(f) SEXUAL TRAUMA RESEARCH.—In carrying out the comprehensive program, the Secretary shall provide for research on mental health care for veterans who have experienced sexual trauma while in military service. The research design shall include consideration of veterans of a reserve component.

(g) 24-HOUR MENTAL HEALTH CARE.—In carrying out the comprehensive program, the Secretary shall provide for mental health care availability to veterans on a 24-hour basis.

(h) HOTLINE.—In carrying out the comprehensive program, the Secretary may provide for a toll-free hotline for veterans to be staffed by appropriately trained mental health personnel and available at all times.

(i) OUTREACH AND EDUCATION FOR VETERANS AND FAMILIES.—In carrying out the comprehensive program, the Secretary shall provide for outreach to and education for veterans and the families of veterans, with special emphasis on providing information to veterans of Operation Iraqi Freedom and Operation Enduring Freedom and the families of such veterans. Education to promote mental health shall include information designed to—

(1) remove the stigma associated with mental illness;

(2) encourage veterans to seek treatment and assistance for mental illness;

(3) promote skills for coping with mental illness; and

(4) help families of veterans with—

(A) understanding issues arising from the readjustment of veterans to civilian life;

(B) identifying signs and symptoms of mental illness; and

(C) encouraging veterans to seek assistance for mental illness.

(j) PEER SUPPORT COUNSELING PROGRAM.—(1) In carrying out the comprehensive program, the Secretary may establish and carry out a peer support counseling program, under which veterans shall be permitted to volunteer as peer counselors—

(A) to assist other veterans with issues related to mental health and readjustment; and

(B) to conduct outreach to veterans and the families of veterans.

(2) In carrying out the peer support counseling program under this subsection, the Secretary shall provide adequate training for peer counselors.

(k) OTHER COMPONENTS.—In carrying out the comprehensive program, the Secretary may provide for other actions to reduce the incidence of suicide among veterans that the Secretary considers appropriate.

(Added Pub. L. 110–110, § 3(a)(1), Nov. 5, 2007, 121 Stat. 1031.)

CODIFICATION

Section 3(a)(1) of Pub. L. 110–110, which directed that this section be added at the end of this chapter, was executed by adding this section at the end of this subchapter, to reflect the probable intent of Congress.

SENSE OF CONGRESS

Pub. L. 110–110, § 2, Nov. 5, 2007, 121 Stat. 1031, provided that: ''It is the sense of Congress that—

''(1) suicide among veterans suffering from post-traumatic stress disorder (in this section referred to as 'PTSD') is a serious problem; and

''(2) the Secretary of Veterans Affairs should take into consideration the special needs of veterans suffering from PTSD and the special needs of elderly veterans who are at high risk for depression and experience high rates of suicide in developing and implementing the comprehensive program under this Act [enacting this section and provisions set out as a note under section 101 of this title].''

§ 1720G. Assistance and support services for caregivers

(a) PROGRAM OF COMPREHENSIVE ASSISTANCE FOR FAMILY CAREGIVERS.—(1)(A) The Secretary shall establish a program of comprehensive assistance for family caregivers of eligible veterans.

(B) The Secretary shall only provide support under the program required by subparagraph (A) to a family caregiver of an eligible veteran if the Secretary determines it is in the best interest of the eligible veteran to do so.

(2) For purposes of this subsection, an eligible veteran is any individual who—

(A) is a veteran or member of the Armed Forces undergoing medical discharge from the Armed Forces;

(B) has a serious injury (including traumatic brain injury, psychological trauma, or other mental disorder) incurred or aggravated in the line of duty in the active military, naval, or air service on or after September 11, 2001; and

(C) is in need of personal care services because of—

(i) an inability to perform one or more activities of daily living;

(ii) a need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury; or

(iii) such other matters as the Secretary considers appropriate.

(3)(A) As part of the program required by paragraph (1), the Secretary shall provide to family caregivers of eligible veterans the following assistance:

(i) To each family caregiver who is approved as a provider of personal care services for an eligible veteran under paragraph (6)—

(I) such instruction, preparation, and training as the Secretary considers appropriate for the family caregiver to provide personal care services to the eligible veteran;

(II) ongoing technical support consisting of information and assistance to address, in a timely manner, the routine, emergency, and specialized caregiving needs of the family caregiver in providing personal care services to the eligible veteran;

(III) counseling; and

(IV) lodging and subsistence under section 111(e) of this title.

