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 conduct on the part of persons who are receiving hospital, nursing home, or domiciliary care in Veterans' Administration facilities.''

1976—Cl. (1). Pub. L. 94–581, §§ 202(j), 210(a)(8), substituted ''hospital, nursing home, and domiciliary care as the Administrator may deem'' for ''hospital and domiciliary care as he may deem''.

Cl. (2). Pub. L. 94–581, § 202(j), substituted ''hospital, nursing home, and domiciliary care'' for ''hospital and domiciliary care''.

Cl. (3). Pub. L. 94–581, §§ 202(j), 210(a)(8), substituted ''as the Administrator deems'' for ''as he deems'' and ''hospital, nursing home, or domiciliary care'' for ''hospital or domiciliary care''.

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.

§ 1722. Determination of inability to defray necessary expenses; income thresholds

(a) For the purposes of section 1710(a)(2)(G) of this title, a veteran shall be considered to be unable to defray the expenses of necessary care if—

(1) the veteran is eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) the veteran is in receipt of pension under section 1521 of this title; or

(3) the veteran's attributable income is not greater than the amount set forth in subsection (b).

(b)(1) For purposes of subsection (a)(3), the income threshold for the calendar year beginning on January 1, 1990, is—

(A) $17,240 in the case of a veteran with no dependents; and

(B) $20,688 in the case of a veteran with one dependent, plus $1,150 for each additional dependent.

(2) For a calendar year beginning after December 31, 1990, the amounts in effect for purposes of this subsection shall be the amounts in effect for the preceding calendar year as adjusted under subsection (c) of this section.

(c) Effective on January 1 of each year, the amounts in effect under subsection (b) of this section shall be increased by the percentage by which the maximum rates of pension were increased under section 5312(a) of this title during the preceding calendar year.

(d)(1) Notwithstanding the attributable income of a veteran, the Secretary may refuse to make a determination described in paragraph (2) of this subsection if the corpus of the estate of the veteran is such that under all the circumstances it is reasonable that some part of the corpus of the estate of the veteran be consumed for the veteran's maintenance.

(2) A determination described in this paragraph is a determination that for purposes of subsection (a)(3) of this section a veteran's attributable income is not greater than the amount determined under subsection (b) of this section.

(3) For the purposes of paragraph (1) of this subsection, the corpus of the estate of a veteran shall be determined in the same manner as the manner in which determinations are made of the corpus of the estates of persons under section 1522 of this title.

(e)(1) In order to avoid a hardship to a veteran described in paragraph (2) of this subsection, the Secretary may deem the veteran to have an attributable income during the previous year not greater than the amount determined under subsection (b) of this section.

(2) A veteran is described in this paragraph for the purposes of subsection (a) of this section if—

(A) the veteran has an attributable income greater than the amount determined under subsection (b) of this section; and

(B) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below the amount determined under subsection (b).

(f) For purposes of this section:

(1) The term ''attributable income'' means the income of a veteran for the previous year determined in the same manner as the manner in which a determination is made of the total amount of income by which the rate of pension for such veteran under section 1521 of this title would be reduced if such veteran were eligible for pension under that section.

(2) The term ''corpus of the estate of the veteran'' includes the corpus of the estates of the veteran's spouse and dependent children, if any.

(3) The term ''previous year'' means the calendar year preceding the year in which the veteran applies for care or services under section 1710(a) of this title.

(g) For the purposes of section 1724(c) of this title, the fact that a veteran is—

(1) eligible to receive medical assistance under a State plan approved under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.);

(2) a veteran with a service-connected disability; or

(3) in receipt of pension under any law administered by the Secretary,

shall be accepted as sufficient evidence of such veteran's inability to defray necessary expenses.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1144, § 622; Pub. L. 89–612, § 1, Sept. 30, 1966, 80 Stat. 859; Pub. L. 91–500, § 1, Oct. 22, 1970, 84 Stat. 1096; Pub. L. 94–581, title II, §§ 202(k), 210(a)(9), Oct. 21, 1976, 90 Stat. 2856, 2863; Pub. L. 96–330, title IV, § 401(a), Aug. 26, 1980, 94 Stat. 1051; Pub. L. 99–272, title XIX, § 19011(c)(1), Apr. 7, 1986, 100 Stat. 376; Pub. L. 100–322, title I, § 102(b), May 20, 1988, 102 Stat. 493; Pub. L. 101–508, title VIII, § 8013(c), Nov. 5, 1990, 104 Stat. 1388–346; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1722 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406; Pub. L. 104–262, title I, § 101(d)(9), Oct. 9, 1996, 110 Stat. 3180.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1) and (g)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

PRIOR PROVISIONS

Prior section 1722, Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1196, related to change of program by eligible person, prior to repeal by Pub. L. 92–540, title IV, § 402(2), Oct. 24, 1972, 86 Stat. 1090. See section 3691 of this title.

AMENDMENTS

1996—Subsec. (a). Pub. L. 104–262, § 101(d)(9)(A), substituted ''section 1710(a)(2)(G)'' for ''section 1710(a)(1)(I)'' in introductory provisions.

