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personal travel allowances or transportation and per diem, travel allowances or transportation for his or her immediate family, and transportation of household goods and personal effects, in conjunction with travel authorized by the Secretary.

(1) From place of residence, within or outside the continental United States, to first duty station,

(2) For any change of duty station ordered by the Service during the term of the fellowship, and

(3) From last duty station to the place of residence which he left to accept the fellowship, or to some other place at no greater cost to the Government.

(4) A service fellow shall be entitled to travel allowances or transportation and per diem while traveling on official business away from his or her permanent duty station during the term of the fellowship. Except as otherwise provided herein, a service fellow shall be entitled to travel and transportation allowances authorized in this part at the same rates as may be authorized by law and regulations for other civilian employees of the Public Health Service. If a service fellow dies during the term of a fellowship, and the place of residence that was left by the service fellow to accept the fellowship was outside the continental United States, the payment of expenses of preparing the remains for burial and transporting them to the place of residence for interment may be authorized. In the case of deceased service fellows whose place of residence was within the continental United States, payment of the expenses of preparing the remains and transporting them to the place of residence for interment may be authorized as provided for other civilian employees of the Public Health Service.

(c) *Benefits.* In addition to other benefits provided herein, service fellows shall be entitled to benefits as provided by law or regulation for other civilian employees of the Public Health Service.

(d) *Training.* Service fellows are eligible for training at Government expense on the same basis as other civilian employees.

[31 FR 12098, Sept. 16, 1966, as amended at 63 FR 9950, Feb. 27, 1998]

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### § 61.38 Duration of service fellowships.

Initial appointments to service fellowships may be made for varying periods not in excess of 5 years. Such an appointment may be extended for varying periods not in excess of 5 years for each period in accordance with procedures and requirements established by the Secretary.

[63 FR 9951, Feb. 27, 1998]

## PART 62—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

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**AUTHORITY:** Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 751 of the Public Health Service Act, 90 Stat. 2281 (42 U.S.C. 294t), unless otherwise noted.

**SOURCE:** 45 FR 55429, Aug. 20, 1980, unless otherwise noted.

**Subpart A—National Health Service Corps Scholarship Program****§ 62.1 What is the scope and purpose of the National Health Service Corps scholarship program?**

These regulations apply to the award of scholarships under the National Health Service Corps Scholarship Program authorized by section 751 of the Public Health Service Act (42 U.S.C. 294t) to students receiving academic training in medicine, osteopathy, dentistry, and other health professions. The purpose of this program is to assure an adequate supply of trained health professionals for the National Health Service Corps which is used by the Secretary to improve the delivery of health services in health manpower shortage areas.

**§ 62.2 Definitions.**

As used in this part:

*Acceptable level of academic standing* means the level at which a full-time student retains eligibility to continue in attendance in school under the school's standards and practices.

*Act* means the Public Health Service Act, as amended.

*Approved graduate training* means those programs of graduate training in medicine, osteopathy, dentistry or other health professions which (a) lead to eligibility for board certification or which provide other evidence of completion, and (b) have been approved by the appropriate health professions body as determined by the Secretary.

*Full-time student* means an individual pursuing a course of study leading to a degree in medicine, osteopathy, dentistry or an equivalent credential for a particular health profession who is enrolled for a sufficient number of credit hours in any academic term to complete the course of study within not more than the number of academic terms normally required at the school.

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If an individual is enrolled in a school and is pursuing a course of study which is designed to be completed in more than 4 years, the individual will be considered a full-time student for only the last 4 years of the course of study.

*Health manpower shortage area* means the geographic area, the population group, the public or nonprofit private medical facility, or other public facility which has been determined by the Secretary to have a shortage of health manpower under section 332 of the Act and its implementing regulations (42 CFR part 5).

*National of the United States* means a citizen of the United States or a person who, though not a citizen of the United States, owes permanent allegiance to the United States.

*Public Health and National Health Service Corps Scholarship Training Program, or PH/NHSC Scholarship Training Program*, means the program authorized by section 225 of the Act as in effect on September 30, 1977, and repealed on October 1, 1977.

*Scholarship Program* means the National Health Service Corps Scholarship Program authorized by section 751 of the Act (42 U.S.C. 294t).

*Scholarship Program participant* or *participant* means an individual whose application to the Scholarship Program has been approved and whose contract has been accepted and signed by the Secretary.

*School* means a school of medicine, osteopathy, dentistry, or other health profession which (a) provides training leading to a degree of doctor of medicine, doctor of osteopathy, doctor of dentistry, or an equivalent credential for a particular health profession, and (b) which is accredited by a body or bodies recognized for accreditation purposes by the Secretary of Education.

*School year* means all or part of the 12-month period from July 1 through June 30 during which an applicant is enrolled in a school as a full-time student.

*Service* means the United States Public Health Service.

*Secretary* means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Serv-

ices to whom the authority involved has been delegated.

*State* means one of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

#### § 62.3 Who is eligible to apply for a scholarship program award?

(a) To be eligible for a scholarship under this part an applicant must:

(1) Be accepted for enrollment, or be enrolled, as a full-time student in a school located in a State;

(2) Be pursuing a course of study or program offered by the school leading to a degree in medicine, osteopathy, dentistry, or an equivalent credential for a particular health profession;

(3) Be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the National Health Service Corps;

(4) Be a National of the United States; and

(5) Submit an application to participate in the Scholarship Program together with a signed contract as described in section 751(f) of the Act.

(b) Any applicant who owes an obligation for professional practice to a State or other entity under an agreement entered into before filing an application under this part is ineligible for an award unless a written statement satisfactory to the Secretary is submitted from the State or entity that (1) there is no potential conflict in fulfilling the service obligation to the State or entity and the Scholarship Program, and that (2) the Scholarship Program service obligation will be served before the service obligation for professional practice owed to the State or entity.

(c) Any individual who receives a scholarship under the Indian Health Service Scholarship Program (section 757 of the Act) or the Scholarship Program for First-Year Students of Exceptional Financial Need (section 758 of the Act) is ineligible to participate in the Scholarship Program during the

School year(s) for which the scholarships under sections 757 or 758 of the Act were awarded.

**§ 62.4 To whom will scholarship program awards be available in addition to those individuals pursuing courses of study leading to degrees in medicine, osteopathy, or dentistry?**

The Secretary will, from time-to-time, publish in the FEDERAL REGISTER a list of those health professions in addition to medicine, osteopathy, and dentistry for which the National Health Service Corps has need and for which support is available. The Secretary will also publish any other eligibility criteria, in addition to those in § 62.3, that may be required to assure that participants can be utilized during their periods of obligated service in a manner that will best meet the needs of the National Health Service Corps.

**§ 62.5 How is application made for a scholarship program award?**

Each individual desiring a scholarship under this part must submit an application (including a signed contract as required under section 751(f) of the Act) in the form and at the time prescribed by the Secretary.