(ii) To each family caregiver who is designated as the primary provider of personal care services for an eligible veteran under paragraph (7)—

(I) the assistance described in clause (i);

(II) such mental health services as the Secretary determines appropriate;

(III) respite care of not less than 30 days annually, including 24-hour per day care of the veteran commensurate with the care provided by the family caregiver to permit extended respite;

(IV) medical care under section 1781 of this title; and

(V) a monthly personal caregiver stipend.

(B) Respite care provided under subparagraph (A)(ii)(III) shall be medically and age-appropriate and include in-home care.

(C)(i) The amount of the monthly personal caregiver stipend provided under subparagraph (A)(ii)(V) shall be determined in accordance with a schedule established by the Secretary that specifies stipends based upon the amount and degree of personal care services provided.

(ii) The Secretary shall ensure, to the extent practicable, that the schedule required by clause (i) specifies that the amount of the monthly personal caregiver stipend provided to a primary provider of personal care services for the provision of personal care services to an eligible veteran is not less than the monthly amount a commercial home health care entity would pay an individual in the geographic area of the eligible veteran to provide equivalent personal care services to the eligible veteran.

(iii) If personal care services are not available from a commercial home health entity in the geographic area of an eligible veteran, the amount of the monthly personal caregiver stipend payable under the schedule required by clause (i) with respect to the eligible veteran shall be determined by taking into consideration the costs of commercial providers of personal care services in providing personal care services in geographic areas other than the geographic area of the eligible veteran with similar costs of living.

(4) An eligible veteran and a family member of the eligible veteran seeking to participate in the program required by paragraph (1) shall jointly submit to the Secretary an application therefor in such form and in such manner as the Secretary considers appropriate.

(5) For each application submitted jointly by an eligible veteran and family member, the Secretary shall evaluate—

(A) the eligible veteran—

(i) to identify the personal care services required by the eligible veteran; and

(ii) to determine whether such requirements could be significantly or substantially satisfied through the provision of personal care services from a family member; and

(B) the family member to determine the amount of instruction, preparation, and training, if any, the family member requires to provide the personal care services required by the eligible veteran—

(i) as a provider of personal care services for the eligible veteran; and

(ii) as the primary provider of personal care services for the eligible veteran.

(6)(A) The Secretary shall provide each family member of an eligible veteran who makes a joint application under paragraph (4) the instruction, preparation, and training determined to be required by such family member under paragraph (5)(B).

(B) Upon the successful completion by a family member of an eligible veteran of instruction, preparation, and training under subparagraph (A), the Secretary shall approve the family member as a provider of personal care services for the eligible veteran.

(C) The Secretary shall, subject to regulations the Secretary shall prescribe, provide for necessary travel, lodging, and per diem expenses incurred by a family member of an eligible veteran in undergoing instruction, preparation, and training under subparagraph (A).

(D) If the participation of a family member of an eligible veteran in instruction, preparation, and training under subparagraph (A) would interfere with the provision of personal care services to the eligible veteran, the Secretary shall, subject to regulations as the Secretary shall prescribe and in consultation with the veteran, provide respite care to the eligible veteran during the provision of such instruction, preparation, and training to the family member so that the family member can participate in such instruction, preparation, and training without interfering with the provision of such services to the eligible veteran.

(7)(A) For each eligible veteran with at least one family member who is described by subparagraph (B), the Secretary shall designate one family member of such eligible veteran as the primary provider of personal care services for such eligible veteran.

(B) A primary provider of personal care services designated for an eligible veteran under subparagraph (A) shall be selected from among family members of the eligible veteran who—

(i) are approved under paragraph (6) as a provider of personal care services for the eligible veteran;

(ii) elect to provide the personal care services to the eligible veteran that the Secretary determines the eligible veteran requires under paragraph (5)(A)(i);

(iii) has[1] the consent of the eligible veteran to be the primary provider of personal care services for the eligible veteran; and

(iv) are considered by the Secretary as competent to be the primary provider of personal care services for the eligible veteran.

(C) An eligible veteran receiving personal care services from a family member designated as the primary provider of personal care services for the eligible veteran under subparagraph (A) may, in accordance with procedures the Secretary shall establish for such purposes, revoke consent with respect to such family member under subparagraph (B)(iii).

(D) If a family member designated as the primary provider of personal care services for an eligible veteran under subparagraph (A) subsequently fails to meet any requirement set forth in subparagraph (B), the Secretary—

(i) shall immediately revoke the family member's designation under subparagraph (A); and

(ii) may designate, in consultation with the eligible veteran, a new primary provider of personal care services for the eligible veteran under such subparagraph.

