(1) is residing in the United States; and

(2) is a citizen of the United States or an alien lawfully admitted to the United States for permanent residence.

(Added Pub. L. 96–22, title I, § 106(a), June 13, 1979, 93 Stat. 53, § 634; renumbered § 1734 and amended Pub. L. 102–83, §§ 4(a)(3), (4), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–377, § 1(a)(1) [title V, § 501(b)], Oct. 27, 2000, 114 Stat. 1441, 1441A–57; Pub. L. 108–170, title I, § 103, Dec. 6, 2003, 117 Stat. 2044.)

PRIOR PROVISIONS

Prior section 1734 was renumbered section 3534 of this title.

Another prior section 1734, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199, as amended by Pub. L. 89–358, § 4(m), Mar. 3, 1966, 80 Stat. 25, related to overcharging of eligible persons by educational institutions, prior to the general amendment of this section by Pub. L. 92–540, title III, § 313, Oct. 24, 1972, 86 Stat. 1084. See section 3690 of this title.

AMENDMENTS

2003—Pub. L. 108–170 amended text generally. Prior to amendment, text read as follows:

''(a) The Secretary, within the limits of Department facilities, may furnish hospital and nursing home care and medical services to Commonwealth Army veterans and new Philippine Scouts for the treatment of the service-connected disabilities of such veterans and scouts.

''(b) An individual who is in receipt of benefits under subchapter II or IV of chapter 11 of this title paid by reason of service described in section 107(a) of this title who is residing in the United States and who is a citizen of, or an alien lawfully admitted for permanent residence in, the United States shall be eligible for hospital and nursing home care and medical services in the same manner as a veteran, and the disease or disability for which such benefits are paid shall be considered to be a service-connected disability for purposes of this chapter.''

2000—Pub. L. 106–377 designated existing provisions as subsec. (a) and added subsec. (b).

1991—Pub. L. 102–83, § 5(a), renumbered section 634 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''.

EFFECTIVE DATE

Section effective Oct. 1, 1979, see section 107 of Pub. L. 96–22, set out as an Effective Date of 1979 Amendment note under section 1701 of this title.

§ 1735. Definitions

For the purposes of this subchapter—

(1) The term ''Commonwealth Army veterans'' means persons who served before July 1, 1946, in the organized military forces of the Government of the Philippines, while such forces were in the service of the Armed Forces pursuant to the military order of the President dated July 26, 1941, including among such military forces organized guerrilla forces under commanders appointed, designated, or subsequently recognized by the Commander in Chief, Southwest Pacific Area, or other competent authority in the Army of the United States, and who were discharged or released from such service under conditions other than dishonorable. The term ''new Philippine Scouts'' means persons who served in the Philippine Scouts under section 14 of the Armed Forces Voluntary Recruitment Act of 1945, and who were discharged or released from such service under conditions other than dishonorable.

(2) The term ''service-connected disabilities'' means disabilities determined by the Secretary under laws administered by the Secretary to have been incurred in or aggravated by the service described in paragraph (1) in line of duty.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 634; Pub. L. 89–612, § 3, Sept. 30, 1966, 80 Stat. 861; renumbered § 635, Pub. L. 96–22, title I, § 106(a), June 13, 1979, 93 Stat. 53; renumbered § 1735 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

REFERENCES IN TEXT

Section 14 of the Armed Forces Voluntary Recruitment Act of 1945, referred to in par. (1), is section 14 of act Oct. 6, 1945, ch. 393, 59 Stat. 543, which enacted section 637 of former Title 10, Army and Air Force, and was omitted from the Code in the revision and reenactment of Title 10, Armed Forces, by act Aug. 10, 1956, ch. 1041, 70A Stat. 1.

PRIOR PROVISIONS

Prior sections 1735 and 1736 were renumbered sections 3535 and 3536 of this title, respectively.

Another prior section 1736, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1199; Pub. L. 88–126, § 3, Sept. 23, 1963, 77 Stat. 162; Pub. L. 89–358, § 4(*o*), Mar. 3, 1966, 80 Stat. 25, related to discontinuance of the educational assistance allowance by the Administrator, prior to repeal by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090. See section 3690 of this title.

