110 that was taken during period beginning on date on which authority of Secretary under such provision of law expired and ending on Feb. 13, 1996, considered to have same force and effect as if such amendment had been in effect at time of that action, see section 103 of Pub. L. 104-110, set out as a note under section 1710 of this title.

REPORT TO CONGRESSIONAL COMMITTEES

Section 201(b) of Pub. L. 101-366, as amended by Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-452, title I, §103(g), Nov. 2, 1994, 108 Stat. 4787, provided that: “Not later than February 1, 1995, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 1720C [formerly 620C] of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.”

§ 1720D. Counseling and treatment for sexual trauma

(a)(1) The Secretary shall operate a program under which the Secretary provides counseling and appropriate care and services to veterans who the Secretary determines require such counseling and care and services to overcome psychological trauma, which in the judgment of a mental health professional employed by the Department, resulted from a physical assault of a sexual nature, battery of a sexual nature, or sexual harassment which occurred while the veteran was serving on active duty or active duty for training.

(2) In furnishing counseling to a veteran under this subsection, the Secretary may provide such counseling pursuant to a contract with a qualified mental health professional if (A) in the judgment of a mental health professional employed by the Department, the receipt of counseling by that veteran in facilities of the Department would be clinically inadvisable, or (B) Department facilities are not capable of furnishing such counseling to that veteran economically because of geographical inaccessibility.

(b)(1) The Secretary shall give priority to the establishment and operation of the program to provide counseling and care and services under subsection (a). In the case of a veteran eligible for counseling and care and services under subsection (a), the Secretary shall ensure that the veteran is furnished counseling and care and services under this section in a way that is coordinated with the furnishing of such care and services under this chapter.

(2) In establishing a program to provide counseling under subsection (a), the Secretary shall—

(A) provide for appropriate training of mental health professionals and such other health care personnel as the Secretary determines necessary to carry out the program effectively;

(B) seek to ensure that such counseling is furnished in a setting that is therapeutically appropriate, taking into account the circumstances that resulted in the need for such counseling; and

(C) provide referral services to assist veterans who are not eligible for services under this chapter to obtain those from sources outside the Department.

(c) The Secretary shall provide information on the counseling and treatment available to veterans under this section. Efforts by the Secretary to provide such information—

(1) shall include availability of a toll-free telephone number (commonly referred to as an 800 number);

(2) shall ensure that information about the counseling and treatment available to veterans under this section—

(A) is revised and updated as appropriate;

(B) is made available and visibly posted at appropriate facilities of the Department; and

(C) is made available through appropriate public information services; and

(3) shall include coordination with the Secretary of Defense seeking to ensure that individuals who are being separated from active