**§ 62.6 How will individuals be selected to participate in the scholarship program?**

(a) *General.* In deciding which applications for participation in the Scholarship Program will be approved, the Secretary will place the applications into categories based upon the selection priorities described in paragraph (b) of this section. Except for continuation awards (see paragraph (e) of this section) the Secretary will then evaluate each applicant under paragraph (c) of this section.

(b) *Priorities.* (1) First priority will be given to individuals who have previously received a scholarship under the PH/NHSC Scholarship Training Program, a scholarship under this Scholarship Program, or a scholarship under section 758 of the Act, authorizing scholarships for first-year students of exceptional financial need. (2) Second priority will be given to applicants who are entering their first year of study.

(c) *Selection.* (1) In selecting participants, the Secretary will take into consideration those factors which he or she determines necessary to assure effective participation in the Scholarship Program. These factors may include, but not be limited to (i) work experience, (ii) community background, (iii) career goals, (iv) faculty recommendation, and (v) academic performance.

(2) Special consideration will be given to (i) medical and osteopathic students who indicate their intention to enter family practice, internal medicine, pediatrics, or osteopathic general practice residencies, (ii) dental students who indicate their intention to undertake general practice training following graduation or who plan no postgraduate training, and (iii) those individuals who indicate an intent to pursue other types of clinical practice or specialized training for which the National Health Service Corps has a particular need.

(d) *Duration of Scholarship award.* Subject to the availability of funds for the Scholarship Program, the Secretary will award a participant a scholarship under this part for a period of 1 school year.

(e) *Continuation awards.* Subject to the availability of funds for the Scholarship Program, the Secretary will award a continuation scholarship if (1) the participant requests a continuation, (2) the award will not extend the total period of Scholarship Program support beyond 4 years, and (3) the participant is eligible for continued participation in the Scholarship Program.

**§ 62.7 What will an individual be awarded for participating in the scholarship program?**

(a) *Amount of scholarship.* (1) A scholarship award for each school year will consist of (i) tuition, (ii) reasonable educational expenses, including required fees, books, supplies, and required educational equipment, and (iii) a monthly stipend for the 12-month period beginning with the first month of each school year in which the individual is a participant. For purposes of this section "required fees" means those fees which are charged by the

school to all students pursuing a similar curriculum and “required educational equipment” means educational equipment which must be rented or purchased by all students pursuing a similar curriculum at that school.

(2) The Secretary may enter into a contract with the school in which the participant is enrolled for the direct payment of tuition and reasonable educational expenses in the participant’s behalf.

(b) *Payment of scholarship: Leave-of-absence; repeated course work.* The Secretary will suspend scholarship payments to or on behalf of a participant if the school (1) approves a leave-of-absence for the participant for health, personal, or other reasons, or (2) requires the participant to repeat course work for which the Secretary has previously made scholarship payments under §62.7. However, if the repeated course work does not delay the participant’s graduation date, scholarship payments will continue except for any additional costs relating to the repeated course work. Any scholarship payments suspended under this paragraph will be resumed by the Secretary upon notification by the school that the participant has returned from the leave-of-absence or has completed the repeated course work and is pursuing as a full-time student the course of study for which the scholarship was awarded.

**§ 62.8 What does an individual have to do in return for the scholarship program award?**

(a) *General.* Except as provided in paragraphs (d), (f), and (g) of this section, each participant is obligated to (1) become a member of the National Health Service Corps employed as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a Federal civilian in the full-time clinical practice of the participant’s profession and (2) serve in the health manpower shortage area to which the participant is assigned by the National Health Service Corps.

(b) *Beginning of service.* (1) The period of obligated service will begin when the Scholarship Program participant begins to provide services in the health

manpower shortage area to which he or she is assigned by the Secretary. Except for those participants who receive a deferral under §62.9 (a) or (b), this assignment will be made by the Secretary as soon as possible following: (i) the completion of the participant’s course of study leading to a degree in medicine, osteopathy, dentistry, or an equivalent credential for a particular health profession, and (ii) appointment of the participant as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps.

(2) For purposes of this paragraph, “appointment” means only those appointments as Commissioned Officers in the Regular or Reserve Corps of the Service or as civilian members of the National Health Service Corps made specifically for the purpose of serving a participant’s period of obligated service.

(c) *Duration of service.* Except as provided in §62.14(b)(1), the period for which the Scholarship Program participant is obligated to serve is equal to 1 year for each school year for which the participant receives a scholarship award under this part, or 2 years, whichever is greater.

(d) *Service by detail.* If the Secretary determines that there is no need in a health manpower shortage area for a member of the profession in which the Scholarship Program participant is obligated to provide service, the Scholarship Program participant may be detailed to serve the period of obligated service as a full-time member of the profession for which the participant has been trained, in any unit of the Department of Health and Human Services as the Secretary may determine.

(e) *Creditability of approved graduate training.* Except as provided in §62.14(b)(2), no period of approved graduate training will be credited toward satisfying the period of obligated service incurred under the Scholarship Program.

(f) *Service under the National Research Service Award Program.* (1) A Scholarship Program participant who demonstrates exceptional promise for medical research may perform the period of obligated service owed under this section by participating in the National

Research Service Award Program for individual postdoctoral fellows authorized under section 472 of the Act.

(2) Exceptional promise for medical research will be demonstrated if the participant applies for a National Research Service Award for individual postdoctoral fellows, is selected to participate in this research program, and accepts the offer of participation. A Scholarship Program participant in the National Research Service Award Program will receive credit toward satisfying the period of obligated service incurred under this section for any period of time he or she is engaged in activities which meet the service requirements of the National Research Service Award Program.

(3) If the time served under the National Research Service Award Program is less than the total period of obligated service owed under the Scholarship Program, the participant will serve the remainder of the Scholarship Program service obligation (i) in activities which meet the criteria for service under the National Research Service Award Program, as approved by the Secretary or (ii) as a member of the National Health Service Corps providing health services in the full-time clinical practice of his or her health profession. A participant who fails to begin or complete the service requirements under the National Research Service Award Program may be subject to the default penalty under § 62.10(c) of this part and the default penalties under the National Research Service Award Program.

(g) *Release from service obligation to engage in private practice.* The Secretary will release a participant from all or part of the service obligation if the participant applies for a release under section 753 of the Act and agrees in writing to engage for a period equal to the remaining period of the participant's service obligation in the full-time private clinical practice of the participant's health profession, under the requirements of section 753 of the Act.

**§ 62.9 Under what circumstances can the period of obligated service be deferred to complete approved graduate training?**

(a) *Requested deferment.* Upon the request of any participant receiving a degree from a school of medicine, osteopathy, or dentistry, veterinary medicine, optometry, podiatry or pharmacy, the Secretary will defer the beginning date of the obligated service to allow the participant to complete an approved graduate training program. The period of this deferment may not exceed (1) three years for any participant receiving a degree from a school of medicine, osteopathy or dentistry, or (2) one year for any participant receiving a degree from a school of veterinary medicine, optometry, podiatry or pharmacy. The Secretary may, however, extend this period of deferment if the Secretary determines that the extension is consistent with the needs of the National Health Service Corps.

