

IMPLEMENTATION REPORTS

Pub. L. 101-510, div. A, title V, §502(c), Nov. 5, 1990, 104 Stat. 1557, directed the Secretary of Labor to submit to Congress a report, not later than 90 days after Nov. 5, 1990, setting forth the agreement entered into to carry out this section, and a report, not later than one year after Nov. 5, 1990, containing an evaluation of the program carried out under this section.

§ 1145. Health benefits

(a) TRANSITIONAL HEALTH CARE.—(1) For the time period described in paragraph (4), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member) shall be entitled to receive—

(A) except as provided in paragraph (3), medical and dental care under section 1076 of this title in the same manner as a dependent described in subsection (a)(2) of such section; and

(B) health benefits contracted under the authority of section 1079(a) of this title and subject to the same rates and conditions as apply to persons covered under that section.

(2) This subsection applies to the following members of the armed forces:

(A) A member who is involuntarily separated from active duty.

(B) A member of a reserve component who is separated from active duty to which called or ordered in support of a contingency operation if the active duty is active duty for a period of more than 30 days.

(C) A member who is separated from active duty for which the member is involuntarily retained under section 12305 of this title in support of a contingency operation.

(D) A member who is separated from active duty served pursuant to a voluntary agreement of the member to remain on active duty for a period of less than one year in support of a contingency operation.

(E) A member who receives a sole survivorship discharge (as defined in section 1174(i) of this title).

(F) A member who is separated from active duty who agrees to become a member of the Selected Reserve of the Ready Reserve of a reserve component.

(3) In the case of a member described in paragraph (2)(B), the dental care to which the member is entitled under this subsection shall be the dental care to which a member of the uniformed services on active duty for more than 30 days is entitled under section 1074 of this title.

(4) Except as provided in paragraph (7), transitional health care for a member under subsection (a) shall be available for 180 days beginning on the date on which the member is separated from active duty. For purposes of the preceding sentence, in the case of a member on active duty as described in subparagraph (B), (C), or (D) of paragraph (2) who, without a break in service, is extended on active duty for any reason, the 180-day period shall begin on the date on which the member is separated from such extended active duty.

(5)(A) The Secretary concerned shall require a member of the armed forces scheduled to be separated from active duty as described in para-

graph (2) to undergo a physical examination immediately before that separation. The physical examination shall be conducted in accordance with regulations prescribed by the Secretary of Defense.

(B) Notwithstanding subparagraph (A), if a member of the armed forces scheduled to be separated from active duty as described in paragraph (2) has otherwise undergone a physical examination within 12 months before the scheduled date of separation from active duty, the requirement for a physical examination under subparagraph (A) may be waived in accordance with regulations prescribed under this paragraph. Such regulations shall require that such a waiver may be granted only with the consent of the member and with the concurrence of the member's unit commander.

(6)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (5), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

(B) Assistance provided to a member under paragraph (1) shall include the following:

(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

(II) any other care, treatment, and services.

(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.

(7)(A) A member who has a medical condition relating to service on active duty that warrants further medical care that has been identified during the member's 180-day transition period, which condition can be resolved within 180 days as determined by a Department of Defense physician, shall be entitled to receive medical and dental care for that medical condition, and that medical condition only, as if the member were a member of the armed forces on active duty for 180 days following the diagnosis of the condition.

(B) The Secretary concerned shall ensure that the Defense Enrollment and Eligibility Reporting System (DEERS) is continually updated in order to reflect the continuing entitlement of members covered by subparagraph (A) to the medical and dental care referred to in that subparagraph.

(b) CONVERSION HEALTH POLICIES.—(1) The Secretary of Defense shall inform each member referred to in subsection (a) before the date of the member's discharge or release from active duty

of the availability for purchase by the member of a conversion health policy for the member and the dependents of that member. A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.

(2) If a member referred to in subsection (a) purchases a conversion health policy during the period applicable to the member (or within a reasonable time after that period as prescribed by the Secretary of Defense), the Secretary shall provide health care, or pay the costs of health care provided, to the member and the dependents of the member—

(A) during the 18-month period beginning on the date on which coverage under the conversion health policy begins; and

(B) for a condition (including pregnancy) that exists on such date and for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(3) The Secretary of Defense may arrange for the provision of health care described in paragraph (2) through a contract with the insurer offering the conversion health policy.