[1] So in original. Probably should be ''have''.

(E) The Secretary shall take such actions as may be necessary to ensure that the revocation of a designation under subparagraph (A) with respect to an eligible veteran does not interfere with the provision of personal care services required by the eligible veteran.

(8) If an eligible veteran lacks the capacity to make a decision under this subsection, the Secretary may, in accordance with regulations and policies of the Department regarding appointment of guardians or the use of powers of attorney, appoint a surrogate for the eligible veteran who may make decisions and take action under this subsection on behalf of the eligible veteran.

(9)(A) The Secretary shall monitor the well-being of each eligible veteran receiving personal care services under the program required by paragraph (1).

(B) The Secretary shall document each finding the Secretary considers pertinent to the appropriate delivery of personal care services to an eligible veteran under the program.

(C) The Secretary shall establish procedures to ensure appropriate follow-up regarding findings described in subparagraph (B). Such procedures may include the following:

(i) Visiting an eligible veteran in the eligible veteran's home to review directly the quality of personal care services provided to the eligible veteran.

(ii) Taking such corrective action with respect to the findings of any review of the quality of personal care services provided an eligible veteran as the Secretary considers appropriate, which may include—

(I) providing additional training to a family caregiver; and

(II) suspending or revoking the approval of a family caregiver under paragraph (6) or the designation of a family caregiver under paragraph (7).

(10) The Secretary shall carry out outreach to inform eligible veterans and family members of eligible veterans of the program required by paragraph (1) and the benefits of participating in the program.

(b) PROGRAM OF GENERAL CAREGIVER SUPPORT SERVICES.—(1) The Secretary shall establish a program of support services for caregivers of covered veterans who are enrolled in the health care system established under section 1705(a) of this title (including caregivers who do not reside with such veterans).

(2) For purposes of this subsection, a covered veteran is any individual who needs personal care services because of—

(A) an inability to perform one or more activities of daily living;

(B) a need for supervision or protection based on symptoms or residuals of neurological or other impairment or injury; or

(C) such other matters as the Secretary shall specify.

(3)(A) The support services furnished to caregivers of covered veterans under the program required by paragraph (1) shall include the following:

(i) Services regarding the administering of personal care services, which, subject to subparagraph (B), shall include—

(I) educational sessions made available both in person and on an Internet website;

(II) use of telehealth and other available technologies; and

(III) teaching techniques, strategies, and skills for caring for a disabled veteran;

(ii) Counseling and other services under section 1782 of this title.

(iii) Respite care under section 1720B of this title that is medically and age appropriate for the veteran (including 24-hour per day in-home care).

(iv) Information concerning the supportive services available to caregivers under this subsection and other public, private, and nonprofit agencies that offer support to caregivers.

(B) If the Secretary certifies to the Committees on Veterans' Affairs of the Senate and the House of Representatives that funding available for a fiscal year is insufficient to fund the provision of services specified in one or more subclauses of subparagraph (A)(i), the Secretary shall not be required under subparagraph (A) to provide the services so specified in the certification during the period beginning on the date that is 180 days after the date the certification is received by the Committees and ending on the last day of the fiscal year.

(4) In providing information under paragraph (3)(A)(iv), the Secretary shall collaborate with the Assistant Secretary for Aging of the Department of Health and Human Services in order to provide caregivers access to aging and disability resource centers under the Administration on Aging of the Department of Health and Human Services.

(5) In carrying out the program required by paragraph (1), the Secretary shall conduct outreach to inform covered veterans and caregivers of covered veterans about the program. The outreach shall include an emphasis on covered veterans and caregivers of covered veterans living in rural areas.

(c) CONSTRUCTION.—(1) A decision by the Secretary under this section affecting the furnishing of assistance or support shall be considered a medical determination.

(2) Nothing in this section shall be construed to create—

(A) an employment relationship between the Secretary and an individual in receipt of assistance or support under this section; or

(B) any entitlement to any assistance or support provided under this section.

(d) DEFINITIONS.—In this section:

(1) The term ''caregiver'', with respect to an eligible veteran under subsection (a) or a covered veteran under subsection (b), means an individual who provides personal care services to the veteran.

(2) The term ''family caregiver'', with respect to an eligible veteran under subsection (a), means a family member who is a caregiver of the veteran.

(3) The term ''family member'', with respect to an eligible veteran under subsection (a), means an individual who—

(A) is a member of the family of the veteran, including—

(i) a parent;
(ii) a spouse;
(iii) a child;
(iv) a step-family member; and
(v) an extended family member; or

(B) lives with the veteran but is not a member of the family of the veteran.