(b) *Required deferment.* Each participant receiving a degree in medicine or osteopathy who does not intend to enter training which can be completed within the deferment period granted under paragraph (a) of this section must complete at least one year of approved graduate training before beginning the period of obligated service. This one year of training must be in (1) an allopathic flexible first-year program whose sponsorship includes approved residencies in family practice, internal medicine, pediatrics, or a categorical first-year program in family practice, internal medicine, or pediatrics; (2) a rotating internship in osteopathic medicine; or (3) such other programs as the Secretary determines provides comparable experience. Any participant receiving a degree in medicine or osteopathy who fails to complete the one year of required training or an approved graduate training program for which a deferment was granted under paragraph (a) of this section will be subject to the default penalties of § 62.10(c).

(c) *Altering deferment.* Before altering the length or type of approved graduate training for which the period of obligated service was deferred under paragraphs (a) or (b) of this section,

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the participant must request and obtain the Secretary's approval of the alteration.

(d) *Additional terms of deferment.* The Secretary may prescribe additional terms and conditions for deferment under paragraphs (a), (b), and (c) of this section as necessary to carry out the purposes of the Scholarship Program.

(e) *Beginning of service after deferment.* Any participant whose period of obligated service has been deferred under paragraphs (a) or (b) of this section must begin the obligated service when the participant begins to provide health services in the health manpower shortage area to which he or she is assigned by the Secretary. This assignment will be made by the Secretary as soon as possible following (1) the completion of the requested or required graduate training for which the deferment was granted, and (2) appointment as a Commissioned Officer in the Regular or Reserve Corps of the Service or as a civilian member of the National Health Service Corps.

### **§ 62.10 What will happen if an individual does not comply with the terms and conditions of participating in the scholarship program?**

(a) If a participant, other than one described in paragraph (b) of this section, fails to accept payment or instructs the school not to accept payment of the scholarship provided by the Secretary, the participant must, in addition to any service or other obligation incurred under the contract, pay to the United States the amount of \$1,500 liquidated damages. Payment of this amount must be made within 30 days of the date on which the participant fails to accept payment of the scholarship award or instructs the school not to accept payment.

(b) When a participant fails to maintain an acceptable level of academic standing, is dismissed from the school for disciplinary reasons, or voluntarily terminates the course of study or program for which the scholarship was awarded before completing the course of study or program, the participant must, instead of performing any service obligation, pay to the United States an amount equal to all scholarship funds awarded under § 62.7. Payment of

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this amount must be made within 3 years of the date the participant becomes liable to make payment under this paragraph.

(c) If a participant fails to begin or complete the period of obligated service incurred under § 62.8, including failing to comply with the applicable terms and conditions of a deferment granted by the Secretary, the participant must pay to the United States an amount determined by the formula set forth in section 754(c) of the Act. Payment of this amount shall be made within 1 year of the date that the participant failed to begin or complete the period of obligated service, as determined by the Secretary.

### **§ 62.11 When can a scholarship program payment obligation be discharged in bankruptcy?**

In accordance with section 754(d)(3) of the Act, any payment obligation incurred under § 62.10 may not be discharged in bankruptcy under title XI of the United States Code until 5 years after the date on which the payment obligation is due.

### **§ 62.12 Under what circumstances can the service or payment obligation be canceled, waived or suspended?**

(a) Any obligation of a participant for service or payment will be canceled upon the death of the participant.

(b)(1) A participation may seek a waiver or suspension of the service or payment obligations incurred under this part by written request to the Secretary setting forth the bases, circumstances, and causes which support the requested action. The Secretary may approve a request for a suspension for a period of 1 year. A renewal of this suspension may also be granted.

(2) The Secretary may waive or suspend any service or payment obligation incurred by a participant whenever compliance by the participant (i) is impossible, or (ii) would involve extreme hardship to the participant and if enforcement of the service or payment obligation would be against equity and good conscience.

(c) Compliance by a participant with a service or payment obligation will be considered impossible if the Secretary determines, on the basis of information

and documentation as may be required, that the participant suffers from a physical or mental disability resulting in the permanent inability of the participant to perform the service or other activities which would be necessary to comply with the obligation.

(d) In determining whether to waive or suspend any or all of the service or payment obligations of a participant as imposing an undue hardship and being against equity and good conscience, the Secretary, on the basis of information and documentation as may be required, will consider:

- (1) The participant's present financial resources and obligations;
- (2) The participant's estimated future financial resources and obligations; and
- (3) The extent to which the participant has problems of a personal nature, such as physical or mental disability, terminal illness in the immediate family which so intrude on the participant's present and future ability to perform as to raise a presumption that the individual will be unable to perform the obligation incurred.

**§ 62.13 What are the limitations on the receipt of concurrent benefits?**

Under section 741(f) or 836(h) of the Act, the Secretary may agree to repay a portion of an individual's educational loans in return for the individual's agreement to practice his or her profession in an area in need of health manpower. However, a Scholarship Program participant may not enter into an agreement with the Secretary under section 741(f) or 836(h) of the Act, until either:

- (a) The participant has completed the service obligation under the Scholarship Program,
- (b) The Secretary has recovered from the participant an amount determined under § 62.10, or
- (c) Any service or payment obligation has been waived under § 62.12.

In no case shall a scholarship received under these regulations be considered an educational loan for the purposes of section 741(f) or 836(h) of the Act.

**§ 62.14 What are the special provisions relating to recipients of awards under the PH/NHSC scholarship training program who will also receive awards under the scholarship program?**

(a) Except as provided in paragraph (b) of this section, if a participant has previously received an award under the PH/NHSC Scholarship Training Program and also receives an award under the Scholarship Program, the terms and conditions of these regulations will apply to the participant's entire obligation incurred under both the PH/NHSC Scholarship Training Program and the Scholarship Program.

(b) If a participant has received an award under the PH/NHSC Scholarship Training Program and also receives an award under the Scholarship Program, the following conditions apply:

(1) *Period of obligated service—carry over.* The period of obligated service owed by the participant is equal to the total number of school years for which scholarship support was awarded under both the PH/NHSC Scholarship Training Program and the Scholarship Program without regard to either Program's minimum support requirement under 42 CFR 62.7(a) (1976) as adopted on May 22, 1974 (see 39 FR 17962), and under § 62.8(c) of this part.

(2) *Credit for internship and residency training.* (i) If a participant received a scholarship under the PH/NHSC Scholarship Training Program for any school year beginning before October 12, 1976, the participant will receive credit toward satisfying the periods of obligated service incurred under the PH/NHSC Scholarship Training Program and under § 62.8 of this part for any periods of internship or residency training served in a Service or National Health Service Corps facility.