(4) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to provide the conversion health policy required under paragraph (1) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall offer such a policy under the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (5), a member purchasing a policy from the Secretary shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(5) The amount paid by a member who purchases a conversion health policy from the Secretary of Defense under paragraph (4) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(6) In order to reduce premiums required under paragraph (4), the Secretary of Defense may offer a conversion health policy that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(c) **HEALTH CARE FOR CERTAIN SEPARATED MEMBERS NOT OTHERWISE ELIGIBLE.**—(1) Consistent with the authority of the Secretary concerned to designate certain classes of persons as eligible to receive health care at a military medical facility, the Secretary concerned should consider authorizing, on an individual basis in cases of hardship, the provision of that care for a member who is separated from the armed forces, and is ineligible for transitional health care under subsection (a) or does not obtain a conversion health policy (or a dependent of the member).

(2) The Secretary concerned shall give special consideration to requests for such care in cases in which the condition for which treatment is required was incurred or aggravated by the member or the dependent before the date of the separation of the member, particularly if the condition is a result of the particular circumstances of the service of the member.

(d) **DEFINITION.**—In this section, the term “conversion health policy” means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of a person who is no longer a member of the armed forces or a covered beneficiary.

(e) **COAST GUARD.**—The Secretary of Homeland Security shall implement this section for the members of the Coast Guard and their dependents when the Coast Guard is not operating as a service in the Navy.

(Added Pub. L. 101–510, div. A, title V, § 502(a)(1), Nov. 5, 1990, 104 Stat. 1555; amended Pub. L. 102–484, div. D, title XLIV, § 4407(a), Oct. 23, 1992, 106 Stat. 2707; Pub. L. 103–160, div. A, title V, § 561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103–337, div. A, title V, § 542(a)(4), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105–261, div. A, title V, § 561(h), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106–398, § 1 [[div. A], title V, § 571(h)], Oct. 30, 2000, 114 Stat. 1654, 1654A–134; Pub. L. 107–107, div. A, title VII, § 736(a), (b), Dec. 28, 2001, 115 Stat. 1172; Pub. L. 107–296, title XVII, § 1704(b)(1), Nov. 25, 2002, 116 Stat. 2314; Pub. L. 107–314, div. A, title VII, § 706(a), (b), Dec. 2, 2002, 116 Stat. 2585; Pub. L. 108–375, div. A, title VII, § 706(a)(1), (3), (b), Oct. 28, 2004, 118 Stat. 1983; Pub. L. 109–163, div. A, title VII, § 749, Jan. 6, 2006, 119 Stat. 3364; Pub. L. 110–181, div. A, title XVI, § 1637, Jan. 28, 2008, 122 Stat. 464; Pub. L. 110–317, § 4, Aug. 29, 2008, 122 Stat. 3528; Pub. L. 110–417, [div. A], title VII, § 734(a), Oct. 14, 2008, 122 Stat. 4513; Pub. L. 111–84, div. A, title VII, § 703, Oct. 28, 2009, 123 Stat. 2373; Pub. L. 112–81, div. A, title VII, § 706, Dec. 31, 2011, 125 Stat. 1474; Pub. L. 112–239, div. A, title X, § 1076(f)(15), Jan. 2, 2013, 126 Stat. 1952.)

AMENDMENTS

2013—Subsec. (e). Pub. L. 112–239 inserted “when the Coast Guard is not operating as a service in the Navy” before period at end.

2011—Subsec. (a)(4). Pub. L. 112–81 inserted at end “For purposes of the preceding sentence, in the case of a member on active duty as described in subparagraph (B), (C), or (D) of paragraph (2) who, without a break in service, is extended on active duty for any reason, the 180-day period shall begin on the date on which the member is separated from such extended active duty.”

2009—Subsec. (a)(1). Pub. L. 111–84, § 703(1)(A), substituted “paragraph (4)” for “paragraph (3)” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 111–84, § 703(1)(B), inserted “except as provided in paragraph (3),” before “medical and dental care”.

Subsec. (a)(3) to (7). Pub. L. 111–84, § 703(2)–(5), added par. (3), redesignated former pars. (3) to (6) as (4) to (7), respectively, in par. (4) substituted “paragraph (7)” for “paragraph (6)”, and in par. (6)(A) substituted “paragraph (5)” for “paragraph (4)”.

2008—Subsec. (a)(2)(E). Pub. L. 110–317 added subpar. (E).

Subsec. (a)(2)(F). Pub. L. 110–417 added subpar. (F).

