''(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. 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 population 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; Pub. L. 110–355, § 3(b), Oct. 8, 2008, 122 Stat. 3993.)

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

2008—Subsec. (a)(1). Pub. L. 110–355 struck out ''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.'' before ''The Secretary shall not''.

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 300*l*–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 300*l*–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