(ii) If a participant received a scholarship for the first time during the 1977–78 school year under the PH/NHSC Scholarship Training Program, the participant will only receive 1 year of credit toward satisfying the period of obligated service incurred under the PH/NHSC Scholarship Training Program for internship or residency training served in a Service or National Health Service Corps facility.

(3) *Default penalties.* The PH/NHSC Scholarship Training Program default penalty will apply to a participant who fails to begin or complete the active duty service obligation incurred under that Program, and the § 62.10 default penalties will apply to a participant who fails to begin or complete the service obligation incurred under § 62.8 of these regulations. In determining which default penalty to apply when an individual who has received a Scholarship award under both the PH/NHSC Scholarship Training Program and the Scholarship Program fails to begin or complete his service obligation, the service obligations will be considered to have been served in the order in which they were incurred.

### Subpart B—National Health Service Corps Loan Repayment Program

**AUTHORITY:** Sec. 215 of the Public Health Service Act, 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 338B of the Public Health Service Act, 101 Stat. 992 (42 U.S.C. 2541–1).

**SOURCE:** 54 FR 13462, Apr. 3, 1989, unless otherwise noted.

#### § 62.21 What is the scope and purpose of the National Health Service Corps Loan Repayment Program?

The regulations of this subpart apply to the award of health professions educational loan payments under the National Health Service Corps Loan Repayment Program authorized by section 338B of the Public Health Service Act (42 U.S.C. 2541–1). The purpose of the Program is to assure an adequate supply of trained health professionals for the National Health Service Corps. These professionals will be assigned by the Secretary to provide necessary health services to persons living in designated health manpower shortage areas.

#### § 62.22 Definitions.

The definitions in § 62.2 of this part will apply for the purpose of this subpart, except for the definition of *approved graduate training*. The following definitions will also apply for purposes of this subpart:

*Approved graduate training* means a program of graduate training in allopathic or osteopathic medicine, dentistry or other health profession which (a) leads to eligibility for board certification or which provides other evidence of completion, (b) has been approved by the appropriate health professions body as determined by the Secretary and (c) is in the specialty or type of training specified by the Program participant in the Loan Repayment Program Contract or, at the Program participant's request and at the Secretary's option, is in a specialty or area of training determined by the Secretary to be consistent with the needs of the National Health Service Corps.

*Commercial loans* means loans made by banks, credit unions, savings and loan associations, insurance companies, schools, and other financial or credit institutions which are subject to examination and supervision in their capacity as lenders by an agency of the United States or of the State in which the lender has its principal place of business.

*Educational expenses* means the costs of the health professions education, exclusive of the tuition, such as fees, books, supplies, and educational equipment and materials.

*Government loans* means loans which are made by Federal, State, county or city agencies which are authorized by law to make such loans.

*Living expenses* means the costs of room and board, transportation and commuting costs and other costs incurred during an individual's attendance at a health professions school.

*Loan Repayment Program* means the National Health Service Corps Loan Repayment Program authorized by section 338B of the Act (42 U.S.C. 2541–1).

*Loan Repayment Program Contract* means the agreement, which is signed by an applicant and the Secretary, for the Loan Repayment Program wherein the applicant agrees to accept repayment of health professions educational loans and to serve in accordance with the provisions of section 338B of the Act and this subpart for a prescribed period of obligated service.

*Medically underserved area* means health manpower shortage area as defined in § 62.2.

*Program participant* means an individual whose application to the Loan Repayment Program has been approved and whose contract has been accepted and signed by the Secretary.

*Qualifying loans* means government and commercial loans for actual costs paid for tuition, reasonable educational expenses, and reasonable living expenses relating to the obtaining of a degree in allopathic or osteopathic medicine, dentistry, or other health profession. Such loans must have documentation which is contemporaneous with the training received in a health professions school. If health professions educational loans are refinanced, the original documentation of the loan(s) will be required to be submitted to the Secretary to establish the contemporaneous nature of such loans.

*Reasonable educational and living expenses* means those educational and living expenses which are equal to or less than the sum of the school's estimated standard student budgets for educational and living expenses for the degree program and for the year(s) during which the Program participant is/was enrolled in the school. However, if the school attended by the Program participant does/did not have a standard student budget or if a Program participant requests repayment for educational and living expenses which are in excess of the standard student budgets described in the preceding sentence, the Program participant must submit documentation, as required by the Secretary, to substantiate the reasonableness of all educational and living expenses incurred by the Program participant. To the extent that the Secretary determines, upon review of the Program participant's documentation, that all or a portion of the educational and living expenses are reasonable, these expenses will qualify for repayment.

**§ 62.23 How will individuals be selected to participate in the Loan Repayment Program?**

(a) In determining which applications from eligible individuals for participation in the Loan Repayment Program will be accepted for consideration, the Secretary will apply the following criteria:

(1) The extent to which an individual's training is in a health profession or specialty determined by the Secretary to be needed by the National Health Service Corps;

(2) The individual's commitment to serve in medically underserved areas;

(3) The availability of the individual for service, with highest consideration being given to individuals who will be available for service at the earliest dates;

(4) The length of the individual's proposed service obligation, with greatest consideration being given to persons who agree to serve for longer periods of time; and

(5) The individual's academic standing, prior professional experience in a health manpower shortage area, board certification, residency achievements, peer recommendations, depth of past residency practice experience and other criteria related to professional competence or conduct.

(b) Among qualified applicants, the Secretary will give priority to applications from individuals whose health professions or specialties are most needed by the NHSC and who are, in the Secretary's judgement, most committed to practice in medically underserved areas.

(c) By notice published in the FEDERAL REGISTER from time to time, the Secretary will specify the professions and specialties most needed by the National Health Service Corps.

**§ 62.24 Who is eligible to apply for the Loan Repayment Program?**

(a) To be eligible to participate in the Loan Repayment Program an individual must:

(1)(i) Be enrolled as a full-time student in the final year of a course of study or program approved by the Secretary which leads to a degree in allopathic or osteopathic medicine, dentistry or other health profession and which is offered by an accredited school in a State or

(ii) Be enrolled in an approved graduate training program in allopathic or osteopathic medicine or dentistry or other health profession in a State, or

(iii) Have a degree in allopathic or osteopathic medicine or dentistry or

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other health profession and have completed an approved graduate training program in a State (or received a waiver of the completion requirement under § 62.26(d) of this subpart) and have a current and valid license to practice such health profession in a State;

(2) Be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or be eligible for selection for civilian service in the National Health Service Corps;

(3) Submit an application to participate in the Loan Repayment Program; and

(4) Sign and submit to the Secretary, at the time of the submission of such application, a written contract agreeing to accept repayment of health professions educational loans and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area as determined by the Secretary.

