

care or services are to be furnished or were furnished to such veteran;

(2) there is space available for the veteran (or the remains of the veteran) on the aircraft; and

(3) there is an adequate number of medical and other service attendants to care for all persons being transported on the aircraft.

(c) A veteran is not eligible for transportation under this section unless the veteran is a primary beneficiary within the meaning of clause (A) of section 8111(g)(5) of title 38.

(d)(1) A charge may not be imposed on a veteran (or on the survivors of a veteran) for transportation provided to the veteran (or for the remains of the veteran) under this section.

(2) An agreement under subsection (b) shall provide that the Department of Veterans Affairs shall reimburse the Department of Defense for any costs incurred in providing transportation to veterans (or for the remains of veterans) under this section that would not otherwise have been incurred by the Department of Defense.

(e) In this section, the term “veteran” has the meaning given that term in section 101(2) of title 38.

(Added Pub. L. 100-180, div. A, title XII, §1250(a)(1), Dec. 4, 1987, 101 Stat. 1167; amended Pub. L. 101-189, div. A, title XVI, §1621(a)(1), (2), (8), Nov. 29, 1989, 103 Stat. 1602, 1603; Pub. L. 103-337, div. A, title VI, §652(b), title X, §1070(e)(8), Oct. 5, 1994, 108 Stat. 2794, 2859.)

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-337, §652(b)(1), inserted before period “or of transporting the remains of a deceased veteran who died at such a facility after being transported to the facility under this subsection. Transportation of the remains of a deceased veteran under this subsection may be provided to the place from which the veteran was transported to the facility or to any other destination which is not farther away from the facility than such place”.

Subsec. (b). Pub. L. 103-337, §652(b)(2)(A)(i), inserted “(or for the remains of a veteran)” after “furnished to a veteran” in introductory provisions.

Subsec. (b)(1). Pub. L. 103-337, §652(b)(2)(A)(ii), inserted “(or of the remains of such veteran)” after “of such veteran”.

Subsec. (b)(2). Pub. L. 103-337, §652(b)(2)(A)(iii), inserted “(or the remains of the veteran)” after “for the veteran”.

Subsec. (c). Pub. L. 103-337, §1070(e)(8), substituted “section 8111(g)(5) of title 38” for “section 5011(g)(5) of title 38”.

Subsec. (d)(1). Pub. L. 103-337, §652(b)(2)(B), inserted “(or on the survivors of a veteran)” after “on a veteran” and “(or for the remains of the veteran)” after “to the veteran”.

Subsec. (d)(2). Pub. L. 103-337, §652(b)(2)(C), inserted “(or for the remains of veterans)” after “to veterans”.

1989—Subsec. (a). Pub. L. 101-189, §1621(a)(1), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

Subsec. (b). Pub. L. 101-189, §1621(a)(2), substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs” in introductory provisions and in par. (1).

Subsec. (b)(1). Pub. L. 101-189, §1621(a)(8), substituted “the Secretary of Veterans Affairs requests” for “the Administrator requests”.

Pub. L. 101-189, §1621(a)(1), substituted “Department of Veterans Affairs” for “Veterans’ Administration” in two places.

Subsec. (d)(2). Pub. L. 101-189, §1621(a)(1), substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

DEADLINE FOR ENTRY INTO TRANSPORTATION AGREEMENT

Pub. L. 100-180, div. A, title XII, §1250(b), Dec. 4, 1987, 101 Stat. 1168, directed Secretary of Defense and Administrator of Veterans’ Affairs to enter into an agreement required by this section not later than 60 days after Dec. 4, 1987.

§ 2641a. Transportation of American Samoa veterans on Department of Defense aircraft for certain medical care in Hawaii

(a) TRANSPORTATION AUTHORIZED.—The Secretary of Defense may provide transportation on Department of Defense aircraft for the purpose of transporting any veteran specified in subsection (b) between American Samoa and the State of Hawaii if such transportation is required in order to provide hospital care to such veteran as described in that subsection.

