

(h) RECOVERY OF UNUSED GRANT FUNDS.—(1) If a grant recipient under this section does not establish a program in accordance with this section or ceases to furnish services under such a program for which the grant was made, the United States shall be entitled to recover from such recipient the total of all unused grant amounts made under this section to such recipient in connection with such program.

(2) Any amount recovered by the United States under paragraph (1) may be obligated by the Secretary without fiscal year limitation to carry out provisions of this subchapter.

(3) An amount may not be recovered under paragraph (1) as an unused grant amount before the end of the three-year period beginning on the date on which the grant is made.

(Added Pub. L. 107-95, §5(a)(1), Dec. 21, 2001, 115 Stat. 906; amended Pub. L. 109-444, §§2(b), 8(a)(4), Dec. 21, 2006, 120 Stat. 3304, 3313; Pub. L. 109-461, title VII, §703(a), title X, §§1004(a)(4), 1006(b), Dec. 22, 2006, 120 Stat. 3440, 3465, 3468; Pub. L. 112-154, title III, §301(a), Aug. 6, 2012, 126 Stat. 1182.)

#### REFERENCES IN TEXT

Section 501(c) of the Internal Revenue Code of 1986, referred to in subsec. (c)(3)(B)(i)(I), is classified to section 501(c) of Title 26, Internal Revenue Code.

#### PRIOR PROVISIONS

A prior section 2011 was renumbered section 4211 of this title.

Another prior section 2011 was renumbered section 4102 of this title.

#### AMENDMENTS

2012—Subsec. (b)(1)(A). Pub. L. 112-154, §301(a)(1), substituted “new construction of facilities, expansion, remodeling, or alteration of existing facilities, or acquisition of facilities,” for “expansion, remodeling, or alteration of existing buildings, or acquisition of facilities.”

Subsec. (c). Pub. L. 112-154, §301(a)(2), designated first sentence as par. (1) and second sentence as par. (2) and added par. (3).

2006—Subsec. (a). Pub. L. 109-461, §1006(b), provided that as of the enactment of Pub. L. 109-461, the amendments made by Pub. L. 109-444 were deemed for all purposes not to have taken effect and that Pub. L. 109-444 ceased to be in effect. See Amendment notes below and section 1006(b) of Pub. L. 109-461, set out as a Coordination of Provisions With Pub. L. 109-444 note under section 101 of this title.

Pub. L. 109-461, §1004(a)(4), which directed insertion of a period at end of subpar. (C) of par. (1), was executed to par. (3) to reflect the probable intent of Congress and the redesignation of par. (1)(C) as (3) by Pub. L. 109-461, §703(a). See below.

Pub. L. 109-461, §703(a), struck out par. (1) designation before “Subject”, redesignated subpars. (A) to (D) of former par. (1) as pars. (1) to (4), respectively, and struck out former par. (2), which read as follows: “The authority of the Secretary to make grants under this section expires on September 30, 2005.”

Pub. L. 109-444, §8(a)(4), which inserted period at end of subpar. (C) of par. (1), was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

Subsec. (a)(2). Pub. L. 109-444, §2(b), which substituted “September 30, 2007” for “September 30, 2005”, was terminated by Pub. L. 109-461, §1006(b). See Amendment notes above.

#### GRANT AND PER DIEM PAYMENTS

Pub. L. 112-154, title III, §301(b), Aug. 6, 2012, 126 Stat. 1183, provided that:

“(1) STUDY AND DEVELOPMENT OF FISCAL CONTROLS AND PAYMENT METHOD.—Not later than one year after the date of the enactment of this Act [Aug. 6, 2012], the Secretary of Veterans Affairs shall—

“(A) complete a study of all matters relating to the method used by the Secretary to make per diem payments under section 2012(a) of title 38, United States Code, including changes anticipated by the Secretary in the cost of furnishing services to homeless veterans and accounting for costs of providing such services in various geographic areas;

“(B) develop more effective and efficient procedures for fiscal control and fund accounting by recipients of grants under sections 2011, 2012, and 2061 of such title; and

“(C) develop a more effective and efficient method for adequately reimbursing recipients of grants under section 2011 of such title for services furnished to homeless veterans.

“(2) CONSIDERATION.—In developing the method required by paragraph (1)(C), the Secretary may consider payments and grants received by recipients of grants described in such paragraph from other departments and agencies of Federal and local governments and from private entities.

“(3) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to Congress a report on—

“(A) the findings of the Secretary with respect to the study required by subparagraph (A) of paragraph (1);

“(B) the methods developed under subparagraphs (B) and (C) of such paragraph; and

“(C) any recommendations of the Secretary for revising the method described in subparagraph (A) of such paragraph and any legislative action the Secretary considers necessary to implement such method.”

#### CONTINUATION OF AUTHORITY

Pub. L. 109-114, title II, §230, Nov. 30, 2005, 119 Stat. 2393, provided that: “The authority provided by section 2011 of title 38, United States Code, shall continue in effect through September 30, 2006.”

#### § 2012. Per diem payments

(a) PER DIEM PAYMENTS FOR FURNISHING SERVICES TO HOMELESS VETERANS.—(1) Subject to the availability of appropriations provided for such purpose, the Secretary, pursuant to such criteria as the Secretary shall prescribe, shall provide to a recipient of a grant under section 2011 of this title (or an entity eligible to receive a grant under that section which after November 10, 1992, establishes a program that the Secretary determines carries out the purposes described in that section) per diem payments for services furnished to any homeless veteran—

(A) whom the Secretary has referred to the grant recipient (or entity eligible for such a grant); or

(B) for whom the Secretary has authorized the provision of services.