(b) Any individual who owes an obligation for health professional service to the Federal Government or a State or other entity under an agreement with such Federal, State or other entity is ineligible for the Loan Repayment Program unless such obligation will be completely satisfied prior to the beginning of service under this Program.

(c) Individuals in breach of a written contract entered into under section 338A of the Act and liable to the United States under section 338E(b) of the Act, in breach of a written contract entered into under section 225 of the Act (as in effect on September 30, 1977) and liable to the United States under section 225(f)(1) of the Act (as in effect on September 30, 1977) or in breach of any other obligation for health professional service to a Federal, State or local government entity are not eligible for participation in the Loan Repayment Program.

(Approved by the Office of Management and Budget under control number 0915–0127)

### § 62.25 What does the Loan Repayment Program provide?

(a) *Loan repayment.* For each year of service the individual agrees to serve, with a minimum of 2 years of obligated service, the Secretary may pay:

(1) Except as provided in paragraph (a)(2) of this section, up to \$20,000 per year of a Program participant's qualifying loans or

(2) Up to \$25,000 per year for a Program participant's qualifying loans if the Program participant agrees to provide obligated service in the Indian Health Service or a health facility or program operated by a tribe or tribal organization under the Indian Self-Determination Act.

The Secretary may establish different levels of annual loan repayment to encourage Program participants to serve in a manner which is in the best interest of the Loan Repayment Program. No loan repayments will be made for any professional practice performed prior to the effective date of the Loan Repayment Program Contract. Once a loan repayment contract has been signed by both parties, the Secretary will obligate such funds as will be necessary to ensure that sufficient funds will be available to make loan repayments for the duration of the period of obligated service.

(b) *Site visit.* The Secretary may reimburse an individual for the actual and reasonable travel expenses associated with one trip from the individual's residence to a site for the purpose of evaluating such site for service under the Loan Repayment Program.

(c) *Tax liability payments.* The Secretary may, upon a Program participant's written request, make payments in a reasonable amount, as determined by the Secretary, to reimburse the Program participant for all or part of the increased Federal, State and local tax liability resulting from loan repayments received under the Loan Repayment Program. To maximize the Federal resources available for placing participants in HMSAs, supplementary payments for increased tax liability will only be made under unusual circumstances, and in no cases will these tax liability payments exceed 20% of the annual amounts of the loans being repaid. Program participants wishing to receive tax liability payments must submit their requests for such payments in a manner prescribed by the Secretary and must provide the Secretary with any documentation the Secretary determines is necessary to

establish a Program participant's increased tax liability. The Secretary will determine, based on the availability of funds and such other factors as the Secretary determines, the amounts of any such payments that may be made.

(Information collection requirements contained in paragraph (c) were approved by the Office of Management and Budget under control number 0915-0131)

[54 FR 13462, Apr. 3, 1989, as amended at 57 FR 56996, Dec. 2, 1992]

**§ 62.26 What does an individual have to do in return for loan repayments received under the Loan Repayment Program?**

(a) A Program participant whose eligibility for the Loan Repayment Program is based on § 62.24(a)(1)(i) of this subpart must maintain full-time enrollment, at an acceptable level of academic standing, in that course of study until its completion. Upon completion of that course of study, a Program participant who received a degree in allopathic or osteopathic medicine must enter approved graduate training and a Program participant who received a degree in a health profession other than allopathic or osteopathic medicine may enter approved graduate training. Once a Program participant enters approved graduate training, he or she must also meet the requirements set forth in paragraphs (b) (1), (2), (3), and (4) of this section. If a Program participant who received a degree in a health profession other than allopathic or osteopathic medicine does not enter approved graduate training; service, in accordance with paragraph (e) of this section, must commence as soon as possible upon the Program participant's completion of the course of study leading to his or her health professions degree.

(b) A Program participant whose eligibility for the Loan Repayment Program is based on § 62.24(a)(1)(ii) of this subpart must: (1) Continue in his or her approved graduate training program at an acceptable level of academic standing; (2) provide the Secretary with annual documentation of continued participation in that approved graduate training program at an acceptable level of academic standing; (3) success-

fully complete that approved graduate training program; and (4) commence service, in accordance with paragraph (e) of this section, as soon as possible upon completion of approved graduate training.

(c) A Program participant whose eligibility for the Loan Repayment Program is based on § 62.24(a)(1)(iii) of this subpart must commence service, in accordance with paragraph (e) of this section, as soon as possible after the effective date of the Loan Repayment Program Contract.

(d) If a Program participant fails to complete approved graduate training, the Secretary may, on his or her own initiative or at the Program participant's request, waive, for good cause, the completion requirement. Good cause will be deemed to exist if the Secretary determines that the Program participant has sufficient health professions training to be utilized by and make a substantial contribution to the National Health Service Corps. If waiver of the completion requirement in paragraph (b) of this section is granted; service, in accordance with paragraph (e) of this section, must commence as soon as possible after the granting of the waiver.

(e) Except for Program participants who fail to complete their course of study leading to a health professions degree or who fail to complete approved graduate training and do not receive a waiver pursuant to paragraph (d) of this section, each program participant must:

(1) Serve in a health manpower shortage area to which he or she is assigned by the Secretary as a member of the National Health Service Corps or serve pursuant to section 338D of the Act in a health manpower shortage area selected by the Secretary and

(2) Accept employment in a full-time clinical practice of the Program participant's profession, as

(i) A commissioned officer in the Regular or Reserve Corps of the Public Health Service,

(ii) A civilian member of the National Health Service Corps who is an employee of the United States,

(iii) A member of the National Health Service Corps who is not an employee of the United States, or

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(iv) A private practitioner who is providing obligated service under the provisions of section 338D of the Act.

(f) The minimum length of obligated service is two years, or such longer period as the Program participant may agree to. The maximum length of obligated service is four years. If a Program participant agrees to an original contract of two or three years, such contract may be extended, subject to the availability of appropriated funding, for one year or two years (up to the four-year maximum). A one-year extension will not reactivate the statutory minimum requirement of two years of service.

(Information collection requirements contained in paragraph (b)(2) were approved by the Office of Management and Budget under control number 0915-0131)

### **§ 62.27 What will happen if an individual does not comply with the terms and conditions of participation in the Loan Repayment Program?**

Program participants who default on their Loan Repayment Program Contracts will be subject to the applicable monetary payment provisions set forth at section 338E of the Act. Payment of any amount owed under section 338E of the Act shall be made within one year of the date the participant breached his or her Loan Repayment Contract, as determined by the Secretary.

### **§ 62.28 Under what circumstances can the service or payment obligation be canceled, waived or suspended?**

A service or payment obligation under the Loan Repayment Program will be canceled or may be waived or suspended as provided in § 62.12 of this part of the regulations.

