ical requirements and limitations, for patients or residents of the facility who are receiving care or services and who desire to smoke tobacco products.

''(b) COVERED FACILITIES.—A Department facility referred to in subsection (a) is any Department of Veterans Affairs medical center, nursing home, or domiciliary care facility.

''(c) REPORTS.—(1) Not later than 180 days after the date of the enactment of this Act [Nov. 4, 1992], the Comptroller General shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the feasibility of the establishment and maintenance of areas for smoking in Department facilities under this section. The report shall include information on—

''(A) the cost of, and a proposed schedule for, the establishment of such an area at each Department facility covered by this section;

''(B) the extent to which the ventilating system of each facility is adequate to ensure that use of the area for smoking does not result in health problems for other patients or residents of the facility; and

''(C) the effect of the establishment and maintenance of an area for smoking in each facility on the accreditation score issued for the facility by the Joint Commission on the Accreditation of Health Organizations.

''(2) Not later than 120 days after the effective date of this section, the Secretary shall submit to the committees referred to in paragraph (1) a report on the implementation of this section. The report shall include a description of the actions taken at each covered facility to ensure compliance with this section.

''(d) EFFECTIVE DATE.—The requirement to establish and maintain areas for smoking under subsection (a) shall take effect 60 days after the date on which the Comptroller General submits to the committees referred to in subsection (c)(1) that report required under that subsection.''

## § 1716. Hospital care by other agencies of the United States

When so specified in an appropriation or other Act, the Secretary may make allotments and transfers to the Departments of Health and Human Services (Public Health Service), the Army, Navy, Air Force, or Interior, for disbursement by them under the various headings of their appropriations, of such amounts as are necessary for the care and treatment of veterans entitled to hospitalization from the Department under this chapter. The amounts to be charged the Department for care and treatment of veterans in hospitals shall be calculated on the basis of a per diem rate approved by the Office of Management and Budget.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, § 616; Pub. L. 94–581, title II, § 202(g), Oct. 21, 1976, 90 Stat. 2856; Pub. L. 97–295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; renumbered § 1716 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 616 of this title as this section.

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

Pub. L. 102–83, § 4(a)(3), (4), substituted ''Department'' for ''Veterans' Administration'' in two places.

1982—Pub. L. 97–295 substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1976—Pub. L. 94–581 substituted ''Office of Management and Budget'' for ''Bureau of the Budget''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–581 effective Oct. 21, 1976, see section 211 of Pub. L. 94–581, set out as a note under section 111 of this title.

## § 1717. Home health services; invalid lifts and other devices

(a)(1) As part of medical services furnished to a veteran under section 1710(a) of this title, the Secretary may furnish such home health services as the Secretary finds to be necessary or appropriate for the effective and economical treatment of the veteran.

(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

(A) in the case of medical services furnished under section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title—

(i) in the case of a veteran who first applies for benefits under this paragraph before May 5, 2010, $4,100; or

(ii) in the case of a veteran who first applies for benefits under this paragraph on or after May 5, 2010, $6,800; and

(B) in the case of medical services furnished under any other provision of section 1710(a) of this title—

(i) in the case of a veteran who first applies for benefits under this paragraph before May 5, 2010, $1,200; or

(ii) in the case of a veteran who first applies for benefits under this paragraph on or after May 5, 2010, $2,000.

(3) The Secretary may furnish home health services to a veteran in any setting in which the veteran is residing. The Secretary may not furnish such services in such a manner as to relieve any other person or entity of a contractual obligation to furnish services to the veteran. When home health services are furnished in a setting other than the veteran's home, such services may not include any structural improvement or alteration.

(b) The Secretary may furnish an invalid lift, or any type of therapeutic or rehabilitative device, as well as other medical equipment and supplies (excluding medicines), if medically indicated, to any veteran who is receiving (1) compensation under section 1114(*l*)–(p) of this title (or the comparable rates provided pursuant to section 1134 of this title), or (2) pension under chapter 15 of this title by reason of being in need of regular aid and attendance.

(c) The Secretary may furnish devices for assisting in overcoming the handicap of deafness (including telecaptioning television decoders) to any veteran who is profoundly deaf and is entitled to compensation on account of hearing impairment.

