

(2) Nothing in this section shall be construed to create—

(A) an employment relationship between the Secretary and an individual in receipt of assistance or support under this section; or

(B) any entitlement to any assistance or support provided under this section.

(d) DEFINITIONS.—In this section:

(1) The term “caregiver”, with respect to an eligible veteran under subsection (a) or a covered veteran under subsection (b), means an individual who provides personal care services to the veteran.

(2) The term “family caregiver”, with respect to an eligible veteran under subsection (a), means a family member who is a caregiver of the veteran.

(3) The term “family member”, with respect to an eligible veteran under subsection (a), means an individual who—

(A) is a member of the family of the veteran, including—

- (i) a parent;
- (ii) a spouse;
- (iii) a child;
- (iv) a step-family member; and
- (v) an extended family member; or

(B) lives with the veteran but is not a member of the family of the veteran.

(4) The term “personal care services”, with respect to an eligible veteran under subsection (a) or a covered veteran under subsection (b), means services that provide the veteran the following:

(A) Assistance with one or more independent activities of daily living.

(B) Any other non-institutional extended care (as such term is used in section 1701(6)(E) of this title).

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the programs required by subsections (a) and (b)—

(1) \$60,000,000 for fiscal year 2010; and

(2) \$1,542,000,000 for the period of fiscal years 2011 through 2015.

(Added Pub. L. 111-163, title I, §101(a)(1), May 5, 2010, 124 Stat. 1132.)

EFFECTIVE DATE

Pub. L. 111-163, title I, §101(a)(3), May 5, 2010, 124 Stat. 1137, provided that:

“(A) IN GENERAL.—The amendments made by this subsection [enacting this section] shall take effect on the date that is 270 days after the date of the enactment of this Act [May 5, 2010].

“(B) IMPLEMENTATION.—The Secretary of Veterans Affairs shall commence the programs required by subsections (a) and (b) of section 1720G of title 38, United States Code, as added by paragraph (1) of this subsection, on the date on which the amendments made by this subsection take effect.”

ANNUAL EVALUATION REPORT

Pub. L. 111-163, title I, §101(c), May 5, 2010, 124 Stat. 1138, provided that:

“(1) IN GENERAL.—Not later than 2 years after the date described in subsection (a)(3)(A) [see Effective Date note above] and annually thereafter, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Af-

fairs of the House of Representatives a comprehensive report on the implementation of section 1720G of title 38, United States Code, as added by subsection (a)(1).

“(2) CONTENTS.—The report required by paragraph (1) shall include the following:

“(A) With respect to the program of comprehensive assistance for family caregivers required by subsection (a)(1) of such section 1720G and the program of general caregiver support services required by subsection (b)(1) of such section—

“(i) the number of caregivers that received assistance under such programs;

“(ii) the cost to the Department of providing assistance under such programs;

“(iii) a description of the outcomes achieved by, and any measurable benefits of, carrying out such programs;

“(iv) an assessment of the effectiveness and the efficiency of the implementation of such programs; and

“(v) such recommendations, including recommendations for legislative or administrative action, as the Secretary considers appropriate in light of carrying out such programs.

“(B) With respect to the program of comprehensive assistance for family caregivers required by such subsection (a)(1)—

“(i) a description of the outreach activities carried out by the Secretary under such program; and

“(ii) an assessment of the manner in which resources are expended by the Secretary under such program, particularly with respect to the provision of monthly personal caregiver stipends under paragraph (3)(A)(ii)(v) of such subsection (a).

“(C) With respect to the provision of general caregiver support services required by such subsection (b)(1)—

“(i) a summary of the support services made available under the program;

“(ii) the number of caregivers who received support services under the program;

“(iii) the cost to the Department of providing each support service provided under the program; and

“(iv) such other information as the Secretary considers appropriate.”

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 most recent year for which information is available 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.