

1996—Pub. L. 104-262 added pars. (1) and (2), redesignated par. (4) as (3), and struck out former pars. (1) to (3) which read as follows:

“(1) The term ‘research center’ means an institution (or part of an institution), the primary function of which is research, training of specialists, and demonstrations and which, in connection therewith, provides specialized, high quality diagnostic and treatment services for inpatients and outpatients.

“(2) The term ‘specialized medical resources’ means medical resources (whether equipment, space, or personnel) which, because of cost, limited availability, or unusual nature, are either unique in the medical community or are subject to maximum utilization only through mutual use.

“(3) The term ‘health-care resource’ includes hospital care, medical services, and rehabilitative services, as those terms are defined in paragraphs (5), (6), and (8), respectively, of section 1701 of this title, any other health-care service, and any health-care support or administrative resource.”

1993—Pars. (3), (4). Pub. L. 103-210 added par. (3) and redesignated former par. (3) as (4).

1991—Pub. L. 102-40 renumbered section 5052 of this title as this section.

Pub. L. 102-54 amended section as in effect immediately before the enactment of Pub. L. 102-40 by redesignating pars. (a), (b), and (c) as pars. (1), (2), and (3), respectively, and by realigning the margins.

§ 8153. Sharing of health-care resources

(a)(1) To secure health-care resources which otherwise might not be feasibly available, or to effectively utilize certain other health-care resources, the Secretary may, when the Secretary determines it to be in the best interest of the prevailing standards of the Department medical care program, make arrangements, by contract or other form of agreement for the mutual use, or exchange of use, of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual.

(2) The Secretary may enter into a contract or other agreement under paragraph (1) if such resources are not, or would not be, used to their maximum effective capacity.

(3)(A) If the health-care resource required is a commercial service, the use of medical equipment or space, or research, and is to be acquired from an institution affiliated with the Department in accordance with section 7302 of this title, including medical practice groups and other entities associated with affiliated institutions, blood banks, organ banks, or research centers, the Secretary may make arrangements for acquisition of the resource without regard to any law or regulation (including any Executive order, circular, or other administrative policy) that would otherwise require the use of competitive procedures for acquiring the resource.

(B)(i) If the health-care resource required is a commercial service or the use of medical equipment or space, and is not to be acquired from an entity described in subparagraph (A), any procurement of the resource may be conducted without regard to any law or regulation that would otherwise require the use of competitive procedures for procuring the resource, but only if the procurement is conducted in accordance with the simplified procedures prescribed pursuant to clause (ii).

(ii) The Secretary, in consultation with the Administrator for Federal Procurement Policy,

may prescribe simplified procedures for the procurement of health-care resources under this subparagraph. The Secretary shall publish such procedures for public comment in accordance with section 1707 of title 41. Such procedures shall permit all responsible sources, as appropriate, to submit a bid, proposal, or quotation (as appropriate) for the resources to be procured and provide for the consideration by the Department of bids, proposals, or quotations so submitted.

(iii) Pending publication of the procedures under clause (ii), the Secretary shall (except as provided under subparagraph (A)) procure health-care resources referred to in clause (i) in accordance with all procurement laws and regulations.

(C) Any procurement of health-care resources other than those covered by subparagraph (A) or (B) shall be conducted in accordance with all procurement laws and regulations.

(D) For any procurement to be conducted on a sole source basis other than a procurement covered by subparagraph (A), a written justification shall be prepared that includes the information and is approved at the levels prescribed in section 3304(e) of title 41.

(E) As used in this paragraph, the term “commercial service” means a service that is offered and sold competitively in the commercial marketplace, is performed under standard commercial terms and conditions, and is procured using firm-fixed price contracts.

(b) Arrangements entered into under this section shall provide for payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government. Any proceeds to the Government received therefrom shall be credited to the applicable Department medical appropriation and to funds that have been allotted to the facility that furnished the resource involved.

(c) Eligibility for hospital care and medical services furnished any veteran pursuant to this section shall be subject to the same terms as though provided in a Department health care facility, and provisions of this title applicable to persons receiving hospital care or medical services in a Department health care facility shall apply to veterans treated under this section.