Prior section 1737 was renumbered section 3537 of this title.

Another prior section 1737, added Pub. L. 93–508, title III, § 303(a), Dec. 3, 1974, 88 Stat. 1591; amended Pub. L. 97–35, title XX, § 2005(c), Aug. 13, 1981, 95 Stat. 783, related to entitlement of any eligible person, before Oct. 1, 1981, to an education loan, prior to repeal by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

Another prior section 1737 was renumbered section 1736 of this title.

Prior section 1738, added Pub. L. 95–202, title II, § 201(b), Nov. 23, 1977, 91 Stat. 1437, related to accelerated payment of educational assistance allowances, prior to repeal by Pub. L. 100–689, title I, § 124(a), Nov. 18, 1988, 102 Stat. 4174.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 635 of this title as this section.

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

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1966—Par. (1). Pub. L. 89–612 inserted definition of ''new Philippine Scouts''.

SUBCHAPTER V—PAYMENTS TO STATE HOMES

§ 1741. Criteria for payment

(a)(1) Except as provided in section 1745 of this title, the Secretary shall pay each State at the per diem rate of—

(A) $8.70 for domiciliary care; and

(B) $20.35 for nursing home care and hospital care,

for each veteran receiving such care in a State home, if such veteran is eligible for such care in a Department facility.

(2) The Secretary may pay each State per diem at a rate determined by the Secretary for each veteran receiving extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home, if such veteran is eligible for such care under laws administered by the Secretary.

(b) In no case shall the payments made with respect to any veteran under this section exceed one-half of the cost of the veterans' care in such State home.

(c) Whenever the Secretary makes a determination pursuant to section 1720(a)(2)(A) of this title that the cost of care furnished by the Department in a general hospital under the direct jurisdiction of the Secretary has increased, the Secretary may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Secretary has determined that such cost of care has increased.

(d) Subject to section 1743 of this title, the payment of per diem for care furnished in a State home facility shall commence on the date of the completion of the inspection for recognition of the facility under section 1742(a) of this title if the Secretary determines, as a result of that inspection, that the State home meets the standards described in such section.

(e) Payments to States pursuant to this section shall not be considered a liability of a third party, or otherwise be used to offset or reduce any other payment made to assist veterans.

(f) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 641; Pub. L. 86–625, July 12, 1960, 74 Stat. 424; Pub. L. 87–819, § 1, Oct. 15, 1962, 76 Stat. 935; Pub. L. 88–450, § 3(a), Aug. 19, 1964, 78 Stat. 500; Pub. L. 90–432, § 1, July 26, 1968, 82 Stat. 448; Pub. L. 91–178, § 1, Dec. 30, 1969, 83 Stat. 836; Pub. L. 93–82, title IV, § 403(a), Aug. 2, 1973, 87 Stat. 196; Pub. L. 94–417, § 1(a), Sept. 21, 1976, 90 Stat. 1277; Pub. L. 94–581, title II, § 202(*o*), Oct. 21, 1976, 90 Stat. 2856; Pub. L. 96–151, title I, § 101(b)(1), Dec. 20, 1979, 93 Stat. 1092; Pub. L. 98–160, title I, § 105(a), Nov. 21, 1983, 97 Stat. 998; Pub. L. 100–322, title I, § 134(a), May 20, 1988, 102 Stat. 507; renumbered § 1741 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 IV, § 406, Nov. 4, 1992, 106 Stat. 4954; Pub. L. 104–66, title I, § 1141(a), Dec. 21, 1995, 109 Stat. 726; Pub. L. 104–262, title III, § 342(a), Oct. 9, 1996, 110 Stat. 3206; Pub. L. 106–117, title I, § 101(g), Nov. 30, 1999, 113 Stat. 1550; Pub. L. 108–422, title II, § 202, Nov. 30, 2004, 118 Stat. 2382; Pub. L. 109–461, title II, § 211(a)(3)(A), (b)(2), Dec. 22, 2006, 120 Stat. 3419, 3420.)

PRIOR PROVISIONS

Prior sections 1740 and 1741 were renumbered sections 3540 and 3541 of this title, respectively.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109–461, § 211(a)(3)(A), substituted ''Except as provided in section 1745 of this title, the'' for ''The''.