(d)(1) In the case of a member of the Armed Forces who, as determined by the Secretary, has a disability permanent in nature incurred or ag-

gravated in the line of duty in the active military, naval, or air service, the Secretary may furnish improvements and structural alterations for such member for such disability or as otherwise described in subsection (a)(2) while such member is hospitalized or receiving outpatient medical care, services, or treatment for such disability if the Secretary determines that such member is likely to be discharged or released from the Armed Forces for such disability.

(2) The furnishing of improvements and alterations under paragraph (1) in connection with the furnishing of medical services described in subparagraph (A) or (B) of subsection (a)(2) shall be subject to the limitation specified in the applicable subparagraph.

(Added Pub. L. 86–211, § 5, Aug. 29, 1959, 73 Stat. 435, § 617; amended Pub. L. 88–450, § 6(a), (c), Aug. 19, 1964, 78 Stat. 504; Pub. L. 90–77, title I, § 109, Aug. 31, 1967, 81 Stat. 180; Pub. L. 90–493, § 3(a), Aug. 19, 1968, 82 Stat. 809; Pub. L. 97–295, § 4(18), Oct. 12, 1982, 96 Stat. 1306; Pub. L. 98–528, title I, § 107, Oct. 19, 1984, 98 Stat. 2690; Pub. L. 99–576, title II, § 202(2), Oct. 28, 1986, 100 Stat. 3254; Pub. L. 100–322, title I, § 101(d), May 20, 1988, 102 Stat. 491; renumbered § 1717 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–405, title I, § 101(a), Oct. 9, 1992, 106 Stat. 1973; Pub. L. 104–262, title I, § 101(d)(6), Oct. 9, 1996, 110 Stat. 3180; Pub. L. 105–114, title IV, § 402(b), Nov. 21, 1997, 111 Stat. 2294; Pub. L. 110–289, div. B, title VI, § 2601, July 30, 2008, 122 Stat. 2858; Pub. L. 111–163, title V, § 516(a), May 5, 2010, 124 Stat. 1166; Pub. L. 111–275, title X, § 1001(c)(1), Oct. 13, 2010, 124 Stat. 2896.)

AMENDMENTS

2010—Subsec. (a)(2)(A), (B). Pub. L. 111–275 substituted ''May 5, 2010'' for ''the date of the Caregivers and Veterans Omnibus Health Services Act of 2010'' wherever appearing.

Pub. L. 111–163 added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

''(A) $4,100 in the case of medical services furnished under section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title; or

''(B) $1,200 in the case of medical services furnished under any other provision of section 1710(a) of this title.''

2008—Subsec. (d). Pub. L. 110–289 added subsec. (d).

1997—Subsec. (a)(1). Pub. L. 105–114, § 402(b)(1), substituted ''treatment of the veteran'' for ''treatment of the veteran's disability''.

Subsec. (a)(2)(B). Pub. L. 105–114, § 402(b)(2), substituted ''section 1710(a)'' for ''section 1710(a)(2)''.

1996—Subsec. (a)(1). Pub. L. 104–262, § 101(d)(6)(A), substituted ''section 1710(a)'' for ''section 1712(a)''.

Subsec. (a)(2)(A). Pub. L. 104–262, § 101(d)(6)(B)(i), substituted ''section 1710(a)(1) of this title, or for a disability described in section 1710(a)(2)(C) of this title'' for ''paragraph (1) of section 1712(a) of this title''.

Subsec. (a)(2)(B). Pub. L. 104–262, § 101(d)(6)(B)(ii), substituted ''section 1710(a)(2)'' for ''section 1712''.

1992—Subsec. (a)(2). Pub. L. 102–405 substituted ''$4,100'' for ''$2,500'' in subpar. (A) and ''$1,200'' for ''$600'' in subpar. (B).

1991—Pub. L. 102–83, § 5(a), renumbered section 617 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1712(a)'' for ''612(a)'' in pars. (1) and (2)(A) and ''1712'' for ''612'' in par. (2)(B).

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing in pars. (1) and (3).

Subsec. (b). Pub. L. 102–83, § 5(c)(1), substituted ''1114(*l*)–(p)'' for ''314(*l*)–(p)'' and ''1134'' for ''334''.