(d) When a Department health care facility provides hospital care or medical services, pursuant to a contract or agreement authorized by this section, to an individual who is not eligible for such care or services under chapter 17 of this title and who is entitled to hospital or medical insurance benefits under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), such benefits shall be paid, notwithstanding any condition, limitation, or other provision in that title which would otherwise preclude such payment to such facility for such care or services or, if the contract or agreement so provides, to the community health care facility which is a party to the contract or agreement.

(e) The Secretary may make an arrangement that authorizes the furnishing of services by the Secretary under this section to individuals who are not veterans only if the Secretary determines—

(1) that veterans will receive priority under such an arrangement; and

(2) that such an arrangement—

(A) is necessary to maintain an acceptable level and quality of service to veterans at that facility; or

(B) will result in the improvement of services to eligible veterans at that facility.

(f) Any amount received by the Secretary from a non-Federal entity as payment for services provided by the Secretary during a prior fiscal year under an agreement entered into under this section may be obligated by the Secretary during the fiscal year in which the Secretary receives the payment.

(g) The Secretary shall submit to the Congress not later than February 1 of each year a report on the activities carried out under this section during the preceding fiscal year. Each report shall include—

(1) an appraisal of the effectiveness of the activities authorized in this section and the degree of cooperation from other sources, financial and otherwise; and

(2) recommendations for the improvement or more effective administration of such activities.

(Added Pub. L. 89-785, title II, § 203, Nov. 7, 1966, 80 Stat. 1374, § 5053; amended Pub. L. 91-496, § 4, Oct. 22, 1970, 84 Stat. 1092; Pub. L. 93-82, title III, § 303, Aug. 2, 1973, 87 Stat. 195; Pub. L. 94-581, title I, § 115(a)(1), title II, §§ 206(c), 210(e)(11), Oct. 21, 1976, 90 Stat. 2852, 2859, 2865; Pub. L. 96-151, title III, § 304, Dec. 20, 1979, 93 Stat. 1096; Pub. L. 97-295, § 4(95)(A), Oct. 12, 1982, 96 Stat. 1313; Pub. L. 98-160, title VII, § 702(20), Nov. 21, 1983, 97 Stat. 1010; Pub. L. 99-576, title II, § 231(c)(1), Oct. 28, 1986, 100 Stat. 3264; Pub. L. 101-366, title II, § 202(b), Aug. 15, 1990, 104 Stat. 438; renumbered § 8153, Pub. L. 102-40, title IV, § 402(b)(1), May 7, 1991, 105 Stat. 238; Pub. L. 102-54, § 14(f)(9), June 13, 1991, 105 Stat. 288; Pub. L. 102-83, § 4(a)(3), (4), (b)(1), (2)(D), (E), Aug. 6, 1991, 105 Stat. 404, 405; Pub. L. 103-210, § 3(c), Dec. 20, 1993, 107 Stat. 2498; Pub. L. 104-262, title III, § 301(c), (d)(1), Oct. 9, 1996, 110 Stat. 3191, 3193; Pub. L. 105-114, title IV, § 402(d), (e), Nov. 21, 1997, 111 Stat. 2294; Pub. L. 106-419, title IV, § 404(b)(2), Nov. 1, 2000, 114 Stat. 1866; Pub. L. 108-170, title IV, § 405(d), Dec. 6, 2003, 117 Stat. 2063; Pub. L. 111-350, § 5(j)(8), Jan. 4, 2011, 124 Stat. 3850.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XVIII of the Social Security Act is classified generally to subchapter XVIII (§ 1395 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2011—Subsec. (a)(3)(B)(ii). Pub. L. 111-350, § 5(j)(8)(A), substituted “section 1707 of title 41” for “section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b)”.

Subsec. (a)(3)(D). Pub. L. 111-350, § 5(j)(8)(B), substituted “section 3304(e) of title 41” for “section 303(f) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(f))”.