### **§ 62.29 Under what circumstances can the Loan Repayment Program obligation be discharged in bankruptcy?**

Any payment obligation incurred under § 62.27 of this subpart may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the five-year period beginning on the first date that payment was required, and only if the bankruptcy court finds that nondis-

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charge of the obligation would be unconscionable.

### **§ 62.30 What other regulations and statutes apply?**

Other regulations and statutes which apply to this subpart include but are not limited to:

Debt Collection Act of 1982, Pub. L. 97-365 (5 U.S.C. 5514) including Section 4, Requirement that Applicant Furnish Taxpayer Identifying Number;

Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*);

Privacy Act of 1974 (5 U.S.C. 552a);

Section 215(a) of the Public Health Service Act, as amended (42 U.S.C. 216(a)), for PHS commissioned officers, and 5 U.S.C. 3301 for civil service employees both of which authorize verification of an individual's suitability for employment;

Privacy Act of 1974; Alteration of System of Records, 52 FR 21622-21627, June 8, 1987, regarding the collection, maintenance and allowable use of personal information requested from program applicants.

## **Subpart C—Grants for State Loan Repayment Programs**

**AUTHORITY:** Sec. 215 of the Public Health Service Act, 58 Stat. 690 as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 338H of the Public Health Service Act, 101 Stat. 999 (42 U.S.C. 254q-1).

**SOURCE:** 54 FR 13464, Apr. 3, 1989, unless otherwise noted.

### **§ 62.51 What is the scope and purpose of the State Loan Repayment Program?**

The regulations of this subpart apply to the award of grants authorized by section 338H of the Public Health Service Act (42 U.S.C. 254q-1) to support the establishment of State programs similar to the National Health Service Corps Loan Repayment Program authorized by section 338B of the Public Health Service Act (42 U.S.C. 2541-1). The purpose of this program is to improve the delivery of health services in medically underserved areas.

### **§ 62.52 Definitions.**

In addition to the definitions in § 62.2 of this part, the following definitions will apply for purposes of this subpart:

The definitions of *Qualifying loans*, *Commercial loans*, *Government loans*,

*Educational expenses*, and *Living expenses* as contained in §62.22 of this part will apply for purposes of this subpart.

*Medically underserved area* means *health manpower shortage area* or an area which has been designated by a State pursuant to standards described in §62.54(b)(1) of this subpart which the Secretary has deemed acceptable.

*State Loan Repayment Program* or *program* means a State loan repayment program authorized under section 338H (42 U.S.C. 254q-1) of the Act.

**§ 62.53 Who is eligible for this program?**

Any State is eligible to apply for a grant under this subpart.

**§ 62.54 What must applications for the State Loan Repayment Program contain?**

(a) An application for a grant under this subpart shall be submitted to the Secretary at such time and in such form and manner as the Secretary requires.

(b) The application shall contain a budget and narrative statement describing the manner in which the applicant intends to conduct the project and carry out the requirements of this subpart. In addition, applications must include:

(1) A description of the State's standards for the designation of medically underserved areas, except that no description of designation standards will be required if the State elects to use health manpower shortage areas designated by the Secretary;

(2) An assessment of the need and demand in medically underserved areas within the State for health professions manpower with special emphasis on individuals whose training is in a health profession or specialty identified by the Secretary pursuant to §62.23(b) of this part. This assessment should include such demographic indicators of the need as the economic accessibility of health care services in the State as measured by poverty levels, the percentage of the service area population without health insurance, and the health status of the population as measured by the rates of infant mor-

tality, low birth weight, geographic barriers and other indicators;

(3) A proposal for the placement of the health profession providers in medically underserved areas with the greatest need and demand in accordance with the need/demand assessment completed in compliance with paragraph (b)(2) of this section;

(4) Adequate assurances that sufficient current year State funds are available to cover the non-Federal share of State Loan Repayment Program costs;

(5) A description of how the program would meet the requirements of §62.55 to demonstrate its similarity to the NHSC Loan Repayment program;

(6) A description of the source of, and plans for the use of, State matching funds;

(7) A description of how the program would be coordinated with Federal, State and other organized activities within the State which relate to health manpower services and resources;

(8) Identification of the State entity and key personnel who would administer the grant and a description of the qualifications and experience of that entity and its personnel concerning the State's health service delivery system and health manpower needs;

(9) A description of the State's plans for administration of the State's Loan Repayment Program which may include such provisions as annual levels of loan repayment to be made under the program, the number of health professionals to be funded, the frequency and timing of the loan repayments, program incentives for longer periods of service, procedures for monitoring the service of program participants and placing professionals in default for failure to complete their service obligation, penalties for default, provisions for waivers and suspensions, and a description of the contract/obligation process to be used by the State to obligate individuals receiving State loan repayments;

(10) A description of the State's need for Federal assistance in obtaining health professions resources and demonstrated inability to obtain such resources without Federal assistance;

(11) A description of how the State will accord special consideration to

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medically underserved areas with large minority populations; and

(12) The signature of an individual authorized to act for the State and to assume on behalf of the State the obligations imposed by the statute, the applicable regulations of this subpart and any additional conditions of the grant.

(Approved by the Office of Management and Budget under control number 0915-0131)

**§ 62.55 What State Program Elements are required to ensure similarity with the NHSC Loan Repayment Program?**

A State Loan Repayment Program supported under this subpart must:

(a) Establish priorities for loan repayment applicants consistent with the provisions of § 62.23 of this part;

(b) Contract only with a person who is (1) enrolled as a full-time student in the final year of a course of study or program in an accredited school in a State leading to a degree in allopathic or osteopathic medicine, dentistry or other health profession, or (2) enrolled in an accredited graduate training program in a State in allopathic or osteopathic medicine or dentistry or other health profession, or (3) a practitioner licensed by a State who has completed training in an accredited graduate training program in allopathic or osteopathic medicine, dentistry or other health profession;

(c) Provide that health professionals participating in a State Loan Repayment Program shall:

(1) Serve for at least 2 years in a medically underserved area identified pursuant to § 62.54(b)(3) of this subpart in the full-time clinical practice of their profession,

(2) Charge for his or her professional services at the usual and customary rate prevailing in the area in which such services are provided, except that if a person is unable to pay such charge, such person shall be charged at a reduced rate or not charged any fee,

(3) In providing health services, not discriminate against any person on the basis of such person's ability to pay for such services or because payment for the health services provided to such person will be made under the insurance program established under part A or B of title XVIII of the Social Secu-

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rity Act or under a State plan for medical assistance approved under title XIX of such Act, and

(4) Agree to accept an assignment under section 1842(b)(3)(B)(ii) of such Act for all services for which payment may be made under part B of title XVIII of such Act and enter into an appropriate agreement with the State agency which administers the State plan for medical assistance under title XIX of such Act to provide service to individuals entitled to medical assistance under the plan;

(d) Repay qualifying loans for participating health professionals;

(e) Provide that the loans of health professionals will be repaid on a periodic basis after the receipt of obligated services by such participant for such period; and

**§ 62.56 How are the Federal grant funds and State matching funds to be used under this program?**

The Federal share of any program shall not exceed 75 percent of the cost of the approved State program. The Federal share must be used to repay the qualifying loans of health professionals. No portion of the Federal share shall be used to pay for administrative costs of any State Loan Repayment Program. The State's share of the program may be used to repay qualifying loans of health professionals or administrative costs of the State's Loan Repayment Program, or a combination of both. All program administrative costs are to be borne by the State. No portion of the State's share of the program shall consist of Federal funds.

