

Congress, struck out at end “Any amount of damages which the United States is entitled to recover under this subsection shall, within the one year period beginning on the date of the breach of the written contract (or such longer period beginning on such date as specified by the Secretary for good cause shown), be paid to the United States.”, and added subpar. (B).

Subsec. (b)(1)(B)(i). Pub. L. 100-203, as amended by Pub. L. 100-360, inserted at end “Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1395ccc of this title.”

Subsec. (c). Pub. L. 100-177, §202(e)(4), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 100-177, §§202(e)(3), (5), 308(a), redesignated subsec. (c) as (d), in pars. (1), (2), and (3), inserted “or the Loan Repayment Program (or a contract thereunder”, and in par. (3) inserted “, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable”.

1983—Subsec. (b)(1). Pub. L. 97-414 substituted “section 254p(d)” for “section 254q(b)”.

1981—Subsec. (a). Pub. L. 97-35, §2709(e)(1), (2), redesignated subsec. (b) as (a) and, as so redesignated, in introductory text substituted “254f” for “294t” and added par. (4). Former subsec. (a), which related to liability of individual upon failure to accept payment, was struck out.

Subsec. (b). Pub. L. 97-35, §2709(e)(1), (3), redesignated subsec. (c) as (b) and, as so redesignated, designated existing provisions as par. (1) and made numerous changes to reflect renumbering of subpart sections, and added par. (2). Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 97-35, §2709(e)(1), (4)(A), redesignated subsec. (d) as (c) and, as so redesignated, in par. (2) inserted reference to partial or total waiver. Former subsec. (c) redesignated (b).

1977—Subsec. (c). Pub. L. 95-83 substituted “‘ ϕ ’ is the sum of the amounts paid under this subpart to or on behalf of the individual and the interest on such amounts which would be payable if at the time the amounts were paid they were loans” for “‘ ϕ ’ is the sum of the amount paid under this subpart to or on behalf of the individual and the interest on such amount which would be payable if at the time it was paid it was a loan”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendments by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-251, title III, §313(b), Oct. 26, 2002, 116 Stat. 1652, which provided that the amendment to this section made by section 313(a)(4) of Pub. L. 107-251 was applicable to any obligation for which a discharge in bankruptcy had not been granted before the date that was 31 days after Oct. 26, 2002, was repealed by Pub. L. 108-163, §§2(f)(2), 3, Dec. 6, 2003, 117 Stat. 2023, effective immediately after enactment of Pub. L. 107-251.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-597, title II, §203(b), Nov. 16, 1990, 104 Stat. 3027, provided that: “With respect to any financial obligation of an individual under subsection (f) of section 225 of the Public Health Service Act [former 42 U.S.C. 234], as in effect prior to the repeal of such section by section 408(b)(1) of Public Law 94-484, the amendment made by subsection (a) of this section [amending this section] applies to any bankruptcy [sic] proceeding in which discharge of such an obligation has not been granted before the date that is 31 days after the date of the enactment of this Act [Nov. 16, 1990].”

EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates

to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE

Section effective Oct. 1, 1977, see section 408(b)(1) of Pub. L. 94-484, set out in part as a note under section 254f of this title.

EFFECTIVE DATE; SAVINGS PROVISION; CREDIT FOR PERIOD OF INTERNSHIP OR RESIDENCY BEFORE SEPTEMBER 30, 1977, TOWARDS SERVICE OBLIGATION

See section 408(b)(2) of Pub. L. 94-484, set out as a note under section 254f of this title.

SPECIAL REPAYMENT PROVISIONS

Pub. L. 100-177, title II, §204, Dec. 1, 1987, 101 Stat. 1000, provided that an individual who breached a written contract entered into under section 254f of this title by failing either to begin such individual's service obligation in accordance with section 254m of this title or to complete such service obligation; or otherwise breached such a contract; and, as of Nov. 1, 1987, was liable to United States under subsec. (b) of this section was to be relieved of liability to United States under such section if the individual provided notice to Secretary and service in accordance with a written contract with the Secretary that obligated the individual to provide service in accordance with section and authorized Secretary to exclude an individual from relief from liability under this section for reasons related to the individual's professional competence or conduct.

EXISTING PROCEEDINGS

Pub. L. 100-177, title III, §308(b), Dec. 1, 1987, 101 Stat. 1006, provided that: “The amendment made by subsection (a) [amending this section] applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act [42 U.S.C. 254o(d)(3)] (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date that is 31 days after the date of enactment of this Act [Dec. 1, 1987].”