2003—Subsec. (g). Pub. L. 108-170, in introductory provisions, substituted “not later than February 1 of each

year” for “not more than 60 days after the end of each fiscal year” and inserted “during the preceding fiscal year” after “under this section”.

2000—Subsec. (a)(3)(B)(ii). Pub. L. 106-419 amended directory language of Pub. L. 105-114, § 402(e). See 1997 Amendment note below.

1997—Subsec. (a)(3)(A). Pub. L. 105-114, § 402(d), inserted “(including any Executive order, circular, or other administrative policy)” after “law or regulation”.

Subsec. (a)(3)(B)(ii). Pub. L. 105-114, § 402(e), as amended by Pub. L. 106-419, inserted “, as appropriate,” after “all responsible sources” in third sentence.

1996—Pub. L. 104-262, § 301(d)(1), substituted “Sharing of health-care resources” for “Specialized medical resources” in section catchline.

Subsec. (a)(1). Pub. L. 104-262, § 301(c)(1)(A), substituted “health-care resources” for “certain specialized medical resources”, “other health-care resources” for “other medical resources”, and “of health-care resources between Department health-care facilities and any health-care provider, or other entity or individual” for “of—

“(A) specialized medical resources between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools; and

“(B) health-care resources between Department health-care facilities and State home facilities recognized under section 1742(a) of this title”.

Subsec. (a)(2). Pub. L. 104-262, § 301(c)(1)(B), substituted “if such resources are not, or would not be,” for “only if (A) such an agreement will obviate the need for a similar resource to be provided in a Department health care facility, or (B) the Department resources which are the subject of the agreement and which have been justified on the basis of veterans' care are not”.

Subsec. (a)(3). Pub. L. 104-262, § 301(c)(1)(C), added par. (3).

Subsec. (b). Pub. L. 104-262, § 301(c)(2), substituted “payment to the Department in accordance with procedures that provide appropriate flexibility to negotiate payment which is in the best interest of the Government.” for “reciprocal reimbursement based on a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved.”

Subsec. (d). Pub. L. 104-262, § 301(c)(3), substituted “preclude such payment to such facility for such care or services” for “preclude such payment, in accordance with—

“(1) rates prescribed by the Secretary of Health and Human Services, after consultation with the Secretary, and

“(2) procedures jointly prescribed by the two Secretaries to assure reasonable quality of care and services and efficient and economical utilization of resources, to such facility therefor”.

Subsecs. (e) to (g). Pub. L. 104-262, § 301(c)(4), added subsecs. (e) and (f) and redesignated former subsec. (e) as (g).

1993—Subsec. (a). Pub. L. 103-210 designated existing provisions as par. (1) and substituted “other form of agreement for the mutual use, or exchange of use, of—” along with subpars. (A) and (B) and par. (2), for “other form of agreement, as set forth in clauses (1) and (2) below, between Department health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools:

“(1) for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a similar resource to be provided in a Department health care facility; or

“(2) for the mutual use, or exchange of use, of specialized medical resources in a Department health

care facility, which have been justified on the basis of veterans' care, but which are not utilized to their maximum effective capacity."

1991—Pub. L. 102-40 renumbered section 5053 of this title as this section.

Subsec. (a). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in introductory provisions.

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" wherever appearing.

Subsec. (b). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

Subsec. (c). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" in two places.

Pub. L. 102-54 amended subsec. (c) as in effect immediately before the enactment of Pub. L. 102-40 by substituting "under this section" for "hereunder".

Subsec. (d). Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" in introductory provisions.

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

Subsec. (d)(2). Pub. L. 102-83, §4(b)(2)(D), substituted "the two Secretaries" for "the Secretary and the Administrator".

Subsec. (e). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in introductory provisions.

1990—Subsec. (a). Pub. L. 101-366, §202(b)(1), substituted "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools" for "hospitals and other hospitals (or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions) or medical schools or clinics in the medical community" and struck out at end "The Administrator may determine the geographical limitations of a medical community as used in this section."