(b) VETERANS ELIGIBLE FOR TRANSPORT.—A veteran eligible for transport under subsection (a) is any veteran who—

(1) resides in and is located in American Samoa; and

(2) as determined by an official of the Department of Veterans Affairs designated for that purpose by the Secretary of Veterans Affairs, must be transported to the State of Hawaii in order to receive hospital care to which such veteran is entitled under chapter 17 of title 38 in facilities of such Department in the State of Hawaii.

(c) ADMINISTRATION.—(1) Transportation may be provided to veterans under this section only on a space-available basis.

(2) A charge may not be imposed on a veteran for transportation provided to the veteran under this section.

(Added Pub. L. 105-262, title VIII, §8121(a), Oct. 17, 1998, 112 Stat. 2332; amended Pub. L. 106-65, div. A, title X, §1066(a)(24), Oct. 5, 1999, 113 Stat. 771.)

AMENDMENTS

1999—Subsec. (b)(2). Pub. L. 106-65, §1066(a)(24)(A), struck out “, United States Code,” after “title 38”.

Subsec. (d). Pub. L. 106-65, §1066(a)(24)(B), struck out heading and text of subsec. (d). Text read as follows: “In this section:

“(1) The term ‘veteran’ has the meaning given that term in section 101(2) of title 38, United States Code.

“(2) The term ‘hospital care’ has the meaning given that term in section 1701(5) of title 38, United States Code.”

§ 2641b. Space-available travel on Department of Defense aircraft: program authorized and eligible recipients

(a) AUTHORITY TO ESTABLISH PROGRAM.—(1) The Secretary of Defense may establish a program (in this section referred to as the “travel program”) to provide transportation on Department of Defense aircraft on a space-available basis to the categories of individuals eligible under subsection (c).

(2) If the Secretary makes a determination to establish the travel program, the Secretary shall prescribe regulations for the operation of

the travel program not later than one year after the date on which the determination was made. The regulations shall take effect on that date or such earlier date as the Secretary shall specify in the regulations.

(3) Not later than 30 days after making the determination to establish the travel program, the Secretary shall submit to the congressional defense committees an initial implementation report describing—

(A) the basis for the determination;

(B) any additional categories of individuals to be eligible for the travel program under subsection (c)(5);

(C) how the Secretary will ensure that the travel program is established and operated in compliance with the conditions specified in subsection (b); and

(D) the metrics by which the Secretary will monitor the travel program to determine the efficient and effective execution of the travel program.

(b) **CONDITIONS ON ESTABLISHMENT AND OPERATION.**—(1) The Secretary of Defense shall operate the travel program in a budget-neutral manner.

(2) No additional funds may be used, or flight hours performed, for the purpose of providing transportation under the travel program.

(c) **ELIGIBLE INDIVIDUALS.**—Subject to subsection (d), the Secretary of Defense shall provide transportation under the travel program (if established) to the following categories of individuals:

(1) Members of the armed forces on active duty.

(2) Members of the Selected Reserve who hold a valid Uniformed Services Identification and Privilege Card.

(3) Retired members of a regular or reserve component of the armed forces, including retired members of reserve components who, but for being under the eligibility age applicable under section 12731 of this title, would be eligible for retired pay under chapter 1223 of this title.

(4) Such categories of dependents of individuals described in paragraphs (1) through (3) as the Secretary shall specify in the regulations under subsection (a), under such conditions and circumstances as the Secretary shall specify in such regulations.

(5) Such other categories of individuals as the Secretary, in the discretion of the Secretary, considers appropriate.

(d) **PRIORITIES AND RESTRICTIONS.**—In operating the travel program, the Secretary of Defense shall—

(1) in the sole discretion of the Secretary, establish an order of priority for transportation under the travel program for categories of eligible individuals that is based on considerations of military necessity, humanitarian concerns, and enhancement of morale;

(2) give priority in consideration of transportation under the travel program to the demands of members of the armed forces in the regular components and in the reserve components on active duty and to the need to provide such members, and their dependents, a means of respite from such demands; and

(3) implement policies aimed at ensuring cost control (as required by subsection (b)) and the safety, security, and efficient processing of travelers, including limiting the benefit under the travel program to one or more categories of otherwise eligible individuals if considered necessary by the Secretary.