Subsec. (a)(3). Pub. L. 110-181, §1637(1), substituted “Except as provided in paragraph (6), transitional health care” for “Transitional health care”.

Subsec. (a)(6). Pub. L. 110-181, §1637(2), added par. (6). 2006—Subsec. (a)(5). Pub. L. 109-163 added par. (5).

2004—Subsec. (a)(1). Pub. L. 108-375, §706(a)(3), struck out “applicable” before “time period” in introductory provisions.

Subsec. (a)(3). Pub. L. 108-375, §706(a)(1), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “Transitional health care shall be available under subsection (a) for a specified time period beginning on the date on which the member is separated as follows:

“(A) For members separated with less than six years of active service, 60 days.

“(B) For members separated with six or more years of active service, 120 days.”

Subsec. (a)(4). Pub. L. 108-375, §706(b), added par. (4). 2002—Subsec. (a)(1). Pub. L. 107-314, §706(a), amended Pub. L. 107-107, §736(a)(1). See 2001 Amendment note below.

Subsec. (e). Pub. L. 107-314, §706(b), amended Pub. L. 107-107, §736(b)(2). See 2001 Amendment note below.

Pub. L. 107-296 substituted “of Homeland Security” for “of Transportation”.

2001—Subsec. (a)(1). Pub. L. 107-107, §736(a)(1), as amended by Pub. L. 107-314, §706(a), in introductory provisions, substituted “paragraph (3), a member of the armed forces who is separated from active duty as described in paragraph (2) (and the dependents of the member)” for “paragraph (2), a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 1990, and ending on December 31, 2001 (and the dependents of the member)”.

Subsec. (a)(2). Pub. L. 107-107, §736(a)(3), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 107-107, §736(a)(2), (4), redesignated par. (2) as (3) and struck out “involuntarily” before “separated” wherever appearing.

Subsec. (c)(1). Pub. L. 107-107, §736(b)(1), struck out “during the period beginning on October 1, 1990, and ending on December 31, 2001” after “armed forces”.

Subsec. (e). Pub. L. 107-107, §736(b)(2), as amended by Pub. L. 107-314, §706(b), substituted “the members of the Coast Guard and their dependents” for “the Coast Guard” in second sentence and struck out first sentence which read as follows: “The provisions of this section shall apply to members of the Coast Guard (and their dependents) involuntarily separated from active duty during the period beginning on October 1, 1994, and ending on December 31, 2001.”

2000—Subsecs. (a)(1), (c)(1), (e). Pub. L. 106-398 substituted “December 31, 2001” for “September 30, 2001”.

1998—Subsecs. (a)(1), (c)(1). Pub. L. 105-261, §561(h)(1), substituted “during the period beginning on October 1, 1990, and ending on September 30, 2001” for “during the nine-year period beginning on October 1, 1990”.

Subsec. (e). Pub. L. 105-261, §561(h)(2), substituted “during the period beginning on October 1, 1994, and ending on September 30, 2001” for “during the five-year period beginning on October 1, 1994”.

1994—Subsec. (e). Pub. L. 103-337 added subsec. (e).

1993—Subsecs. (a)(1), (c)(1). Pub. L. 103-160 substituted “nine-year period” for “five-year period”.

1992—Subsec. (b)(1). Pub. L. 102-484, §4407(a)(1), inserted at end “A conversion health policy offered under this paragraph shall provide coverage for not less than an 18-month period.”

Subsec. (b)(2)(A). Pub. L. 102-484, §4407(a)(2), substituted “18-month period” for “one-year period”.

Subsec. (b)(4) to (6). Pub. L. 102-484, §4407(a)(3), added pars. (4) to (6).

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-417, [div. A], title VII, §734(b), Oct. 14, 2008, 122 Stat. 4513, provided that: “Subparagraph (F) of section 1145(a)(2) of title 10, United States Code, as added by subsection (a), shall apply with respect to members of the Armed Forces separated from active

duty after the date of the enactment of this Act [Oct. 14, 2008].”

Amendment by Pub. L. 110-317 applicable with respect to any sole survivorship discharge granted after Aug. 29, 2008, see section 10 of Pub. L. 110-317, set out as a note under section 2108 of Title 5, Government Organization and Employees.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-314, div. A, title VII, §706(c), Dec. 2, 2002, 116 Stat. 2585, provided that: “The amendments made by this section [amending this section] shall take effect as of December 28, 2001, and as if included in the National Defense Authorization Act for Fiscal Year 2002 [Pub. L. 107-107] as enacted.”

