

scribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

(d) **LIMITATIONS ON AMOUNT OF PAYMENT.**—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other employee incentive program for which the payment is made.

(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

(e) **APPLICATIONS.**—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other employee incentive program described in subsection (c) for which the payment is sought.

(f) **SOURCE OF FUNDS.**—Payments under this section shall be made from funds available for other payments under this subchapter.

(g) **DISBURSEMENT.**—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

(h) **USE OF CERTAIN RECEIPTS.**—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.

(i) **ANNUAL REPORT FROM PAYMENT RECIPIENTS.**—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous fiscal year in accordance with this subsection.

(j) **REGULATIONS.**—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.

(Added Pub. L. 108-422, title II, §201(a)(1), Nov. 30, 2004, 118 Stat. 2380.)

## IMPLEMENTATION

Pub. L. 108-422, title II, §201(b), Nov. 30, 2004, 118 Stat. 2382, provided that: "The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than June 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final."

**§ 1745. Nursing home care and medications for veterans with service-connected disabilities**

(a)(1) The Secretary shall enter into a contract (or agreement under section 1720(c)(1) of this title) with each State home for payment by the Secretary for nursing home care provided in the home, in any case in which such care is provided to any veteran as follows:

(A) Any veteran in need of such care for a service-connected disability.

(B) Any veteran who—

- (i) has a service-connected disability rated at 70 percent or more; and
- (ii) is in need of such care.

(2) Payment under each contract (or agreement) between the Secretary and a State home under paragraph (1) shall be based on a methodology, developed by the Secretary in consultation with the State home, to adequately reimburse the State home for the care provided by the State home under the contract (or agreement).

(3) Payment by the Secretary under paragraph (1) to a State home for nursing home care provided to a veteran described in that paragraph constitutes payment in full to the State home for such care furnished to that veteran.

(b) The Secretary shall furnish such drugs and medicines as may be ordered on prescription of a duly licensed physician as specific therapy in the treatment of illness or injury to any veteran as follows:

(1) Any veteran who—

(A) is not being provided nursing home care for which payment is payable under subsection (a); and

(B) is in need of such drugs and medicines for a service-connected disability.

(2) Any veteran who—

(A) has a service-connected disability rated at 50 percent or more;

(B) is not being provided nursing home care for which payment is payable under subsection (a); and

(C) is in need of such drugs and medicines.

(c) Any State home that requests payment or reimbursement for services provided to a veteran under this section shall provide to the Secretary such information as the Secretary considers necessary to identify each individual veteran eligible for payment under such section.

(Added and amended Pub. L. 109-461, title II, §211(a)(1), (2), (b)(1), Dec. 22, 2006, 120 Stat. 3418, 3419; Pub. L. 112-154, title I, §105(a), Aug. 6, 2012, 126 Stat. 1170.)

## AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112-154, §105(a)(1), substituted in introductory provisions "The Secretary

shall enter into a contract (or agreement under section 1720(c)(1) of this title) with each State home for payment by the Secretary for nursing home care provided in the home" for "The Secretary shall pay each State home for nursing home care at the rate determined under paragraph (2)".

Subsec. (a)(2). Pub. L. 112-154, §105(a)(2), added par. (2) and struck out former par. (2) which read as follows: "The rate determined under this paragraph with respect to a State home is the lesser of—

"(A) the applicable or prevailing rate payable in the geographic area in which the State home is located, as determined by the Secretary, for nursing home care furnished in a non-Department nursing home (as that term is defined in section 1720(e)(2) of this title); or

"(B) a rate not to exceed the daily cost of care, as determined by the Secretary, following a report to the Secretary by the director of the State home."

2006—Subsec. (b). Pub. L. 109-461, §211(a)(2), added subsec. (b).

Subsec. (c). Pub. L. 109-461, §211(b)(1), added subsec. (c).

#### EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-154 applicable to care provided on or after the date that is 180 days after Aug. 6, 2012, with certain exceptions, see section 105(c) of Pub. L. 112-154, set out as a note under 1720 of this title.

#### EFFECTIVE DATE

Section and amendment by section 211(a)(2) of Pub. L. 109-461 effective 90 days after Dec. 22, 2006, see section 211(a)(5) of Pub. L. 109-461, set out as an Effective Date of 2006 Amendment note under section 1710 of this title.

### SUBCHAPTER VI—SICKLE CELL ANEMIA

#### § 1751. Screening, counseling, and medical treatment

The Secretary is authorized to carry out a comprehensive program of providing sickle cell anemia screening, counseling, treatment, and information under the provisions of this chapter.

(Added Pub. L. 93-82, title I, §109(a), Aug. 2, 1973, 87 Stat. 186, §651; renumbered §1751 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 651 of this title as this section and substituted "Secretary" for "Administrator".

#### EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

#### § 1752. Research

The Secretary is authorized to carry out research and research training in the diagnosis, treatment, and control of sickle cell anemia based upon the screening examinations and treatment provided under this subchapter.

(Added Pub. L. 93-82, title I, §109(a), Aug. 2, 1973, 87 Stat. 186, §652; renumbered §1752 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404-406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 652 of this title as this section and substituted "Secretary" for "Administrator".

#### EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

#### § 1753. Voluntary participation; confidentiality

(a) The participation by any person in any program or portion thereof under this subchapter shall be wholly voluntary and shall not be a prerequisite to eligibility for or receipt of any other service or assistance from, or to participation in, any other program under this title.

(b) Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 7332 of this title.

(Added Pub. L. 93-82, title I, §109(a), Aug. 2, 1973, 87 Stat. 187, §653; amended Pub. L. 94-581, title I, §111(b), Oct. 21, 1976, 90 Stat. 2852; Pub. L. 102-40, title IV, §402(d)(1), May 7, 1991, 105 Stat. 239; renumbered §1753, Pub. L. 102-83, §5(a), Aug. 6, 1991, 105 Stat. 406.)

#### AMENDMENTS

1991—Pub. L. 102-83 renumbered section 653 of this title as this section.

Subsec. (b). Pub. L. 102-40 substituted "7332" for "4132".

1976—Subsec. (b). Pub. L. 94-581 substituted "Patient records prepared or obtained under this subchapter shall be held confidential in the same manner and under the same conditions prescribed in section 4132 of this title" for "The Administrator shall promulgate rules and regulations to insure that all information and patient records prepared or obtained under this subchapter shall be held confidential except for (1) such information as the patient (or his guardian) requests in writing to be released or (2) statistical data compiled without reference to patient names or other identifying characteristics".

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of this title.

#### EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.

#### § 1754. Reports

The Secretary shall include in the annual report to the Congress required by section 529 of this title a comprehensive report on the administration of this subchapter, including such recommendations for additional legislation as the Secretary deems necessary.

(Added Pub. L. 93-82, title I, §109(a), Aug. 2, 1973, 87 Stat. 187, §654; renumbered §1754 and amended Pub. L. 102-83, §§2(c)(3), 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 402, 404-406.)

#### AMENDMENTS

1991—Pub. L. 102-83, §5(a), renumbered section 654 of this title as this section.

Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §2(c)(3), substituted "section 529" for "section 214".

#### EFFECTIVE DATE

Section effective Sept. 1, 1973, see section 501 of Pub. L. 93-82, set out as an Effective Date of 1973 Amendment note under section 1701 of this title.