

(3) All contracts entered into by the Secretary under this chapter shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of sections 3131 and 3133 of title 40.

(4) Payments made under any contract entered into under this chapter may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this chapter.

(e) Limitation on use of funds for administrative expenses

Except for grants and contracts under section 11706 of this title, the Secretary may not grant to, or enter into a contract with, an entity under this chapter unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this chapter for the purpose of administering the grant or contract.

(f) Report

(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this chapter, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

(A) activities conducted by the entity under the grant or contract;

(B) the amounts and purposes for which Federal funds were expended; and

(C) such other information as the Secretary may request.

(2) The reports and records of any entity which concern any grant or contract under this chapter shall be subject to audit by the Secretary, the Inspector General of the Department of Health and Human Services, and the Comptroller General of the United States.

(g) Annual private audit

The Secretary shall allow as a cost of any grant made or contract entered into under this chapter the cost of an annual private audit conducted by a certified public accountant.

(Pub. L. 100-579, § 8, Oct. 31, 1988, 102 Stat. 2921; Pub. L. 100-690, title II, § 2308, Nov. 18, 1988, 102 Stat. 4228; Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (c)(4), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

In subsec. (d)(3), “sections 3131 and 3133 of title 40” substituted for “the Act of August 24, 1935 (40 U.S.C. 270a et seq.)” on authority of Pub. L. 107-217, § 5(c), Aug. 21, 2002, 116 Stat. 1303, the first section of which enacted Title 40, Public Buildings, Property, and Works.

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has

been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 8 of Pub. L. 100-579, as subsequently amended.

AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section defined terms for purposes of this chapter.

§ 11708. Assignment of personnel

(a) In general

The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

(b) Applicable Federal personnel provisions

Any assignment of personnel made by the Secretary under any agreement entered into under the authority of subsection (a) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5.

(Pub. L. 100-579, § 9, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, § 2309, Nov. 18, 1988, 102 Stat. 4229; Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948.)

CODIFICATION

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 9 of Pub. L. 100-579, as subsequently amended.

AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to rule of construction.

§ 11709. Native Hawaiian health scholarships

(a) Eligibility

Subject to the availability of funds appropriated under the authority of subsection (c) of this section, the Secretary shall provide funds through a direct grant or a cooperative agreement to Papa Ola Lokahi for the purpose of providing scholarship assistance to students who—

- (1) meet the requirements of paragraphs (1), (3), and (4) of section 254(b) of this title, and
- (2) are Native Hawaiians.

(b) Terms and conditions

(1) The scholarship assistance provided under subsection (a) of this section shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 254 of this title, provided that—

(A) the provision of scholarships in each type of health care profession training shall correspond to the need for each type of health care professional identified in the Native Hawaiian comprehensive health care master plan implemented under section 11703 of this title to serve the Native Hawaiian health care systems, as identified by Papa Ola Lokahi;

(B) the primary health services covered under the scholarship assistance program under this section shall be the services included under the definition of that term under section 11711(8) of this title;

(C) to the maximum extent practicable, the Secretary shall select scholarship recipients from a list of eligible applicants submitted by the Papa Ola Lokahi;

(D) the obligated service requirement for each scholarship recipient shall be fulfilled through the full-time clinical or nonclinical practice of the health profession of the scholarship recipient, in an order of priority that would provide for practice—

(i) first, in any one of the five Native Hawaiian health care systems; and

(ii) second, in—

(I) a health professional shortage area or medically underserved area located in the State of Hawaii; or

(II) a geographic area or facility that is—

(aa) located in the State of Hawaii; and

(bb) has a designation that is similar to a designation described in subclause (I) made by the Secretary, acting through the Public Health Service;

(E) the provision of counseling, retention and other support services shall not be limited to scholarship recipients, but shall also include recipients of other scholarship and financial aid programs enrolled in appropriate health professions training programs,¹

(F) the obligated service of a scholarship recipient shall not be performed by the recipient through membership in the National Health Service Corps; and

(G) the requirements of sections 254d through 254k of this title, section 254m of this title, other than subsection (b)(5) of that section, and section 254n of this title applicable to scholarship assistance provided under section 254l of this title shall not apply to the scholarship assistance provided under subsection (a) of this section.

(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

(c) Authorization of appropriations

There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2019 for the purpose of funding the scholarship assistance provided under subsection (a) of this section.

(Pub. L. 100-579, §10, as added Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948; amended Pub. L. 105-256, §12, Oct. 14, 1998, 112 Stat. 1899; Pub. L. 107-116, title V, §514(a), Jan. 10,

2002, 115 Stat. 2219; Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935.)

CODIFICATION

Amendment by Pub. L. 111-148 is based on section 202(a) of title II of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

Section enacted by section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, which was enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

PRIOR PROVISIONS

A prior section 11709, Pub. L. 100-579, §11, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, §2311, Nov. 18, 1988, 102 Stat. 4229, which related to compliance with Budget Act, was amended generally by Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948, and transferred to section 11710 of this title.

A prior section 10 of Pub. L. 100-579 repealed former section 1621d of Title 25, Indians.