Subsec. (f)(3). Pub. L. 104–262, § 101(d)(9)(B), struck out ''or 1712(f)'' before ''of this title''.

1991—Pub. L. 102–83, § 5(a), renumbered section 622 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1710(a)(1)(I)'' for ''610(a)(1)(I)'' in introductory provisions and ''1521'' for ''521'' in par. (2).

Subsec. (c). Pub. L. 102–40 substituted ''5312(a)'' for ''3112(a)''.

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

Subsec. (d)(3). Pub. L. 102–83, § 5(c)(1), substituted ''1522'' for ''522''.

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

Subsec. (f). Pub. L. 102–83, § 5(c)(1), substituted ''1521'' for ''521'' in par. (1) and ''1710(a) or 1712(f)'' for ''610(a) or 612(f)'' in par. (3).

Subsec. (g). Pub. L. 102–83, § 5(c)(1), substituted ''1724(c)'' for ''624(c)'' in introductory provisions.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' in par. (3).

1990—Subsec. (a). Pub. L. 101–508, § 8013(c)(1), designated par. (1) as entire subsec. (a), redesignated cls. (A) to (C) as pars. (1) to (3), respectively, substituted ''amount set forth in subsection (b)'' for ''Category A threshold'' in par. (3), and struck out former par. (2) which read as follows: ''For the purposes of section 610(a)(2)(A) of this title, a veteran's income level is described in this paragraph if the veteran's attributable income is not greater than the Category B threshold.''

Subsec. (b). Pub. L. 101–508, § 8013(c)(2), amended subsec. (b) generally. Prior to amendment, subsec. (b) read as follows: ''For the purposes of this section:

''(1) The Category A threshold—

''(A) for the calendar year beginning on January 1, 1986, is—

''(i) $15,000 in the case of a veteran with no dependents; and

''(ii) $18,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

''(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.

''(2) The Category B threshold—

''(A) for the calendar year beginning on January 1, 1986, is—

''(i) $20,000 in the case of a veteran with no dependents; and

''(ii) $25,000 in the case of a veteran with one dependent, plus $1,000 for each additional dependent; and

''(B) for a calendar year beginning after December 31, 1986, is the amount in effect for purposes of this paragraph for the preceding calendar year as adjusted under subsection (c) of this subsection.''

Subsec. (c). Pub. L. 101–508, § 8013(c)(3), struck out ''paragraphs (1) and (2) of'' before ''subsection (b) of this section''.

Subsec. (d)(2). Pub. L. 101–508, § 8013(c)(4), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''A determination described in this paragraph is a determination—

''(A) that for the purposes of subsection (a)(1)(C) of this section a veteran's attributable income is not greater than the Category A threshold; or

''(B) that for the purposes of subsection (a)(2) of this section a veteran's attributable income is not greater than the Category B threshold.''

Subsec. (e)(1). Pub. L. 101–508, § 8013(c)(5)(A), substituted ''the amount determined under subsection (b) of this section'' for ''the Category A threshold or the Category B threshold, as appropriate''.

Subsec. (e)(2). Pub. L. 101–508, § 8013(c)(5)(B), added par. (2) and struck out former par. (2) which read as follows:

''(A) A veteran is described in this paragraph for the purposes of subsection (a)(1) of this section if—

''(i) the veteran has an attributable income greater than the Category A threshold; and

''(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.

''(B) A veteran is described in this paragraph for the purposes of subsection (a)(2) of this section if—

''(i) the veteran has an attributable income greater than the Category B threshold; and

''(ii) the current projections of such veteran's income for the current year are that the veteran's income for such year will be substantially below such threshold.''

1988—Subsec. (g). Pub. L. 100–322 substituted ''section'' for ''sections 610(b)(2) and''.

1986—Pub. L. 99–272 amended section generally, revising and restating existing provisions as subsec. (g) and adding subsecs. (a) to (f).

1980—Pub. L. 96–330 substituted provisions relating to the facts that will be accepted as sufficient evidence of an individual's inability to defray necessary expenses for provisions relating to the use of statements under oath to establish the inability to defray necessary expenses.

1976—Subsec. (a). Pub. L. 94–581, § 202(k), substituted ''610(a)(1)(B)'' for ''610(a)(1)'' and ''632(a)(2)'' for ''632(b)''.

Subsec. (b). Pub. L. 94–581, § 210(a)(9), substituted ''such veteran's inability'' for ''his inability''.

1970—Pub. L. 91–500 designated existing provisions as subsec. (a) and added subsec. (b).

1966—Pub. L. 89–612 inserted reference to section 632(b) of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101–508 to remain in effect through the period covered by Pub. L. 102–145, see section 111 of Pub. L. 102–145, set out as a note under section 1710 of this title.

Amendment by Pub. L. 101–508 to remain in effect through the period covered by Pub. L. 102–109, see section 111 of Pub. L. 102–109, set out as a note under section 1710 of this title.