Amendment by Pub. L. 107-296 effective on the date of transfer of the Coast Guard to the Department of Homeland Security, see section 1704(g) of Pub. L. 107-296, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-337 applicable only to members of the Coast Guard who are separated after Sept. 30, 1994, see section 542(e) of Pub. L. 103-337, set out as a note under section 1141 of this title.

MENTAL HEALTH CARE TREATMENT THROUGH TELEMEDICINE

Pub. L. 113-66, div. A, title VII, §702, Dec. 26, 2013, 127 Stat. 790, provided that:

“(a) PROVISION OF MENTAL HEALTH CARE VIA TELEMEDICINE.—

“(1) IN GENERAL.—In carrying out the Transitional Assistance Management Program, the Secretary of Defense may extend the coverage of such program for covered individuals for an additional 180 days for mental health care provided through telemedicine.

“(2) REPORT.—If the Secretary extends coverage under paragraph (1), by not later than one year after the date of carrying out such extension, the Secretary shall submit to the congressional defense committees [Committees on Armed Services and Appropriations of the Senate and the House of Representatives] a report that includes the following:

“(A) The rate at which individuals are using the extended coverage provided pursuant to paragraph (1).

“(B) A description of the mental health care provided pursuant to such subsection.

“(C) An analysis of how the Secretary and the Secretary of Veterans Affairs coordinate the continuation of care with respect to veterans who are no longer eligible for the Transitional Assistance Management Program.

“(D) Any other factors the Secretary of Defense determines necessary with respect to extending coverage of the Transitional Assistance Management Program.

“(3) TERMINATION.—The authority of the Secretary to carry out subsection (a) shall terminate on December 31, 2018.

“(b) REPORT ON USE OF TELEMEDICINE.—

“(1) IN GENERAL.—Not later than 270 days after the date of the enactment of this Act [Dec. 26, 2013], the Secretary shall submit to the congressional defense committees a report on the use of telemedicine to improve the diagnosis and treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions.

“(2) ELEMENTS.—The report under paragraph (1) shall address the following:

“(A) The current status, as of the date of the report, of telemedicine initiatives within the Department of Defense to diagnose and treat post-traumatic stress disorder, traumatic brain injuries, and mental health conditions.

“(B) Plans for integrating telemedicine into the military health care system, including in health care delivery, records management, medical edu-

cation, public health, and private sector partnerships.

“(C) The status of the integration of the telemedicine initiatives of the Department with the telemedicine initiatives of the Department of Veterans Affairs.

“(D) A description and assessment of challenges to the use of telemedicine as a means of in-home treatment, outreach in rural areas, and in settings that provide group treatment or therapy in connection with treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions, and a description and assessment of efforts to address such challenges.

“(E) A description of privacy issues related to the use of telemedicine for the treatment of post-traumatic stress disorder, traumatic brain injuries, and mental health conditions, and recommendations for mechanisms to remedy any privacy concerns relating to such use of telemedicine.

“(F) A description of professional licensing issues with respect to licensed medical providers who provide treatment using telemedicine.

“(c) DEFINITIONS.—In this section:

“(1) The term ‘covered individual’ means an individual who—

“(A) during the initial 180-day period of being enrolled in the Transitional Assistance Management Program, received any mental health care; or

“(B) during the one-year period preceding separation or discharge from the Armed Forces, received any mental health care.

“(2) The term ‘telemedicine’ means the use by a health care provider of telecommunications to assist in the diagnosis or treatment of a patient’s medical condition.”

TEMPORARY EXTENSION OF TRANSITIONAL HEALTH CARE BENEFITS

Pub. L. 108-136, div. A, title VII, § 704, Nov. 24, 2003, 117 Stat. 1527, which provided during the period beginning on Nov. 24, 2003, and ending on Dec. 31, 2004, for the extension of transitional health care benefits to 180 days for members separated from active duty, was repealed by Pub. L. 108-375, div. A, title VII, § 706(a)(2)(A), Oct. 28, 2004, 118 Stat. 1983.

Pub. L. 108-106, title I, § 1117, Nov. 6, 2003, 117 Stat. 1218, which provided during the period beginning on Nov. 6, 2003, and ending on Sept. 30, 2004, for the extension of transitional health care benefits to 180 days for members separated from active duty, was repealed by Pub. L. 108-375, div. A, title VII, § 706(a)(2)(B), Oct. 28, 2004, 118 Stat. 1983.

