

HOUSE REPORT NO. 95-595

Section 330 authorizes compensation for services and reimbursement of expenses of officers of the estate. It also prescribes the standards on which the amount of compensation is to be determined. As noted above, the compensation allowable under this section is subject to the maxima set out in sections 326, 328, and 329. The compensation is to be reasonable, for actual necessary services rendered, based on the time, the nature, the extent, and the value of the services rendered, and on the cost of comparable services other than in a case under the bankruptcy code. The effect of the last provision is to overrule *In re Beverly Crest Convalescent Hospital, Inc.*, 548 F.2d 817 (9th Cir. 1976, as amended 1977), which set an arbitrary limit on fees payable based on the amount of a district judge's salary, and other, similar cases that require fees to be determined based on notions of conservation of the estate and economy of administration. If that case were allowed to stand, attorneys that could earn much higher incomes in other fields would leave the bankruptcy arena. Bankruptcy specialists, who enable the system to operate smoothly, efficiently, and expeditiously, would be driven elsewhere, and the bankruptcy field would be occupied by those who could not find other work and those who practice bankruptcy law only occasionally almost as a public service. Bankruptcy fees that are lower than fees in other areas of the legal profession may operate properly when the attorneys appearing in bankruptcy cases do so intermittently, because a low fee in a small segment of a practice can be absorbed by other work. Bankruptcy specialists, however, if required to accept fees in all of their cases that are consistently lower than fees they could receive elsewhere, will not remain in the bankruptcy field.

This subsection provides for reimbursement of actual, necessary expenses. It further provides for compensation of paraprofessionals employed by professional persons employed by the estate of the debtor. The provision is included to reduce the cost of administering bankruptcy cases. In nonbankruptcy areas, attorneys are able to charge for a paraprofessional's time on an hourly basis, and not include it in overhead. If a similar practice does not pertain in bankruptcy cases then the attorney will be less inclined to use paraprofessionals even where the work involved could easily be handled by an attorney's assistant, at much lower cost to the estate. This provision is designed to encourage attorneys to use paraprofessional assistance where possible, and to insure that the estate, not the attorney, will bear the cost, to the benefit of both the estate and the attorneys involved.

REFERENCES IN TEXT

The date of the enactment of the Bankruptcy Reform Act of 1994, referred to in subsec. (b)(2), is the date of enactment of Pub. L. 103-394, which was approved Oct. 22, 1994.

AMENDMENTS

2005—Subsec. (a)(1). Pub. L. 109-8, § 1104(b)(1), inserted “an ombudsman appointed under section 333, or” before “a professional person” in introductory provisions.

Pub. L. 109-8, § 232(b), inserted “a consumer privacy ombudsman appointed under section 332,” before “an examiner” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 109-8, § 1104(b)(2), inserted “ombudsman,” before “professional person”.

Subsec. (a)(3). Pub. L. 109-8, § 407(1), in introductory provisions, substituted “In” for “(A) In” and inserted “to an examiner, trustee under chapter 11, or professional person” after “awarded”.

Subsec. (a)(3)(E), (F). Pub. L. 109-8, § 415, added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (a)(7). Pub. L. 109-8, § 407(2), added par. (7).

1994—Subsec. (a). Pub. L. 103-394, § 224(b), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “After notice to any parties in interest and to the United States trustee and a hearing, and

subject to sections 326, 328, and 329 of this title, the court may award to a trustee, to an examiner, to a professional person employed under section 327 or 1103 of this title, or to the debtor's attorney—

“(1) reasonable compensation for actual, necessary services rendered by such trustee, examiner, professional person, or attorney, as the case may be, and by any paraprofessional persons employed by such trustee, professional person, or attorney, as the case may be, based on the nature, the extent, and the value of such services, the time spent on such services, and the cost of comparable services other than in a case under this title; and

“(2) reimbursement for actual, necessary expenses.”

Subsec. (b). Pub. L. 103-394, § 117, designated existing provisions as par. (1) and added par. (2).

1986—Subsec. (a). Pub. L. 99-554, § 211(1), inserted “to any parties in interest and to the United States trustee” after “notice”.

Subsec. (c). Pub. L. 99-554, § 257(f), inserted reference to chapter 12.

Subsec. (d). Pub. L. 99-554, § 211(2), added subsec. (d). 1984—Subsec. (a). Pub. L. 98-353, § 433(1), struck out “to any parties in interest and to the United States trustee” after “After notice”.

Subsec. (a)(1). Pub. L. 98-353, § 433(2), substituted “nature, the extent, and the value of such services, the time spent on such services” for “time, the nature, the extent, and the value of such services”.

Subsec. (b). Pub. L. 98-353, § 434(a), substituted “\$45” for “\$20”.

Subsec. (c). Pub. L. 98-353, § 434(b), added subsec. (c).

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-8 effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by section 117 of Pub. L. 103-394 effective Oct. 22, 1994, and applicable with respect to cases commenced under this title before, on, and after Oct. 22, 1994, and amendment by section 224(b) of Pub. L. 103-394 effective Oct. 22, 1994, and not applicable with respect to cases commenced under this title before Oct. 22, 1994, see section 702 of Pub. L. 103-394, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Effective date and applicability of amendment by section 211 of Pub. L. 99-554 dependent upon the judicial district involved, see section 302(d), (e) of Pub. L. 99-554, set out as a note under section 581 of Title 28, Judiciary and Judicial Procedure.