(2)(A) The rate for such per diem payments shall be the daily cost of care estimated by the grant recipient or eligible entity adjusted by the Secretary under subparagraph (B). In no case may the rate determined under this paragraph exceed the rate authorized for State homes for domiciliary care under subsection (a)(1)(A) of section 1741 of this title, as the Secretary may increase from time to time under subsection (c) of that section.

(B) The Secretary shall adjust the rate estimated by the grant recipient or eligible entity

under subparagraph (A) to exclude other sources of income described in subparagraph (D) that the grant recipient or eligible entity certifies to be correct.

(C) Each grant recipient or eligible entity shall provide to the Secretary such information with respect to other sources of income as the Secretary may require to make the adjustment under subparagraph (B).

(D) The other sources of income referred to in subparagraphs (B) and (C) are payments to the grant recipient or eligible entity for furnishing services to homeless veterans under programs other than under this subchapter, including payments and grants from other departments and agencies of the United States, from departments or agencies of State or local government, and from private entities or organizations.

(3) In a case in which the Secretary has authorized the provision of services, per diem payments under paragraph (1) may be paid retroactively for services provided not more than three days before the authorization was provided.

(b) INSPECTIONS.—The Secretary may inspect any facility of a grant recipient or entity eligible for payments under subsection (a) at such times as the Secretary considers necessary. No per diem payment may be provided to a grant recipient or eligible entity under this section unless the facilities of the grant recipient or eligible entity meet such standards as the Secretary shall prescribe.

(c) LIFE SAFETY CODE.—(1) Except as provided in paragraph (2), a per diem payment may not be provided under this section to a grant recipient or eligible entity unless the facilities of the grant recipient or eligible entity, as the case may be, meet applicable fire and safety requirements under the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

(2) During the five-year period beginning on the date of the enactment of this section, paragraph (1) shall not apply to an entity that received a grant under section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992 (Public Law 102-590; 38 U.S.C. 7721 note)<sup>1</sup> before that date if the entity meets fire and safety requirements established by the Secretary.

(3) From amounts available for purposes of this section, not less than \$5,000,000 shall be used only for grants to assist entities covered by paragraph (2) in meeting the Life Safety Code of the National Fire Protection Association or such other comparable fire and safety requirements as the Secretary may specify.

(d) PER DIEM PAYMENTS TO NONCONFORMING ENTITIES.—(1) The Secretary may make funds available for per diem payments under this section to the following grant recipients or eligible entities:

(A) Grant recipients or eligible entities that—

(i) meet each of the transitional and supportive services criteria prescribed by the Secretary pursuant to subsection (a)(1); and

(ii) furnish services to homeless individuals, of which less than 75 percent are veterans.

(B) Grant recipients or eligible entities that—

(i) meet at least one, but not all, of the transitional and supportive services criteria prescribed by the Secretary pursuant to subsection (a)(1); and

(ii) furnish services to homeless individuals, of which not less than 75 percent are veterans.

(C) Grant recipients or eligible entities that—

(i) meet at least one, but not all, of the transitional and supportive services criteria prescribed by the Secretary pursuant to subsection (a)(1); and

(ii) furnish services to homeless individuals, of which less than 75 percent are veterans.

(2) Notwithstanding subsection (a)(2), in providing per diem payments under this subsection, the Secretary shall determine the rate of such per diem payments in accordance with the following order of priority:

(A) Grant recipients or eligible entities described by paragraph (1)(A).

(B) Grant recipients or eligible entities described by paragraph (1)(B).

(C) Grant recipients or eligible entities described by paragraph (1)(C).

(3) For purposes of this subsection, an eligible entity is a nonprofit entity and may be an entity that is ineligible to receive a grant under section 2011 of this title, but whom the Secretary determines carries out the purposes described in that section.

(Added Pub. L. 107-95, §5(a)(1), Dec. 21, 2001, 115 Stat. 908; amended Pub. L. 111-163, title VII, §701, May 5, 2010, 124 Stat. 1174.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (c)(2), is the date of enactment of Pub. L. 107-95, which was approved Dec. 21, 2001.

Section 3 of the Homeless Veterans Comprehensive Service Programs Act of 1992, referred to in subsec. (c)(2), is section 3 of Pub. L. 102-590, Nov. 10, 1992, 106 Stat. 5136, which was set out in a note under former section 7721 of this title, which note was repealed and restated in sections 2011 and 2012 of this title by Pub. L. 107-95, §5(a)(1), (e)(1), Dec. 21, 2001, 115 Stat. 906, 918. Section 7721 of this title was repealed by Pub. L. 109-233, title IV, §402(c), June 15, 2006, 120 Stat. 411.

#### PRIOR PROVISIONS

A prior section 2012 was renumbered section 4212 of this title.

Another prior section 2012 was renumbered section 4103 of this title.

#### AMENDMENTS

2010—Subsec. (d). Pub. L. 111-163 added subsec. (d).

#### § 2013. Authorization of appropriations

There is authorized to be appropriated to carry out this subchapter amounts as follows:

(1) \$150,000,000 for each of fiscal years 2007 through 2009.

<sup>1</sup> See References in Text note below.