

“(2) No person may be covered concurrently by a conversion health policy under section 1145(b) or 1086a of such title and a health benefits plan under section 1078a of such title.”

§ 1086b. Prohibition against requiring retired members to receive health care solely through the Department of Defense

The Secretary of Defense may not take any action that would require, or have the effect of requiring, a member or former member of the armed forces who is entitled to retired or retainer pay to enroll to receive health care from the Federal Government only through the Department of Defense.

(Added Pub. L. 107-107, div. A, title VII, § 731(a), Dec. 28, 2001, 115 Stat. 1169.)

§ 1087. Programing facilities for certain members, former members, and their dependents in construction projects of the uniformed services

(a) Space for inpatient and outpatient care may be programed in facilities of the uniformed services for persons covered by sections 1074(b) and 1076(b) of this title. The maximum amount of space that may be so programed for a facility is the greater of—

(1) the amount of space that would be so programed for the facility in order to meet the requirements to be placed on the facility for support of the teaching and training of health-care professionals; and

(2) the amount of space that would be so programed for the facility based upon the most cost-effective provision of inpatient and outpatient care to persons covered by sections 1074(b) and 1076(b) of this title.

(b)(1) In making determinations for the purposes of clauses (1) and (2) of subsection (a), the Secretary concerned shall take into consideration—

(A) the amount of space that would be so programed for the facility based upon projected inpatient and outpatient workloads at the facility for persons covered by sections 1074(b) and 1076(b) of this title; and

(B) the anticipated capability of the medical and dental staff of the facility, determined in accordance with regulations prescribed by the Secretary of Defense and based upon realistic projections of the number of physicians and other health-care providers that it can reasonably be expected will be assigned to or will otherwise be available to the facility.

(2) In addition, a determination made for the purpose of clause (2) of subsection (a) shall be made in accordance with an economic analysis (including a life-cycle cost analysis) of the facility and consideration of all reasonable and available medical care treatment alternatives (including treatment provided under a contract under section 1086 of this title or under part A of title XVIII of the Social Security Act (42 U.S.C. 1395c et seq.)).

(Added Pub. L. 89-614, § 2(7), Sept. 30, 1966, 80 Stat. 866; amended Pub. L. 97-337, § 1, Oct. 15, 1982, 96 Stat. 1631; Pub. L. 98-525, title XIV, § 1405(24), Oct. 19, 1984, 98 Stat. 2623; Pub. L.

99-661, div. A, title XIII, § 1343(a)(4), Nov. 14, 1986, 100 Stat. 3992.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§ 301 et seq.) of Title 42, The Public Health and Welfare. Part A of title XVIII of the Social Security Act, is classified generally to Part A (§ 1395c et seq.) of subchapter XVIII of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1986—Subsec. (b)(2). Pub. L. 99-661 substituted “Act (42 U.S.C. 1395c et seq.)” for “Act. (42 U.S.C. 1395c et seq.)”.

1984—Subsec. (b)(2). Pub. L. 98-525 which directed that “(42 U.S.C. 1395c et seq.)” be inserted after “the Social Security Act.”, was executed by inserting parenthetical after “the Social Security Act” to reflect the probable intent of Congress. See 1986 Amendment note above.

1982—Subsec. (a). Pub. L. 97-337, § 1(1), designated existing provisions as subsec. (a).

Pub. L. 97-337, § 1(2), substituted provisions limiting the maximum amount of space to be programed as the greater of the amounts of space described in par. (1) or (2) for provisions limiting the amount of space to be programed to that amount needed to support teaching and training requirements, except that space may be programed in areas having large concentrations of retired members where there is a critical shortage of facilities.

Subsec. (b). Pub. L. 97-337, § 1(2), added subsec. (b).

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-337, § 2, Oct. 15, 1982, 96 Stat. 1632, provided that: “The amendment made by paragraph (2) of the first section of this Act [amending this section] shall apply only with respect to a facility for which funds for construction (or a major alteration) are first appropriated for a fiscal year after fiscal year 1983.”

EFFECTIVE DATE

For effective date of section, see section 3 of Pub. L. 89-614, set out as a note under section 1071 of this title.

§ 1088. Air evacuation patients: furnished subsistence

Notwithstanding any other provision of law, and under regulations to be prescribed by the Secretary concerned, a person entitled to medical and dental care under this chapter may be furnished subsistence without charge while being evacuated as a patient by military aircraft of the United States.

(Added Pub. L. 91-481, § 2(1), Oct. 21, 1970, 84 Stat. 1081.)

§ 1089. Defense of certain suits arising out of medical malpractice

(a) The remedy against the United States provided by sections 1346(b) and 2672 of title 28 for damages for personal injury, including death, caused by the negligent or wrongful act or omission of any physician, dentist, nurse, pharmacist, or paramedical or other supporting personnel (including medical and dental technicians, nursing assistants, and therapists) of the armed forces, the National Guard while engaged in training or duty under section 316, 502, 503, 504, or 505 of title 32, the Department of Defense, the Armed Forces Retirement Home, or the Cen-