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

Subsec. (c). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Pub. L. 100–322, § 101(d)(3), substituted ''Home health services; invalid'' for ''Invalid'' in section catchline.

Subsec. (a). Pub. L. 100–322, § 101(d)(1)(B), added subsec. (a). Former subsec. (a) redesignated (b).

Subsec. (a)(3). Pub. L. 100–322, § 101(d)(2), transferred subsec. (k) of section 612 of this title to subsec. (a) of this section and redesignated it as par. (3).

Subsecs. (b), (c). Pub. L. 100–322, § 101(d)(1)(A), redesignated subsecs. (a) and (b) as (b) and (c), respectively.

1986—Subsec. (a)(3) [formerly § 612(k)]. Pub. L. 99–576 added subsec. (k). See 1988 Amendment note above.

1984—Pub. L. 98–528 designated existing provision as subsec. (a) and added subsec. (b).

1982—Pub. L. 97–295 substituted ''section 314(*l*)–(p) of this title (or the comparable rates provided pursuant to section 334 of this title)'' for ''subsections 314(*l*)–(p) (or the comparable rates provided pursuant to section 334) of this title''.

1968—Pub. L. 90–493 substituted ''Invalid lifts and other devices'' for ''Invalid lifts and other devices for pensioners'' in section catchline, and inserted provisions authorizing the Administrator to furnish lifts and other devices to any veteran who is receiving compensation under subsections 314(*l*)–(p) (or the comparable rates provided pursuant to section 334) of this title.

1967—Subsec. (b). Pub. L. 90–77 substituted ''to any veteran in receipt of pension under chapter 15 of this title based on need of regular aid and attendance'' for ''to any veteran who is eligible to receive an invalid lift under subsection (a) of this section, or who would be so eligible, but for the fact that he has such a lift''.

1964—Pub. L. 88–450 inserted ''and other devices'' in section catchline, designated existing provisions of section as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Section 101(b) of Pub. L. 102–405 provided that: ''The amendments made by subsection (a) [amending this section] shall apply with respect to a veteran who first applies for benefits under section 1717(a)(2) of title 38, United States Code, after December 31, 1989.''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–322 applicable with respect to furnishing of medical services to veterans who apply for such services after June 30, 1988, see section 101(i) of Pub. L. 100–322, set out as a note under section 1703 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

EFFECTIVE DATE

Section effective July 1, 1960, see section 10 of Pub. L. 86–211, set out as an Effective Date of 1959 Amendment note under section 1521 of this title.

APPLICABILITY OF INCREASE IN GRANT LIMITS

Pub. L. 111–163, title V, § 516(b), May 5, 2010, 124 Stat. 1167, provided that: ''A veteran who exhausts such veteran's eligibility for benefits under section 1717(a)(2) of such title [probably means 38 U.S.C. 1717(a)(2)] before the date of the enactment of this Act [May 5, 2010], is not entitled to additional benefits under such section by reason of the amendments made by subsection (a) [amending this section].''

Section 101(c) of Pub. L. 102–405 provided that: ''A veteran who exhausts such veteran's eligibility for ben-

efits under section 1717(a)(2) of title 38, United States Code, before January 1, 1990, is not entitled to additional benefits under such section by reason of the amendments made by subsection (a) [amending this section].''

**§ 1718. Therapeutic and rehabilitative activities**

(a) In providing rehabilitative services under this chapter, the Secretary, upon the recommendation of the Under Secretary for Health, may use the services of patients and members in Department health care facilities for therapeutic and rehabilitative purposes. Such patients and members shall not under these circumstances be held or considered as employees of the United States for any purpose. The Secretary shall prescribe the conditions for the use of such services.

(b)(1) In furnishing rehabilitative services under this chapter, the Secretary, upon the recommendation of the Under Secretary for Health, may enter into a contract or other arrangement with any appropriate source (whether or not an element of the Department of Veterans Affairs or of any other Federal entity) to provide for therapeutic work for patients and members in Department health care facilities.

(2) Notwithstanding any other provision of law, the Secretary may also furnish rehabilitative services under this subsection through contractual arrangements with nonprofit entities to provide for such therapeutic work for such patients. The Secretary shall establish appropriate fiscal, accounting, management, recordkeeping, and reporting requirements with respect to the activities of any such nonprofit entity in connection with such contractual arrangements.