**§ 62.57 How will States be selected to participate in this program?**

Within the limits of funds available under section 338H of the Act, the Secretary may award grants to State applicants whose proposed Loan Repayment Programs will, in his or her judgment, best promote the purposes of section 338H of the Act, taking into account, among other pertinent factors:

(a) The need of the State for health professions manpower;

(b) The number and type of providers the State proposes to support through this program;

(c) The acceptableness of the State's standards for the designation of medically underserved areas and the appropriateness of the proposed placements of obligated providers;

(d) The degree of similarity between the proposed State Loan Repayment Program and the National Health Service Corps Loan Repayment Program;

(e) The adequacy of the qualifications, the administrative and managerial ability and the experience of the State staff to administer and carry out the proposed project;

(f) The suitability of the applicant's approach and the degree to which the applicant's project is coordinated with Federal, State and other organized activities for meeting the State's health professions manpower needs and resources, including mechanisms for an ongoing evaluation of the program's activities;

(g) The source and plans for use of the State match (including the percentage of the State's match that is proposed to be used for loan repayments), the degree to which the State match exceeds 25% or has increased over time, and the amount of the match relative to the needs and resources of the States; and

(h) The extent to which special consideration will be extended to medically underserved areas with large minority populations.

#### § 62.58 What other regulations apply?

Other regulations which apply to this subpart include but are not limited to:

45 CFR part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services—Effectuation of title VI of the Civil Rights Act of 1964

45 CFR part 81—Practice and procedure for hearings under part 80 of this title

45 CFR part 84—Nondiscrimination on the basis of handicap in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 86—Nondiscrimination on the basis of sex in programs and activities receiving or benefiting from Federal financial assistance

45 CFR part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance

45 CFR part 50—Policies of general applicability: Subpart D—Public Health Service grant appeals procedure

45 CFR part 16—Procedures of the Departmental Grant Appeals Board

45 CFR part 74—Administration of grants

45 CFR part 75—Informal grant appeals procedures

45 CFR part 92—Administrative Requirements for grants and cooperative agreements to State and local governments (effective October 1, 1988)

### Subpart D—Special Repayment Program

**AUTHORITY:** Sec. 215 of the Public Health Service Act 58 Stat. 690, as amended, 63 Stat. 35 (42 U.S.C. 216); sec. 204, Pub. L. 100-177, 101 Stat. 1000.

**SOURCE:** 56 FR 56597, Nov. 6, 1991, unless otherwise noted.

#### § 62.71 What is the scope and purpose of the Special Repayment Program?

These regulations apply to the Special Repayment Program authorized under section 204 of Pub. L. 100-177, which provides a time-limited opportunity for persons who were, on November 1, 1987, in breach of a written contract under the Public Health and National Health Service Corps Scholarship Training Program or the National Health Service Corps Scholarship Program to satisfy their scholarship obligations through full-time clinical service. These regulations do not apply to any Public Health and National Health Service Corps Scholarship Training Program or National Health Service Corps Scholarship Program obligation which the Secretary has determined was completely satisfied through service or monetary payment prior to November 1, 1987. The purpose of this program is to supply trained health professionals for the National Health Service Corps, which is used by the Secretary to improve the delivery of health services in health manpower shortage areas.

#### § 62.72 Definitions.

In addition to the definitions in § 62.2 of this part, the following definitions will apply for purposes of this subpart:

*Eligible defaulters* means those individuals who, as of November 1, 1987, were:

(1) In breach of a written contract entered into under section 338A of the Act and liable to the United States

under section 338E(b) of the Act and/or in breach of a written contract entered into under section 225 of the Act (as in effect on September 30, 1977) and liable to the United States under section 225(f)(1) of the Act (as in effect on September 30, 1977); and

(2) Not already serving their obligations on December 1, 1987, under a judgment, forbearance agreement, or other written agreement to serve.

*HPOL* means the Health Manpower Shortage Area Placement Opportunity List described in section 204(b) of Pub. L. 100–177.

*Match* means that the Secretary has received documentation of:

(1) An offer of employment from a HPOL or SHPOL site which specifies at least the agreed upon salary and start date; and

(2) The Program participant's acceptance of that offer. Provided, however, that if the Program participant would be self-employed, a *match* means that the Secretary has approved a program participant's private practice option application under section 338D(a) of the Act.

*Prior approved service* means service performed prior to a Program participant's service start date under the Special Repayment Program:

(1) As a member of the National Health Service Corps pursuant to an assignment by the Secretary under section 333 of the Act;

(2) Under a written private practice option agreement signed by the Secretary pursuant to section 338D of the Act; or

(3) In compliance with section 338C(e) of the Act.

*Program participant* means an eligible defaulter whose contract under section 204 of Pub. L. 100–177 has been accepted and signed by the Secretary.

*Scholarship amount* means the sum of any amounts paid to, or on the behalf of, a scholarship recipient under the PH/NHSC Scholarship Training Program and/or the Scholarship Program.

*SHPOL* means the Supplemental Health Manpower Shortage Area Placement Opportunity List described in section 204(d) of Pub. L. 100–177.

*Special Repayment Program* or *Program* means the program authorized by section 204 of Pub. L. 100–177.

*Total debt* means the debt that would be owed by a Program participant under section 225(f)(1) of the Act, as in effect on September 30, 1977, and/or section 338E(b) of the Act, as if no payments had been made on the debt.

### § 62.73 What are the procedures for participation in the Special Repayment Program?

(a) *Notice of eligibility for participation in the program.* On or before February 29, 1988, the Secretary will, subject to paragraph (h) of this section, send written notice to each eligible defaulter of the opportunity provided under this Program. The notice will be sent to the last known address of each eligible defaulter and will describe the special repayment options available under the Program.

(b) *Selection of repayment method.* On or before May 29, 1988, eligible defaulters who wish to participate in this Program must sign and submit to the Secretary a written contract to provide service in accordance with either section 204(b) or section 204(c) of Pub. L. 100–177. The election between section 204(b) and section 204(c) of Pub. L. 100–177 is binding on the eligible defaulters.