Amendment by section 257 of Pub. L. 99-554 effective 30 days after Oct. 27, 1986, but not applicable to cases commenced under this title before that date, see section 302(a), (c)(1) of Pub. L. 99-554.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-353 effective with respect to cases filed 90 days after July 10, 1984, see section 552(a) of Pub. L. 98-353, set out as a note under section 101 of this title.

§ 331. Interim compensation

A trustee, an examiner, a debtor's attorney, or any professional person employed under section 327 or 1103 of this title may apply to the court not more than once every 120 days after an order for relief in a case under this title, or more often if the court permits, for such compensation for services rendered before the date of such an application or reimbursement for expenses incurred before such date as is provided under sec-

tion 330 of this title. After notice and a hearing, the court may allow and disburse to such applicant such compensation or reimbursement.

(Pub. L. 95-598, Nov. 6, 1978, 92 Stat. 2564.)

HISTORICAL AND REVISION NOTES

SENATE REPORT NO. 95-989

Section 331 permits trustees and professional persons to apply to the court not more than once every 120 days for interim compensation and reimbursement payments. The court may permit more frequent applications if the circumstances warrant, such as in very large cases where the legal work is extensive and merits more frequent payments. The court is authorized to allow and order disbursement to the applicant of compensation and reimbursement that is otherwise allowable under section 330. The only effect of this section is to remove any doubt that officers of the estate may apply for, and the court may approve, compensation and reimbursement during the case, instead of being required to wait until the end of the case, which in some instances, may be years. The practice of interim compensation is followed in some courts today, but has been subject to some question. This section explicitly authorizes it.

This section will apply to professionals such as auctioneers and appraisers only if they are not paid on a per job basis.

§ 332. Consumer privacy ombudsman

(a) If a hearing is required under section 363(b)(1)(B), the court shall order the United States trustee to appoint, not later than 7 days before the commencement of the hearing, 1 disinterested person (other than the United States trustee) to serve as the consumer privacy ombudsman in the case and shall require that notice of such hearing be timely given to such ombudsman.

(b) The consumer privacy ombudsman may appear and be heard at such hearing and shall provide to the court information to assist the court in its consideration of the facts, circumstances, and conditions of the proposed sale or lease of personally identifiable information under section 363(b)(1)(B). Such information may include presentation of—

- (1) the debtor's privacy policy;
- (2) the potential losses or gains of privacy to consumers if such sale or such lease is approved by the court;
- (3) the potential costs or benefits to consumers if such sale or such lease is approved by the court; and
- (4) the potential alternatives that would mitigate potential privacy losses or potential costs to consumers.

(c) A consumer privacy ombudsman shall not disclose any personally identifiable information obtained by the ombudsman under this title.

(Added Pub. L. 109-8, title II, §232(a), Apr. 20, 2005, 119 Stat. 73; amended Pub. L. 111-16, §2(3), May 7, 2009, 123 Stat. 1607.)

AMENDMENTS

2009—Subsec. (a). Pub. L. 111-16 substituted “7 days” for “5 days”.

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-16 effective Dec. 1, 2009, see section 7 of Pub. L. 111-16, set out as a note under section 109 of this title.

EFFECTIVE DATE

Section effective 180 days after Apr. 20, 2005, and not applicable with respect to cases commenced under this title before such effective date, except as otherwise provided, see section 1501 of Pub. L. 109-8, set out as an Effective Date of 2005 Amendment note under section 101 of this title.

§ 333. Appointment of patient care ombudsman

(a)(1) If the debtor in a case under chapter 7, 9, or 11 is a health care business, the court shall order, not later than 30 days after the commencement of the case, the appointment of an ombudsman to monitor the quality of patient care and to represent the interests of the patients of the health care business unless the court finds that the appointment of such ombudsman is not necessary for the protection of patients under the specific facts of the case.

(2)(A) If the court orders the appointment of an ombudsman under paragraph (1), the United States trustee shall appoint 1 disinterested person (other than the United States trustee) to serve as such ombudsman.

(B) If the debtor is a health care business that provides long-term care, then the United States trustee may appoint the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending to serve as the ombudsman required by paragraph (1).

(C) If the United States trustee does not appoint a State Long-Term Care Ombudsman under subparagraph (B), the court shall notify the State Long-Term Care Ombudsman appointed under the Older Americans Act of 1965 for the State in which the case is pending, of the name and address of the person who is appointed under subparagraph (A).

(b) An ombudsman appointed under subsection (a) shall—

(1) monitor the quality of patient care provided to patients of the debtor, to the extent necessary under the circumstances, including interviewing patients and physicians;

(2) not later than 60 days after the date of appointment, and not less frequently than at 60-day intervals thereafter, report to the court after notice to the parties in interest, at a hearing or in writing, regarding the quality of patient care provided to patients of the debtor; and

(3) if such ombudsman determines that the quality of patient care provided to patients of the debtor is declining significantly or is otherwise being materially compromised, file with the court a motion or a written report, with notice to the parties in interest immediately upon making such determination.

(c)(1) An ombudsman appointed under subsection (a) shall maintain any information obtained by such ombudsman under this section that relates to patients (including information relating to patient records) as confidential information. Such ombudsman may not review confidential patient records unless the court approves such review in advance and imposes restrictions on such ombudsman to protect the confidentiality of such records.

(2) An ombudsman appointed under subsection (a)(2)(B) shall have access to patient records