Subsec. (f). Pub. L. 109–461, § 211(b)(2), added subsec. (f).

2004—Subsec. (e). Pub. L. 108–422 added subsec. (e).

1999—Subsec. (a)(2). Pub. L. 106–117 substituted ''extended care services described in any of paragraphs (4) through (6) of section 1710B(a) of this title under a program administered by a State home'' for ''adult day health care in a State home''.

1996—Subsec. (a). Pub. L. 104–262 designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, and added par. (2).

1995—Subsecs. (c) to (e). Pub. L. 104–66 redesignated subsecs. (d) and (e) as (c) and (d), respectively, and struck out former subsec. (c) which read as follows: ''The Secretary shall submit every three years to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the adequacy of the rates provided in subsection (a) of this section in light of projections over each of the following five years of the demand on the Department for the provision of nursing home care to veterans eligible for such care under this section and sections 1710 and 1720 of this title. The first such report shall be submitted not later than June 30, 1986.''

1992—Subsec. (e). Pub. L. 102–585 added subsec. (e).

1991—Pub. L. 102–83, § 5(a), renumbered section 641 of this title as this section.

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

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

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1710 and 1720'' for ''610 and 620''.

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''.

Subsec. (d). Pub. L. 102–83, § 5(c)(1), substituted ''1720(a)(2)(A)'' for ''620(a)(2)(A)''.

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

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

1988—Subsec. (a). Pub. L. 100–322, § 134(a)(1), added cls. (1) and (2) and struck out former cls. (1) to (3) which read as follows:

''(1) $7.30 for domiciliary care,

''(2) $17.05 for nursing home care, and

''(3) $15.25 for hospital care,''.

Subsec. (d). Pub. L. 100–322, § 134(a)(2), added subsec. (d).

1983—Subsec. (a). Pub. L. 98–160, § 105(a)(1), substituted ''$7.30'' for ''$6.35'' in par. (1), ''$17.05'' for ''$12.10'' in par. (2), and ''$15.25'' for ''$13.25'' in par. (3).

Subsec. (c). Pub. L. 98–160, § 105(a)(2), added subsec. (c).

1979—Subsec. (a). Pub. L. 96–151 substituted ''$6.35'' for ''$5.50'', ''$12.10'' for ''$10.50'', and ''$13.25'' for ''$11.50''.

1976—Pub. L. 94–581 struck out ''of any war or of service after January 31, 1955'' after ''for each veteran'' in provisions following par. (3).

Pub. L. 94–417 designated existing provisions as subsec. (a), increased from $4.50 to $5.50 the per diem rate for domiciliary care, from $6 to $10.50 the per diem rate for nursing home care, and from $10 to $11.50 the per diem rate for hospital care, struck out ''of any war or of service after January 31, 1955'' after ''for each veteran'', '', in the case of such a veteran receiving domiciliary or hospital care,'' after ''if'', and provisions relating to the case of a veteran receiving nursing home care, and added subsec. (b).

1973—Pub. L. 93–82 increased from $3.50 to $4.50 the per diem rate for domiciliary care, from $5 to $6 the per diem rate for nursing home care, and from $7.50 to $10 the per diem rate for hospital care, and substituted ''veteran of any war or of service after January 31, 1955'' for ''veteran of any war''.

1969—Pub. L. 91–178 increased from $3.50 to $7.50 the per diem payment for hospital care.

1968—Pub. L. 90–432 increased from $2.50 to $3.50 the per diem rate for hospital or domiciliary care and from $3.50 to $5.00 the per diem rate for nursing home care as the amounts the Administrator shall pay each State providing such services for veterans.

1964—Pub. L. 88–450 amended section generally and, among other changes, authorized payment at the per diem rate of $3.50 for each veteran receiving nursing care in a State home, if such veteran meets the requirements of paragraph (1), (2), or (3) of section 610(a) of this title, except that the requirement in clause (B) of such paragraph (1) shall, for this purpose, refer to the inability to defray the expenses of necessary nursing home care, and eliminated provisions which permitted reduction of the amount payable to the State homes under certain conditions and prohibited payments to State homes where a bar or canteen is maintained therein where intoxicating liquors are sold.