(c) *Service sites.* Program participants will receive a listing of approved sites appropriate to the service option they have selected. Program participants electing service under section 204(b) of Pub. L. 100–177 will receive a HPOL. Program participants electing service under section 204(c) of Pub. L. 100–177 will receive a SHPOL. The HPOL or SHPOL sent to the Program participant will be specific to the Program participant's profession and his or her specialty training which is most needed by the National Health Service Corps. The Secretary is not required to identify placements for Program participants in a medical specialty for which the National Health service Corps has no need.

(d) *Time frames for matching and commencing service.* If a program participant electing to serve under section 204(b) of Pub. L. 100–177 chooses to serve at a remaining site on the 1988 HPOL, such participant must match to a site and must begin serving at the site by October 1, 1988. If a Program

participant electing to serve under section 204(b) of Pub. L. 100-177 chooses to serve at a site on the 1989 HPOL, such participant must match to a HPOL site by February 15, 1989, and must begin service at the site by October 1, 1989. If a Program participant has elected to serve under section 204(c) of Pub. L. 100-177, such participant must match to a SHPOL site by May 15, 1989, and must begin service at that site by October 1, 1989.

(e) *Site visits.* The Program participant is responsible for the costs of any site visit(s) and any other contact with the site to obtain employment at the site.

(f) *Effect of failure to meet established time frames.* If a Program participant does not match to a site or begin service at that site within the time frames described in paragraph (d) of this section, the Secretary will determine that such individual is not relieved of his or her liability to the United States under the PH/NHSC Scholarship Training Program and/or Scholarship Program (including accrued interest and/or damages).

(g) *Service.* Service must be performed in accordance with subpart II of part D of title III of the Act. Service credit will begin after a Program participant has matched to a HPOL or SHPOL site and has commenced service at that site in accordance with subpart II of part D of title III of the Act.

(h) *Secretary's exclusion authority.* The Secretary is authorized, at any time, to deny or terminate an individual's participation in the Program for reasons related to the individual's professional competence or conduct.

**§ 62.74 How much credit will a Program participant receive for monetary repayments made, or for approved service performed, before beginning service under the Special Repayment Program?**

(a) Prior approved service performed by a Program participant will be credited to the Program participant for the purpose of calculating the Program participant's remaining service obligation under this Program. Thus, the Program participant's remaining service obligation will be calculated by subtracting the number of days of the Program participant's prior approved

service from the number of days of the Program participant's original service obligation under the PH/NHSC Scholarship Training Program and/or the Scholarship Program. If a Program participant has made monetary payments, his or her remaining service obligation will be reduced by converting the monetary payments into days of service credit as set forth in paragraph (b) or (c) of this section, whichever is applicable.

(b) Program participants who elect to serve pursuant to section 204(b) and section 204(c)(2) of Pub. L. 100-177, will not receive a refund of any amounts previously paid but will receive service credit for those payments as follows:

(1) The number of days of service credit will be calculated by dividing the total amount paid by the Program participant prior to the Program participant's service start date by the total debt as of the service start date and multiplying the result of that division by the number of days of the participant's remaining service obligation (as determined by the formula set forth in the second sentence of paragraph (a) of this section).

(2) If the Program participant defaults on a contract under this Program, prior monetary payments will not be credited to service but will be applied to the monetary debt owed by the Program participant.

(c) Program participants who elect to serve under section 204(c)(1) of Pub. L. 100-177 must pay an amount equal to the scholarship amount. Any amounts paid by the Program participant prior to or after entry into the Program, in accordance with § 62.76 of this subpart, will be used to reduce the Program participant's financial obligation incurred under section 204(c)(1) of Pub. L. 100-177. In some cases, the amounts paid before or after entry into the Program will exceed the scholarship amount. These payments in excess of the scholarship amount will be converted into days of service credit under the formula set forth in paragraph (b)(1) of this section. If a Program participant defaults on a contract under this option, the monies paid in excess of the scholarship amount will not be credited to service but will be credited toward the monetary debt owed by the

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Program participant under section 338E(b) of the Act or section 225(f)(1) of the Act, as in effect on September 30, 1977. The scholarship amount paid upon entering this option will be forfeited.

### § 62.75 Will individuals serving under the Special Repayment Program receive credit for partial service?

(a) With respect to obligations under the Scholarship Program, a credit will be allowed for partial service under the Special Repayment Program and will result in a reduction of the Program participant's financial obligation in accordance with the following formula:

$$A = 30 \frac{[t - (s + \frac{1}{2}r)]}{t}$$

In which:

'A' is the amount the United States is entitled to recover;

'0' is the sum of the amounts paid to or on behalf of the Program participant under the Scholarship Program and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

't' is the sum of (1) the number of months of prior approved service plus (2) the number of months of the Program participant's period of obligated service under the Program including any additional months of service incurred pursuant to section 204(c)(2) of Pub. L. 100-177;

's' is the number of months of prior approved service performed by the Program participant before commencing service under this Program; and

'r' is the number of months of service performed by the Program participant in compliance with this Program.

However, where a judgment has been entered against a Program participant, the formula will be revised such that:

'30' is the amount of the judgment representing the Program participant's liability under the Scholarship Program, including any accrued post judgment interest and excluding any monetary payments on the judgment which may have been made by the Program participant;

't' is the sum of (1) the number of months of prior approved service performed by the Program participant after entry of the judgment but before commencing service under this Program plus (2) the number of months of the Program participant's period of obligated service under the Program including any additional months of

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service incurred pursuant to section 204(c)(2) of Pub. L. 100-177; and

's' is the number of months of prior approved service performed by the Program participant after the entry of the judgment but before commencing service under this Program.

(b) With respect to obligations under the PH/NHSC Scholarship Training Program, if a Program participant fails to complete the period of obligated service under the Program (including any additional months of service incurred pursuant to section 204(c)(1) of Pub. L. 100-177), no credit for partial service under this Program will be allowed.

(c) Where participants have obligations under both the Scholarship Program and the PH/NHSC Scholarship Training Program, credit for service will be applied against the scholarship obligations in the order in which they were incurred.

### § 62.76 How will amounts of money due under the option under section 204(c)(1) of Public Law 100-177 be required to be repaid?

Program participants who elect to serve under section 204(c)(1) of Pub. L. 100-177 will be required to pay the full scholarship amount at least 60 days prior to the service start date specified in the documentation submitted to the Secretary.

## PART 63—TRAINEESHIPS

Sec.

63.1 To what programs do these regulations apply?

63.2 Definitions.

63.3 What is the purpose of traineeships?

63.4 What are the minimum qualifications for awards?

63.5 How will NIH make awards?

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63.7 What are the benefits of awards?

63.8 What are the terms and conditions of awards?

63.9 How may NIH terminate awards?

63.10 Other HHS regulations and policies that apply.

AUTHORITY: 42 U.S.C. 216, 282(b)(13), 284(b)(1)(C), 285a-2(b)(3), 286b-3, 287c-21(a).

SOURCE: 60 FR 10719, Feb. 27, 1995, unless otherwise noted.