(4) The term ''personal care services'', with respect to an eligible veteran under subsection (a) or a covered veteran under subsection (b), means services that provide the veteran the following:

(A) Assistance with one or more independent activities of daily living.

(B) Any other non-institutional extended care (as such term is used in section 1701(6)(E) of this title).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the programs required by subsections (a) and (b)—

(1) $60,000,000 for fiscal year 2010; and

(2) $1,542,000,000 for the period of fiscal years 2011 through 2015.

(Added Pub. L. 111–163, title I, § 101(a)(1), May 5, 2010, 124 Stat. 1132.)

EFFECTIVE DATE

Pub. L. 111–163, title I, § 101(a)(3), May 5, 2010, 124 Stat. 1137, provided that:

''(A) IN GENERAL.—The amendments made by this subsection [enacting this section] shall take effect on the date that is 270 days after the date of the enactment of this Act [May 5, 2010].

''(B) IMPLEMENTATION.—The Secretary of Veterans Affairs shall commence the programs required by subsections (a) and (b) of section 1720G of title 38, United States Code, as added by paragraph (1) of this subsection, on the date on which the amendments made by this subsection take effect.''

ANNUAL EVALUATION REPORT

Pub. L. 111–163, title I, § 101(c), May 5, 2010, 124 Stat. 1138, provided that:

''(1) IN GENERAL.—Not later than 2 years after the date described in subsection (a)(3)(A) [see Effective Date note above] and annually thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a comprehensive report on the implementation of section 1720G of title 38, United States Code, as added by subsection (a)(1).

''(2) CONTENTS.—The report required by paragraph (1) shall include the following:

''(A) With respect to the program of comprehensive assistance for family caregivers required by subsection (a)(1) of such section 1720G and the program of general caregiver support services required by subsection (b)(1) of such section—

''(i) the number of caregivers that received assistance under such programs;

''(ii) the cost to the Department of providing assistance under such programs;

''(iii) a description of the outcomes achieved by, and any measurable benefits of, carrying out such programs;

''(iv) an assessment of the effectiveness and the efficiency of the implementation of such programs; and

''(v) such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate in light of carrying out such programs.

''(B) With respect to the program of comprehensive assistance for family caregivers required by such subsection (a)(1)—

''(i) a description of the outreach activities carried out by the Secretary under such program; and

''(ii) an assessment of the manner in which resources are expended by the Secretary under such program, particularly with respect to the provision of monthly personal caregiver stipends under paragraph (3)(A)(ii)(v) of such subsection (a).

''(C) With respect to the provision of general caregiver support services required by such subsection (b)(1)—

''(i) a summary of the support services made available under the program;

''(ii) the number of caregivers who received support services under the program;

''(iii) the cost to the Department of providing each support service provided under the program; and

''(iv) such other information as the Secretary considers appropriate.''

SUBCHAPTER III—MISCELLANEOUS PROVISIONS RELATING TO HOSPITAL AND NURSING HOME CARE AND MEDICAL TREATMENT OF VETERANS

AMENDMENTS

1976—Pub. L. 94–581, title II, § 202(i), Oct. 21, 1976, 90 Stat. 2856, inserted ''AND NURSING HOME'' in subchapter heading.

§ 1721. Power to make rules and regulations

Rules and regulations prescribed under section 501(a) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Department facilities. The Secretary may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 8111A of this title).

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1143, § 621; Pub. L. 94–581, title II, §§ 202(j), 210(a)(8), Oct. 21, 1976, 90 Stat. 2856, 2863; Pub. L. 100–322, title I, § 133, May 20, 1988, 102 Stat. 507; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1721 and amended Pub. L. 102–83, §§ 2(c)(1), 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 402, 404–406.)

PRIOR PROVISIONS

Prior section 1721 was renumbered section 3521 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 621 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''.

Pub. L. 102–83, § 2(c)(1), substituted ''501(a)'' for ''210(c)(1)''.

Pub. L. 102–40 substituted ''8111A'' for ''5011A''.

1988—Pub. L. 100–322 amended section generally. Prior to amendment, section read as follows: ''The Administrator shall prescribe—

''(1) such rules and procedure governing the furnishing of hospital, nursing home, and domiciliary care as the Administrator may deem proper and necessary;

''(2) limitations in connection with the furnishing of hospital, nursing home, and domiciliary care; and

''(3) such rules and regulations as the Administrator deems necessary in order to promote good con-