(e) **SPECIAL PRIORITY FOR RETIRED MEMBERS RESIDING IN COMMONWEALTHS AND POSSESSIONS OF THE UNITED STATES WHO NEED CERTAIN HEALTH CARE SERVICES.**—(1) Notwithstanding subsection (d)(1), in establishing space-available transportation priorities under the travel program, the Secretary of Defense shall provide transportation for an individual described in paragraph (2), and a single dependent of the individual if needed to accompany the individual, at a priority level in the same category as the priority level for an unaccompanied dependent over the age of 18 traveling on environmental and morale leave.

(2) Subject to paragraph (3), paragraph (1) applies with respect to an individual described in subsection (c)(3) who—

(A) resides in or is located in a Commonwealth or possession of the United States; and

(B) is referred by a military or civilian primary care provider located in that Commonwealth or possession to a specialty care provider for services to be provided outside of that Commonwealth or possession.

(3) If an individual described in subsection (c)(3) is a retired member of a reserve component who is ineligible for retired pay under chapter 1223 of this title by reason of being under the eligibility age applicable under section 12731 of this title, paragraph (1) applies to the individual only if the individual is also enrolled in the TRICARE program for certain members of the Retired Reserve authorized under section 1076e of this title.

(4) The priority for space-available transportation required by this subsection applies with respect to both—

(A) the travel from the Commonwealth or possession of the United States to receive the specialty care services; and

(B) the return travel.

(5) The requirement to provide transportation on Department of Defense aircraft on a space-available basis on the priority basis described in paragraph (1) to individuals covered by this subsection applies whether or not the travel program is established under this section.

(6) In this subsection, the terms “primary care provider” and “specialty care provider” refer to a medical or dental professional who provides health care services under chapter 55 of this title.

(f) **CONSTRUCTION.**—The authority to provide transportation under the travel program is in addition to any other authority under law to provide transportation on Department of Defense aircraft on a space-available basis.

(Added Pub. L. 110-181, div. A, title III, §374(a), Jan. 28, 2008, 122 Stat. 82; amended Pub. L. 112-239, div. A, title VI, §622(a), Jan. 2, 2013, 126 Stat. 1779.)

AMENDMENTS

2013—Pub. L. 112-239 amended section generally. Prior to amendment, section related to increased priority for space-available transportation on Department of Defense aircraft for certain members and former members of the uniformed services.

§ 2642. Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate

(a) AUTHORITY.—Subject to subsection (b), the Secretary of Defense may authorize the use of the Department of Defense reimbursement rate for military transportation services provided by a component of the Department of Defense as follows:

(1) For military transportation services provided to the Central Intelligence Agency, if the Secretary of Defense determines that those military transportation services are provided for activities related to national security objectives.

(2) For military transportation services provided to the Department of State for the transportation of armored motor vehicles to a foreign country to meet requirements of the Department of State for armored motor vehicles associated with the overseas travel of the Secretary of State in that country.

(3) For military transportation services provided to any element of the Federal Government outside the Department of Defense in circumstances other than those specified in paragraphs (1) and (2), but only if the Secretary of Defense determines that the provision of such services will promote the improved use of transportation capacity without any negative effect on the national security objectives or the national security interests contained within the United States commercial transportation industry.

(4) For military transportation services provided in support of foreign military sales.

(5) For military transportation services provided to a State, local, or tribal agency (including any organization composed of State, local, or tribal agencies).

(6) For military transportation services provided to a Department of Defense contractor when transporting supplies that are for, or destined for, a Department of Defense entity.

(b) TERMINATION OF AUTHORITY FOR CERTAIN CATEGORIES OF TRANSPORTATION.—The provisions of paragraphs (3), (4), (5), and (6) of subsection (a) shall apply only to military transportation services provided before October 1, 2019.

(c) DEFINITION.—In this section, the term “Department of Defense reimbursement rate” means the amount charged a component of the Department of Defense by another component of the Department of Defense.