Subsec. (b). Pub. L. 101-366, §202(b)(2), substituted in first sentence "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved." for "a charge which covers the full cost of services rendered, supplies used, and including normal depreciation and amortization costs of equipment." and inserted before period at end of second sentence "and to funds that have been allotted to the facility that furnished the resource involved".

1986—Subsec. (e). Pub. L. 99-576 added subsec. (e).

1983—Subsec. (d). Pub. L. 98-160 substituted "title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.)" for "subchapter XVIII of chapter 7 of title 42".

1982—Subsec. (d)(1). Pub. L. 97-295 substituted "Health and Human Services" for "Health, Education, and Welfare".

1979—Subsec. (a). Pub. L. 96-151 inserted provisions relating to applicability to organ banks, blood banks, or similar institutions.

1976—Subsec. (a). Pub. L. 94-581, §§206(c), 210(e)(11), substituted "when the Administrator determines" for "when he determines" and "clauses" for "paragraphs" in provisions preceding cl. (1), and inserted "health care" after "Veterans' Administration" in cls. (1) and (2).

Subsec. (c). Pub. L. 94-581, §206(c)(2), inserted "health care" after "Veterans' Administration" in two places.

Subsec. (d). Pub. L. 94-581, §115(a)(1), inserted subsec. (d).

1973—Subsec. (a). Pub. L. 93-82 struck out "or medical schools" from parenthetical and inserted "or medical schools or clinics" after parenthetical.

1970—Subsec. (a)(1). Pub. L. 91-496 substituted "for the mutual use, or exchange of use," for "for the exchange of use".

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-419, title IV, §404(b)(2), Nov. 1, 2000, 114 Stat. 1866, provided that the amendment made by sec-

tion 404(b)(2) is effective Nov. 21, 1997, and as if included in Pub. L. 105-114 as originally enacted.

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.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-82 effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as a note under section 1701 of this title.

REPORT TO CONGRESS ON RATES AND PROCEDURES COVERING PAYMENT OF BENEFITS FOR CARE OR SERVICES PROVIDED IN VETERANS' ADMINISTRATION HEALTH CARE FACILITIES TO INDIVIDUALS NOT ELIGIBLE FOR VETERANS' HOSPITAL, NURSING HOME, DOMICILIARY, OR MEDICAL CARE

Pub. L. 94-581, title I, §115(c), Oct. 21, 1976, 90 Stat. 2853, provided that at such time as the rates and procedures described in subsec. (d) of this section were prescribed, the Secretary of Health, Education, and Welfare [now Secretary of Health and Human Services], in consultation with the Administrator of Veterans' Affairs, was to submit to the Committee on Ways and Means and the Committee on Veterans' Affairs of the House of Representatives and to the Committee on Finance and the Committee on Veterans' Affairs of the Senate a full report describing such rates and procedures.

§ 8154. Exchange of medical information

(a) The Secretary is authorized to enter into agreements with medical schools, hospitals, research centers, and individual members of the medical profession under which medical information and techniques will be freely exchanged and the medical information services of all parties to the agreement will be available for use by any party to the agreement under conditions specified in the agreement. In carrying out the purposes of this section, the Secretary shall utilize recent developments in electronic equipment to provide a close educational, scientific, and professional link between Department hospitals and major medical centers. Such agreements shall be utilized by the Secretary to the maximum extent practicable to create, at each Department hospital which is a part of any such agreement, an environment of academic medicine which will help such hospital attract and retain highly trained and qualified members of the medical profession.

(b) In order to bring about utilization of all medical information in the surrounding medical community, particularly in remote areas, and to foster and encourage the widest possible cooperation and consultation among all members of the medical profession in such community, the educational facilities and programs established at Department hospitals and the electronic link to medical centers shall be made available for use by the surrounding medical community (including State home facilities furnishing domiciliary, nursing home, or hospital care to veterans). The Secretary may charge a fee for such services (on annual or like basis) at rates which the Secretary determines, after appropriate study, to be fair and equitable. The financial status of any user of such services shall be taken into consideration by the Secretary in establishing the amount of the fee to be paid.