1962—Subsec. (b). Pub. L. 87–819 provided that no reduction shall be made by the retention or collection by a State home of amounts from the estate of a deceased veteran if such amounts are placed in a post or other special fund for the benefit of the State home or its inhabitants in providing the benefits enumerated in clauses (A) to (C).

1960—Subsec. (a). Pub. L. 86–625 substituted ''at the per diem rate of $2.50 per diem for each veteran'' for ''at the annual rate of $700.00 for each veteran''.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 211(a)(3)(A) of Pub. L. 109–461 effective 90 days after Dec. 22, 2006, see section 211(a)(5) of Pub. L. 109–461, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Section 134(b) of Pub. L. 100–322 provided that:

''(1) The amendment made by subsection (a)(1) [amending this section] shall take effect as of January 1, 1988.

''(2) The amendment made by subsection (a)(2) [amending this section] shall take effect on October 1, 1988.''

EFFECTIVE DATE OF 1983 AMENDMENT

Section 105(b) of Pub. L. 98–160 provided that: ''The amendments made by subsection (a) [amending this section] shall take effect on April 1, 1984.''

EFFECTIVE DATE OF 1979 AMENDMENT

Section 101(b)(2) of Pub. L. 96–151 provided that: ''The amendments made by paragraph (1) [amending this section] shall take effect on January 1, 1980, but, with respect to fiscal year 1980, shall take effect only to such extent and in such amounts as may be specifically provided for such purpose in appropriation Acts.''

EFFECTIVE DATE OF 1976 AMENDMENTS

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.

Section 1(c) of Pub. L. 94–417 provided that:

''(1) The amendments made by subsection (a) of this section [amending this section] shall be effective on October 1, 1976.

''(2) At the time of the first payment to a State under section 641 [now 1741] of title 38, United States Code, as amended by subsection (a) of this section, the Administrator of Veterans' Affairs shall pay such State, in a lump sum, an amount equal to the difference between the total amount paid each such State under such section 641 [now 1741] for care provided by such State in a State home from January 1, 1976, to October 1, 1976, and the amount such State would have been paid for providing such care if the amendment made by subsection (a) of this section had been effective on January 1, 1976.''

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–82 effective Sept. 1, 1973, see section 501 of Pub. L. 93–82, set out as a note under section 1701 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Section 3(c) of Pub. L. 88–450 provided that: ''The amendment made by this section [amending this section] shall take effect on January 1, 1965; except that subsection (b) of section 641 [now 1741] of title 38, United States Code, as in effect immediately before such date, shall remain in effect with respect to any amounts retained or collected by any State home before such date.''

PAYMENTS TO STATES FOR NURSING HOME CARE

Section 3(b) of Pub. L. 88–450 provided that: ''No payment shall be made to any State home solely by reason of the amendment made by this section [amending this section] on account of nursing home care furnished any veteran except where such care is furnished the veteran by the State home for the first time after the effective date of this section [Jan. 1, 1965].''

§ 1742. Inspections of such homes; restrictions on beneficiaries

(a) The Secretary may inspect any State home at such times as the Secretary deems necessary. No payment or grant may be made to any home under this subchapter unless such home is determined by the Secretary to meet such standards as the Secretary shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 1720(b) of this title.

(b) The Secretary may ascertain the number of persons on account of whom payments may be made under this subchapter on account of any State home, but shall have no authority over the management or control of any State home.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1146, § 642; Pub. L. 94–581, title I, § 107(a), title II, § 210(a)(16), Oct. 21, 1976, 90 Stat. 2847, 2863; renumbered § 1742 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior section 1742 was renumbered section 3542 of this title.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 642 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1720(b)'' for ''620(b)''.

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

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

1976—Subsec. (a). Pub. L. 94–581 substituted ''as the Administrator deems necessary'' for ''as he deems necessary'' in existing provisions and inserted provision that no payment or grant may be made to any home under this subchapter unless such home is determined by the Administrator to meet such standards as the Administrator shall prescribe, which standards with respect to nursing home care shall be no less stringent than those prescribed pursuant to section 620(b) of this title.