§ 2540-1. Fund regarding use of amounts recovered for contract breach to replace services lost as result of breach

(a) Establishment of Fund

There is established in the Treasury of the United States a fund to be known as the National Health Service Corps Member Replacement Fund (hereafter in this section referred to as the “Fund”). The Fund shall consist of such amounts as may be appropriated under subsection (b) of this section to the Fund. Amounts appropriated for the Fund shall remain available until expended.

(b) Authorization of appropriations to Fund

For each fiscal year, there is authorized to be appropriated to the Fund an amount equal to the sum of—

(1) the amount collected during the preceding fiscal year by the Federal Government pursuant to the liability of individuals under section 254o of this title for the breach of contracts entered into under section 254f or 254f-1 of this title;

(2) the amount by which grants under section 254q-1 of this title have, for such preceding fiscal year, been reduced under subsection (g)(2)(B) of such section; and

(3) the aggregate of the amount of interest accruing during the preceding fiscal year on obligations held in the Fund pursuant to subsection (d) of this section and the amount of proceeds from the sale or redemption of such obligations during such fiscal year.

(c) Use of Fund

(1) Payments to certain health facilities

Amounts in the Fund and available pursuant to appropriations Act may, subject to paragraph (2), be expended by the Secretary to make payments to any entity—

(A) to which a Corps member has been assigned under section 254f of this title; and

(B) that has a need for a health professional to provide primary health services as a result of the Corps member having breached the contract entered into under section 254l or 254l-1 of this title by the individual.

(2) Purpose of payments

An entity receiving payments pursuant to paragraph (1) may expend the payments to recruit and employ a health professional to provide primary health services to patients of the entity, or to enter into a contract with such a professional to provide the services to the patients.

(d) Investment

(1) In general

The Secretary of the Treasury shall invest such amounts of the Fund as such Secretary determines are not required to meet current withdrawals from the Fund. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired on original issue at the issue price, or by purchase of outstanding obligations at the market price.

(2) Sale of obligations

Any obligation acquired by the Fund may be sold by the Secretary of the Treasury at the market price.

(July 1, 1944, ch. 373, title III, § 338F, as added Pub. L. 101-597, title II, § 204, Nov. 16, 1990, 104 Stat. 3027.)

PRIOR PROVISIONS

A prior section 338F of act July 1, 1944, was renumbered section 338G by Pub. L. 101-597 and is classified to section 254p of this title.

Another prior section 338F of act July 1, 1944, was renumbered section 338G by section 201(2) of Pub. L. 100-177 and classified to section 254q of this title, prior to repeal by Pub. L. 100-177, title II, § 203, Dec. 1, 1987, 101 Stat. 999.

§ 254p. Special loans for former Corps members to enter private practice

(a) Persons entitled; conditions

The Secretary may, out of appropriations authorized under section 254k of this title, make one loan to a Corps member who has agreed in writing—

(1) to engage in the private full-time clinical practice of the profession of the member in a health professional shortage area (designated

under section 254e of this title) for a period of not less than 2 years which—

(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than 1 year after the date on which such individual completes such period of obligated service; and

(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

(2) to conduct such practice in accordance with section 254n(b)(1) of this title; and

(3) to such additional conditions as the Secretary may require to carry out this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

(b) Amount of loan; maximum interest rate

(1) The amount of a loan under subsection (a) of this section to an individual shall not exceed \$25,000.

(2) The interest rate for any such loan shall not exceed an annual rate of 5 percent.

(c) Application for loan; submission and approval; interest rates and repayment terms

The Secretary may not make a loan under this section unless an application therefor has been submitted to, and approved by, the Secretary. The Secretary shall, by regulation, set interest rates and repayment terms for loans under this section.

(d) Breach of agreement; notice; determination of liability

If the Secretary determines that an individual has breached a written agreement entered into under subsection (a) of this section, he shall, as soon as practicable after making such determination, notify the individual of such determination. If within 60 days after the date of giving such notice, such individual is not practicing his profession in accordance with the agreement under such subsection and has not provided assurances satisfactory to the Secretary that he will not knowingly violate such agreement again, the United States shall be entitled to recover from such individual—

(1) in the case of an individual who has received a grant under this section (as in effect prior to October 1, 1984), an amount determined under section 254o(b) of this title, except that in applying the formula contained in such section "φ" shall be the sum of the amount of the grant made under subsection (a) of this section to such individual and the interest on such amount which would be payable if at the time it was paid it was a loan bearing interest at the maximum legal prevailing rate, "t" shall be the number of months that such individual agreed to practice his profession