(Added Pub. L. 102-88, title V, § 501(a), Aug. 14, 1991, 105 Stat. 435; amended Pub. L. 108-136, div. A, title X, § 1006(a), (b)(1), Nov. 24, 2003, 117 Stat. 1585; Pub. L. 111-84, div. A, title III, § 351(a), Oct. 28, 2009, 123 Stat. 2262; Pub. L. 111-383, div. A, title X, § 1075(b)(40), Jan. 7, 2011, 124 Stat. 4371; Pub. L. 113-66, div. A, title X, § 1073(a), (b), Dec. 26, 2013, 127 Stat. 869; Pub. L. 113-291, div. A, title

X, §§ 1044(a)–(c)(1), 1071(f)(22), (g)(4), Dec. 19, 2014, 128 Stat. 3493, 3494, 3511.)

AMENDMENTS

2014—Pub. L. 113-291, § 1044(c)(1), amended section catchline generally, substituting “Transportation services provided to certain non-Department of Defense agencies and entities: use of Department of Defense reimbursement rate” for “Transportation services provided to certain other agencies: use of Department of Defense reimbursement rate”.

Subsec. (a). Pub. L. 113-291, § 1044(a)(1), substituted “Subject to subsection (b), the Secretary” for “The Secretary” in introductory provisions.

Subsec. (a)(3). Pub. L. 113-291, § 1071(g)(4), amended Pub. L. 113-66, § 1073(a)(2)(B). See 2013 Amendment note below.

Pub. L. 113-291, § 1071(f)(22), inserted “and” before “military transportation services provided in support”. Amendment was executed prior to amendment by Pub. L. 113-291, § 1044(a)(2)(B), see below, pursuant to section 1071(k) of Pub. L. 113-291, set out as a note under section 101 of this title.

Pub. L. 113-291, § 1044(a)(2)(B), substituted “Department of Defense” for “Department of Defense and military transportation services provided in support of foreign military sales”.

Pub. L. 113-291, § 1044(a)(2)(A), which directed substitution of “For” for “During the period beginning on October 28, 2009, and ending on October 28, 2019, for”, was executed by making the substitution for “During the period beginning on October 28, 2009, and ending on September 30, 2019, for” to reflect the probable intent of Congress.

Subsec. (a)(4) to (6). Pub. L. 113-291, § 1044(a)(3), added pars. (4) to (6).

Subsecs. (b), (c). Pub. L. 113-291, § 1044(b), added subsec. (b) and redesignated former subsec. (b) as (c).

2013—Pub. L. 113-66, § 1073(b), substituted “Transportation” for “Airlift” in section catchline.

Subsec. (a). Pub. L. 113-66, § 1073(a)(1), substituted “transportation services” for “airlift services” wherever appearing and “transportation capacity” for “airlift capacity” in par. (3).

Subsec. (a)(3). Pub. L. 113-66, § 1073(a)(2)(B), as amended by Pub. L. 113-291, § 1071(g)(4), inserted “military transportation services provided in support of foreign military sales” after “Department of Defense”.

Pub. L. 113-66, § 1073(a)(2)(A), (C), substituted “September 30, 2019” for “October 28, 2014” and “transportation industry” for “air industry”.

2011—Subsec. (a)(3). Pub. L. 111-383 substituted “During the period beginning on October 28, 2009, and ending on October 28, 2014” for “During the five-year period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2010”.

2009—Subsec. (a)(3). Pub. L. 111-84 added par. (3).

2003—Pub. L. 108-136, § 1006(b)(1), substituted “Airlift services provided to certain other agencies: use of Department of Defense reimbursement rate” for “Reimbursement rate for airlift services provided to Central Intelligence Agency” as section catchline.

Subsec. (a). Pub. L. 108-136, § 1006(a), inserted “as follows:

“(1) For military airlift services provided” before “to the Central Intelligence Agency”, and added par. (2).

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-291, div. A, title X, § 1071(g), Dec. 19, 2014, 128 Stat. 3511, provided that the amendment made by section 1071(g)(4) is effective as of Dec. 26, 2013, and as if included in Pub. L. 113-66 as enacted.

§ 2643. Commissary and exchange services: transportation overseas

(a) TRANSPORTATION OPTIONS.—The Secretary of Defense shall authorize the officials respon-