APPLICATION OF AMENDMENTS BY PUB. L. 102-484 TO EXISTING CONTRACTS

For provisions relating to the application of the amendments by section 4407 of Pub. L. 102-484 to conversion health policies provided under subsec. (b) of this section and in effect on Oct. 23, 1992, see section 4407(c) of Pub. L. 102-484, set out as a note under section 1086a of this title.

TRANSITIONAL PROVISION

Pub. L. 102-484, div. D, title XLIV, § 4408(b), Oct. 23, 1992, 106 Stat. 2712, provided that: “The Secretary of Defense shall provide a period for the enrollment for health benefits coverage under this section [enacting section 1078a of this title and provisions set out as notes under this section and section 1086a of this title] by members and former members of the Armed Services for whom the availability of transitional health care under section 1145(a) of title 10, United States Code, expires before the October 1, 1994, implementation date of section 1078a of such title, as added by subsection (a).”

TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES

For provisions prohibiting purchase of, and allowing cancellation of, conversion health policies under sub-

sec. (b) of this section on or after Oct. 1, 1994, see section 4408(c) of Pub. L. 102-484, set out as a note under section 1086a of this title.

§ 1146. Commissary and exchange benefits

(a) MEMBERS INVOLUNTARILY SEPARATED FROM ACTIVE DUTY.—The Secretary of Defense shall prescribe regulations to allow a member of the armed forces who is involuntarily separated from active duty during the period beginning on October 1, 2007, and ending on December 31, 2018, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary concerned shall implement this provision for Coast Guard members involuntarily separated during the same period.

(b) MEMBERS INVOLUNTARILY SEPARATED FROM SELECTED RESERVE.—The Secretary of Defense shall prescribe regulations to allow a member of the Selected Reserve of the Ready Reserve who is involuntarily separated from the Selected Reserve as a result of the exercise of the force shaping authority of the Secretary concerned under section 647 of this title or other force shaping authority during the period beginning on October 1, 2007, and ending on December 31, 2018, to continue to use commissary and exchange stores during the two-year period beginning on the date of the involuntary separation of the member in the same manner as a member on active duty. The Secretary concerned shall implement this provision for Coast Guard members involuntarily separated during the same period when the Coast Guard is not operating as a service in the Navy.

(c) MEMBERS RECEIVING SOLE SURVIVORSHIP DISCHARGE.—A member of the armed forces who receives a sole survivorship discharge (as defined in section 1174(i) of this title) is entitled to continue to use commissary and exchange stores and morale, welfare, and recreational facilities in the same manner as a member on active duty during the two-year period beginning on the later of the following dates:

- (1) The date of the separation of the member.
- (2) The date on which the member is first notified of the member’s entitlement to benefits under this section.

(Added Pub. L. 101-510, div. A, title V, § 502(a)(1), Nov. 5, 1990, 104 Stat. 1556; amended Pub. L. 103-160, div. A, title V, § 561(i), Nov. 30, 1993, 107 Stat. 1668; Pub. L. 103-337, div. A, title V, § 542(a)(5), Oct. 5, 1994, 108 Stat. 2768; Pub. L. 105-261, div. A, title V, § 561(i), Oct. 17, 1998, 112 Stat. 2026; Pub. L. 106-398, § 1 [[div. A], title V, § 571(i)], Oct. 30, 2000, 114 Stat. 1654, 1654A-135; Pub. L. 110-181, div. A, title VI, § 651, Jan. 28, 2008, 122 Stat. 162; Pub. L. 110-317, § 5, Aug. 29, 2008, 122 Stat. 3528; Pub. L. 111-383, div. A, title X, § 1075(b)(16), Jan. 7, 2011, 124 Stat. 4369; Pub. L. 112-239, div. A, title VI, § 631, title X, § 1076(f)(16), Jan. 2, 2013, 126 Stat. 1781, 1952.)

AMENDMENTS

2013—Subsec. (a). Pub. L. 112-239, § 631(a)(1), (b)(1), substituted “2018” for “2012” and “The Secretary concerned” for “The Secretary of Transportation”.

Subsec. (b). Pub. L. 112-239, § 1076(f)(16), inserted “when the Coast Guard is not operating as a service in the Navy” before period at end.