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-148, which directed the amendment of section 10(c) of the Native Hawaiian Health Care Act of 1988 by substituting “2019” for “2001”, was executed by making the amendment to this section, which is section 10 of the Native Hawaiian Health Care Improvement Act, to reflect the probable intent of Congress.

2002—Subsec. (a). Pub. L. 107-116, §514(a)(1), substituted “Papa Ola Lokahi” for “Kamehameha School/Bishop Estate” in introductory provisions.

Subsec. (b)(1)(C). Pub. L. 107-116, §514(a)(2), which directed the substitution of “Papa Ola Lokahi” for “Kamehameha School/Bishop Estate”, was executed by making the substitution for “Kamehameha Schools/Bishop Estate” to reflect the probable intent of Congress.

1998—Subsec. (a)(1). Pub. L. 105-256, §12(a), which directed amendment of subsec. (a)(1) by substituting “meet the requirements of paragraphs (1), (3), and (4) of section 254l(b) of this title” for “meet the requirements of section 254l of this title”, was executed by making the substitution for “meet the requirements of section 254b of this title”, to reflect the probable intent of Congress.

Subsec. (b)(1)(A). Pub. L. 105-256, §12(b)(1), inserted “identified in the Native Hawaiian comprehensive health care master plan implemented under section 11703 of this title” after “health care professional”.

Subsec. (b)(1)(B). Pub. L. 105-256, §12(b)(2), (3), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (b)(1)(C). Pub. L. 105-256, §12(b)(2), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(1)(D). Pub. L. 105-256, §12(b)(4), added subpar. (D) and struck out former subpar. (D) which read as follows: “the obligated service requirement for each scholarship recipient shall be fulfilled through service, in order of priority, in (i) any one of the five Native Hawaiian health care systems, or (ii) health professions shortage areas, medically underserved areas, or geographic areas or facilities similarly designated by the United States Public Health Service in the State of Hawaii; and”.

Pub. L. 105-256, §12(b)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (b)(1)(E). Pub. L. 105-256, §12(b)(2), redesignated subpar. (D) as (E).

Subsec. (b)(1)(F), (G). Pub. L. 105-256, §12(b)(5), (6), added subpars. (F) and (G).

¹ So in original. The comma probably should be a semicolon.

§ 11710. Report

The President shall, at the time the budget is submitted under section 1105 of title 31, for each fiscal year transmit to the Congress a report on the progress made in meeting the objectives of this chapter, including a review of programs established or assisted pursuant to this chapter and an assessment and recommendations of additional programs or additional assistance necessary to, at a minimum, provide health services to Native Hawaiians, and ensure a health status for Native Hawaiians, which are at a parity with the health services available to, and the health status of, the general population.

(Pub. L. 100-579, § 11, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, § 2311, Nov. 18, 1988, 102 Stat. 4229; Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948.)

CODIFICATION

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on "September 12, 1992", has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Section was formerly classified to section 11709 of this title prior to the general amendment of this chapter by Pub. L. 102-396.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 11 of Pub. L. 100-579, as subsequently amended.

PRIOR PROVISIONS

A prior section 11710, Pub. L. 100-579, § 12, Oct. 31, 1988, 102 Stat. 2923; Pub. L. 100-690, title II, § 2312, Nov. 18, 1988, 102 Stat. 4230, which related to severability, was amended generally by Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948, and transferred to section 11711 of this title.

AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to compliance with Budget Act.

§ 11711. Definitions

For purposes of this chapter:

(1) Disease prevention

The term "disease prevention" includes—

- (A) immunizations,
- (B) control of high blood pressure,
- (C) control of sexually transmittable diseases,
- (D) prevention and control of diabetes,
- (E) control of toxic agents,
- (F) occupational safety and health,
- (G) accident prevention,
- (H) fluoridation of water,
- (I) control of infectious agents, and
- (J) provision of mental health care.

(2) Health promotion

The term "health promotion" includes—

- (A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
- (B) cessation of tobacco smoking,
- (C) reduction in the misuse of alcohol and drugs,

- (D) improvement of nutrition,
- (E) improvement in physical fitness,
- (F) family planning,
- (G) control of stress, and
- (H) educational programs with the mission of improving the health, capability, and well-being of Native Hawaiians.

(3) Native Hawaiian

The term "Native Hawaiian" means any individual who is—

- (A) a citizen of the United States, and
- (B) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—
 - (i) genealogical records,
 - (ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or
 - (iii) birth records of the State of Hawaii.

(4) Native Hawaiian health center

The term "Native Hawaiian health center" means an entity—

- (A) which is organized under the laws of the State of Hawaii,
- (B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
- (C) which is a public or nonprofit private entity, and
- (D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) Native Hawaiian organization

The term "Native Hawaiian organization" means any organization—

- (A) which serves the interests of Native Hawaiians,
- (B) which is—
 - (i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this chapter for the benefit of Native Hawaiians, and
 - (ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this chapter,

- (C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and
- (D) which is a public or nonprofit private entity.

(6) Native Hawaiian health care system

The term "Native Hawaiian health care system" means an entity—

- (A) which is organized under the laws of the State of Hawaii,
- (B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
- (C) which is a public or nonprofit private entity,