Amendment by Pub. L. 101–508 applicable with respect to hospital care and medical services received after Nov. 5, 1990, see section 8013(d) of Pub. L. 101–508, as amended, set out as a note under section 1710 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Provisions of this section as in effect on the day before Apr. 7, 1986, applicable with respect to hospital and nursing home care furnished on or after July 1, 1986, to veterans furnished such care or services on June 30, 1986, but only to the extent that such care is furnished with respect to the same episode of care for which it was furnished on June 30, 1986, see section 19011(f) of Pub. L. 99–272, set out as a note under section 1710 of this title.

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.

INITIAL INCREASE UNDER SUBSECTION (c)

Section 19011(c)(3) of Pub. L. 99–272 provided that the first increase under subsection (c) of this section, as added by section 19011(c)(1) of Pub. L. 99–272, was to take effect on Jan. 1, 1987.''

§ 1722A. Copayment for medications

(a)(1) Subject to paragraph (2), the Secretary shall require a veteran to pay the United States $2 for each 30-day supply of medication furnished such veteran under this chapter on an outpatient basis for the treatment of a non-service-connected disability or condition. If the amount supplied is less than a 30-day supply, the amount of the charge may not be reduced.

(2) The Secretary may not require a veteran to pay an amount in excess of the cost to the Secretary for medication described in paragraph (1).

(3) Paragraph (1) does not apply—

(A) to a veteran with a service-connected disability rated 50 percent or more;

(B) to a veteran who is a former prisoner of war; or

(C) to a veteran whose annual income (as determined under section 1503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 1521 of this title.

(b) The Secretary, pursuant to regulations which the Secretary shall prescribe, may—

(1) increase the copayment amount in effect under subsection (a); and

(2) establish a maximum monthly and a maximum annual pharmaceutical copayment amount under subsection (a) for veterans who have multiple outpatient prescriptions.

(c) Amounts collected under this section shall be deposited in the Department of Veterans Affairs Medical Care Collections Fund.

(Added Pub. L. 101–508, title VIII, § 8012(a)(1), Nov. 5, 1990, 104 Stat. 1388–345, § 622A; renumbered § 1722A, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; amended Pub. L. 102–139, title V, § 518(a), Oct. 28, 1991, 105 Stat. 779; Pub. L. 102–229, title I, Dec. 12, 1991, 105 Stat. 1709; Pub. L. 102–568, title VI, §§ 605(a), 606(a), Oct. 29, 1992, 106 Stat. 4343; Pub. L. 103–66, title XII, § 12002(b), Aug. 10, 1993, 107 Stat. 414; Pub. L. 103–446, title XII, § 1201(e)(7), Nov. 2, 1994, 108 Stat. 4685; Pub. L. 105–33, title VIII, §§ 8021(b), 8023(b)(3), Aug. 5, 1997, 111 Stat. 665, 667; Pub. L. 106–117, title II, § 201(a), Nov. 30, 1999, 113 Stat. 1560; Pub. L. 108–7, div. K, title I, § 113(c), Feb. 20, 2003, 117 Stat. 482; Pub. L. 108–170, title I, § 101(b), Dec. 6, 2003, 117 Stat. 2043.)

AMENDMENTS

2003—Subsec. (a)(3)(B), (C). Pub. L. 108–170 added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (c). Pub. L. 108–7, § 113(c)(1), substituted ''under this section'' for ''under subsection (a)'' in first sentence and struck out second sentence which read as follows: ''Amounts collected through use of the authority under subsection (b) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund.''

Subsec. (d). Pub. L. 108–7, § 113(c)(2), struck out subsec. (d) which read as follows: ''The provisions of subsection (a) expire on September 30, 2002.''

1999—Subsec. (b). Pub. L. 106–117, § 201(a)(1), (2), added subsec. (b). Former subsec. (b) redesignated (c).

Subsec. (c). Pub. L. 106–117, § 201(a)(1), (3), redesignated subsec. (b) as (c), substituted ''subsection (a)'' for ''this section'', and inserted at end ''Amounts collected through use of the authority under subsection (b) shall be deposited in the Department of Veterans Affairs Health Services Improvement Fund.'' Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 106–117, § 201(a)(1), redesignated subsec. (c) as (d).

1997—Subsec. (b). Pub. L. 105–33, § 8023(b)(3), substituted ''Medical Care Collections Fund'' for ''Medical-Care Cost Recovery Fund''.

Subsec. (c). Pub. L. 105–33, § 8021(b), substituted ''September 30, 2002'' for ''September 30, 1998''.

1994—Subsec. (a)(1). Pub. L. 103–446 substituted ''veteran to pay'' for ''veteran) to pay''.

1993—Subsec. (c). Pub. L. 103–66 substituted ''1998'' for ''1992'' in first sentence and struck out at end ''Notwithstanding the preceding sentence, the provisions of subsection (a) shall be in effect through September 30, 1997.''

1992—Subsec. (a)(1). Pub. L. 102–568, § 605(a)(1), struck out ''(other than a veteran with a service-connected