

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-364, div. A, title VI, § 606(d), Oct. 17, 2006, 120 Stat. 2246, provided that: “The amendments made by this section [amending this section] shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act [Oct. 17, 2006] and shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after that date.”

EFFECTIVE DATE

Pub. L. 109-163, div. A, title VI, § 613(c), Jan. 6, 2006, 119 Stat. 3292, provided that: “Section 437 of title 37, United States Code, as added by subsection (a), shall apply with respect to service by members of the Armed Forces in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom for months beginning on or after the date of the enactment of this Act [Jan. 6, 2006]. In the case of members who are serving in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom as of such date, the Secretary of Defense shall provide such members, as soon as practicable, the information specified in subsection (c) of that section.”

§ 438. Preventive health services allowance

(a) **DEMONSTRATION PROJECT.**—During the period beginning on January 1, 2009, and ending on December 31, 2011, the Secretary of Defense shall conduct a demonstration project designed to evaluate the efficacy of providing an annual allowance (to be known as a “preventive health services allowance”) to members of the armed forces described in subsection (b) to increase the use of preventive health services by such members and their dependents.

(b) **ELIGIBLE MEMBERS.**—(1) Subject to the numerical limitations specified in paragraph (2), a member of the armed forces who is serving on active duty for a period of more than 30 days and meets the medical and dental readiness requirements for the armed force of the member may receive a preventive health services allowance.

(2) Not more than 1,500 members of each of the Army, Navy, Air Force, and Marine Corps may receive a preventive health services allowance during any year, of which half in each armed force shall be members without dependents and half shall be members with dependents.

(c) **AMOUNT OF ALLOWANCE.**—The Secretary of the military department concerned shall pay a preventive health services allowance to a member selected to receive the allowance in an amount equal to—

- (1) \$500 per year, in the case of a member without dependents; and
- (2) \$1,000 per year, in the case of a member with dependents.

(d) **AUTHORIZED PREVENTIVE HEALTH SERVICES.**—(1) The Secretary of Defense shall specify the types of preventive health services that may be procured using a preventive health services allowance and the frequency at which such services may be procured.

(2) At a minimum, authorized preventive health services shall include, taking into consideration the age and gender of the member and dependents of the member:

- (A) Colorectal screening.
- (B) Breast screening.

- (C) Cervical screening.
- (D) Prostate screening.
- (E) Annual physical exam.
- (F) Annual dental exam.
- (G) Weight and body mass screening.
- (H) Vaccinations.

(3) The Secretary of Defense shall ensure that members selected to receive the preventive health services allowance and their dependents are provided a reasonable opportunity to receive the services authorized under this subsection in their local area.

(e) **DATA COLLECTION.**—At a minimum, the Secretary of Defense shall monitor and record the health of members receiving a preventive health services allowance and their dependents and the results of the testing required to qualify for payment of the allowance, if conducted. The Secretary shall assess the medical utility of the testing required to qualify for payment of a preventive health allowance.

(f) **REPORTING REQUIREMENT.**—Not later than March 31, 2010, and March 31, 2012, the Secretary of Defense shall submit to Congress a report on the status of the demonstration project, including findings regarding the medical status of participants, recommendations to modify the policies and procedures of the program, and recommendations concerning the future utility of the project.

(g) **REGULATIONS.**—The Secretary of Defense shall prescribe regulations to carry out this section.

(Added Pub. L. 110-417, [div. A], title VII, § 714(a), Oct. 14, 2008, 122 Stat. 4504.)

§ 439. Special compensation: members of the uniformed services with catastrophic injuries or illnesses requiring assistance in everyday living

(a) **MONTHLY COMPENSATION AUTHORIZED.**—The Secretary concerned may pay to any member of the uniformed services described in subsection (b) monthly special compensation in an amount determined under subsection (c).

(b) **COVERED MEMBERS.**—A member eligible for monthly special compensation authorized by subsection (a) is a member who—

- (1) has a catastrophic injury or illness that was incurred or aggravated in the line of duty;
- (2) has been certified by a licensed physician to be in need of assistance from another person to perform the personal functions required in everyday living;
- (3) in the absence of the provision of such assistance, would require hospitalization, nursing home care, or other residential institutional care; and
- (4) meets such other criteria, if any, as the Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) prescribes for purposes of this section.

(c) **AMOUNT.**—The amount of monthly special compensation payable to a member under subsection (a) shall be the amount as follows:

- (1) The monthly amount of aid and attendance payable under section 1114(r)(2) of title 38.

(2) Upon the establishment by the Secretary of Veterans Affairs pursuant to subparagraph (C) of section 1720G(a)(3) of title 38 of the schedule of monthly personal caregiver stipends under the Department of Veterans Affairs program of comprehensive assistance for family caregivers under subparagraph (A)(ii)(V) of such section, the monthly personal caregiver stipend payable with respect to similarly circumstanced veterans under such schedule, rather than the amount specified in paragraph (1).

(d) DURATION.—The eligibility of a member to receive special monthly compensation under subsection (a) expires on the earlier of the following:

(1) The last day of the month during which a 90-day period ends that begins on the date of the separation or retirement of the member.

(2) The last day of the month during which the member dies.

(3) The last day of the month during which the member is determined to be no longer afflicted with the catastrophic injury or illness referred to in subsection (b)(1).

(4) The last day of the month preceding the month during which the member begins receiving compensation under section 1114(r)(2) of title 38.

(e) CONSTRUCTION WITH OTHER PAY AND ALLOWANCES.—Monthly special compensation payable to a member under this section is in addition to any other pay and allowances payable to the member by law.

(f) BENEFIT INFORMATION.—(1) The Secretary of Defense, in collaboration with the Secretary of Veterans Affairs, shall ensure that members of the uniformed services who may be eligible for compensation under this section are made aware of the availability of such compensation by including information about such compensation in written and online materials for such members and their families.

(2) The Secretary of Defense shall ensure that a member eligible to receive special monthly compensation under this section is aware that the member's eligibility for such compensation will expire pursuant to subsection (d)(1) after the end of the 90-day period that begins on the date of the separation or retirement of the member even though the member has not begun to receive compensation under section 1114(r)(2) of title 38 before the end of such period.

(g) CATASTROPHIC INJURY OR ILLNESS DEFINED.—In this section, the term “catastrophic injury or illness” means a permanent, severely disabling injury, disorder, or illness that the Secretary concerned determines compromises the ability of the afflicted person to carry out the activities of daily living to such a degree that the person requires—

(1) personal or mechanical assistance to leave home or bed; or

(2) constant supervision to avoid physical harm to self or others.

(h) REGULATIONS.—The Secretary of Defense (or the Secretary of Homeland Security, with respect to the Coast Guard) shall prescribe regulations to carry out this section.

(Added Pub. L. 111-84, div. A, title VI, §603(a), Oct. 28, 2009, 123 Stat. 2348; amended Pub. L. 111-383, div. A, title VI, §634, Jan. 7, 2011, 124 Stat. 4241.)

AMENDMENTS

2011—Subsec. (c). Pub. L. 111-383 amended subsec. (c) generally. Prior to amendment, subsec. (c) related to the amount of monthly special compensation payable to a member under subsec. (a).

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¹ So in original. Does not conform to section catchline.