(c)(1) There is hereby established in the Treasury of the United States a revolving fund known as the Department of Veterans Affairs Special Therapeutic and Rehabilitation Activities Fund (hereinafter in this section referred to as the ''fund'') for the purpose of furnishing rehabilitative services authorized in subsection (b) or (d). Such amounts of the fund as the Secretary may determine to be necessary to establish and maintain operating accounts for the various rehabilitative services activities may be deposited in checking accounts in other depositaries selected or established by the Secretary.

(2) All funds received by the Department under contractual arrangements made under subsection (b) or (d), or by nonprofit entities described in subsection (b)(2), shall be deposited in or credited to the fund, and the Secretary shall distribute out of the fund moneys to participants at rates not less than the wage rates specified in the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.) and regulations prescribed thereunder for work of similar character.

(3) The Under Secretary for Health shall prepare, for inclusion in the annual report submitted to Congress under section 529 of this title, a description of the scope and achievements of activities carried out under this section (including pertinent data regarding productivity and rates of distribution) during the prior twelve months and an estimate of the needs of the program of therapeutic and rehabilitation activities to be carried out under this section for the ensuing fiscal year.

(d) In providing to a veteran rehabilitative services under this chapter, the Secretary may furnish the veteran with the following:

(1) Work skills training and development services.

(2) Employment support services.

(3) Job development and placement services.

(e) In providing rehabilitative services under this chapter, the Secretary shall take appropriate action to make it possible for the patient to take maximum advantage of any benefits to which such patient is entitled under chapter 31, 34, or 35 of this title, and, if the patient is still receiving treatment of a prolonged nature under this chapter, the provision of rehabilitative services under this chapter shall be continued during, and coordinated with, the pursuit of education and training under such chapter 31, 34, or 35.

(f) The Secretary shall prescribe regulations to ensure that the priorities set forth in section 1705 of this title shall be applied, insofar as practicable, to participation in therapeutic and rehabilitation activities carried out under this section.

(g)(1) The Secretary may not consider any of the matters stated in paragraph (2) as a basis for the denial or discontinuance of a rating of total disability for purposes of compensation or pension based on the veteran's inability to secure or follow a substantially gainful occupation as a result of disability.

(2) Paragraph (1) applies to the following:

(A) A veteran's participation in an activity carried out under this section.

(B) A veteran's receipt of a distribution as a result of participation in an activity carried out under this section.

(C) A veteran's participation in a program of rehabilitative services that (i) is provided as part of the veteran's care furnished by a State home and (ii) is approved by the Secretary as conforming appropriately to standards for activities carried out under this section.

(D) A veteran's receipt of payment as a result of participation in a program described in subparagraph (C).

(3) A distribution of funds made under this section and a payment made to a veteran under a program of rehabilitative services described in paragraph (2)(C) shall be considered for the purposes of chapter 15 of this title to be a donation from a public or private relief or welfare organization.

(Added Pub. L. 87–574, § 2(1), Aug. 6, 1962, 76 Stat. 308, § 618; amended Pub. L. 94–581, title I, § 105(a), Oct. 21, 1976, 90 Stat. 2845; Pub. L. 98–543, title III, § 303, Oct. 24, 1984, 98 Stat. 2748; Pub. L. 99–576, title II, § 205, Oct. 28, 1986, 100 Stat. 3256; Pub. L. 102–54, §§ 10, 14(b)(12), June 13, 1991, 105 Stat. 273, 284; renumbered § 1718 and amended Pub. L. 102–83, §§ 2(c)(3), 4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 402, 404–406; Pub. L. 102–86, title V, § 506(a)(1), Aug. 14, 1991, 105 Stat. 426; Pub. L. 102–405, title III, § 302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 102–585, title IV, § 401, Nov. 4, 1992, 106 Stat. 4953; Pub. L. 103–446, title XII, § 1201(i)(1), Nov. 2, 1994, 108 Stat. 4688; Pub. L. 104–262, title I, § 101(d)(7), Oct. 9, 1996, 110 Stat. 3180; Pub. L. 108–170, title I,