

shall be made for services provided prior to October 1, 1991.”

**AUTHORIZATION TO APPLY SECTION 1079 PAYMENT RULES FOR SPOUSE AND CHILDREN OF MEMBER WHO DIES WHILE ON ACTIVE DUTY**

Pub. L. 103-160, div. A, title VII, §704, Nov. 30, 1993, 107 Stat. 1687, provided that in the case of an eligible dependent of a member of a uniformed service who died while on active duty for a period of more than 30 days, the administering Secretary could apply the payment provisions set forth in section 1079(b) of this title (in lieu of the payment provisions set forth in section 1086(b) of this title), with respect to health benefits received by the dependent under such section 1086 in connection with an illness or medical condition for which the dependent was receiving treatment under chapter 55 of this title at time of death of the member, prior to repeal by Pub. L. 103-337, div. A, title VII, §707(d), Oct. 5, 1994, 108 Stat. 2801.

[Pub. L. 103-337, div. A, title VII, §707(d), Oct. 5, 1994, 108 Stat. 2801, provided in part that: “The repeal of such section [section 704 of Pub. L. 103-160, formerly set out above] shall not terminate the special payment rules provided in such section with respect to any person eligible for such payment rules on the date of the enactment of this Act [Oct. 5, 1994].”]

**COVERAGE OF CARE PROVIDED SINCE SEPTEMBER 30, 1991**

Pub. L. 102-484, div. A, title VII, §705(b), Oct. 23, 1992, 106 Stat. 2433, provided that: “Subsection (d) of section 1086 of title 10, United States Code, as added by section 704(a) of the National Defense Authorization Act for Fiscal Years 1992 and 1993 (Public Law 102-190; 105 Stat. 1401) and amended by subsection (a) of this section, shall apply with respect to health care benefits or services received after September 30, 1991, by a person described in subsection (d)(2) of such section 1086 if such benefits or services would have been covered under a plan contracted for under such section 1086.”

**§ 1086a. Certain former spouses: extension of period of eligibility for health benefits**

(a) **AVAILABILITY OF CONVERSION HEALTH POLICIES.**—The Secretary of Defense shall inform each person who has been a dependent for a period of one year or more under section 1072(2)(H) of this title of the availability of a conversion health policy for purchase by the person. A conversion health policy offered under this subsection shall provide coverage for not less than a 24-month period.

(b) **EFFECT OF PURCHASE.**—(1) Subject to paragraph (2), if a person who is a dependent for a one-year period under section 1072(2)(H) of this title purchases a conversion health policy within that period (or within a reasonable time after that period as prescribed by the Secretary of Defense), the person shall continue to be eligible for medical and dental care in the manner described in section 1076 of this title and health benefits under section 1086 of this title until the end of the 24-month period beginning on the later of—

- (A) the date the person is no longer a dependent under section 1072(2)(H) of this title; and
- (B) the date of the purchase of the policy.

(2) The extended period of eligibility provided under paragraph (1) shall apply only with regard to a condition of the person that—

- (A) exists on the date on which coverage under the conversion health policy begins; and

(B) for which care is not provided under the policy solely on the grounds that the condition is a preexisting condition.

(c) **EFFECT OF UNAVAILABILITY OF POLICIES.**—

(1) If the Secretary of Defense is unable, within a reasonable time, to enter into a contract with a private insurer to offer conversion health policies under subsection (a) at a rate not to exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage, the Secretary shall provide the coverage required under such a policy through the Civilian Health and Medical Program of the Uniformed Services. Subject to paragraph (2), a person receiving coverage under this subsection shall be required to pay into the Military Health Care Account or other appropriate account an amount equal to the sum of—

(A) the individual and Government contributions which would be required in the case of a person enrolled in a health benefits plan contracted for under section 1079 of this title; and

(B) an amount necessary for administrative expenses, but not to exceed two percent of the amount under subparagraph (A).

(2) The amount paid by a person who purchases a conversion health policy from the Secretary of Defense under paragraph (1) may not exceed the payment required under section 8905a(d)(1)(A) of title 5 for comparable coverage.

(3) In order to reduce premiums required under paragraph (1), the Secretary of Defense may offer a program of coverage that, with respect to mental health services, offers reduced coverage and increased cost-sharing by the purchaser.

(d) **CONVERSION HEALTH POLICY DEFINED.**—In this section, the term “conversion health policy” means a health insurance policy with a private insurer, developed through negotiations between the Secretary of Defense and the private insurer, that is available for purchase by or for the use of a person who is a dependent for a one-year period under section 1072(2)(H) of this title.

(Added Pub. L. 101-189, div. A, title VII, §731(b)(1), Nov. 29, 1989, 103 Stat. 1482; amended Pub. L. 102-484, div. D, title XLIV, §4407(b), Oct. 23, 1992, 106 Stat. 2707; Pub. L. 103-35, title II, §202(a)(16), May 31, 1993, 107 Stat. 102.)

**Editorial Notes**

**AMENDMENTS**

1993—Subsec. (b)(1). Pub. L. 103-35 made technical amendment to directory language of Pub. L. 102-484, §4407(b)(2). See 1992 Amendment note below.

1992—Subsec. (a). Pub. L. 102-484, §4407(b)(1), inserted at end “A conversion health policy offered under this subsection shall provide coverage for not less than a 24-month period.”

Subsec. (b)(1). Pub. L. 102-484, §4407(b)(2), as amended by Pub. L. 103-35, substituted “24-month period” for “one-year period” the second place appearing in the introductory provisions of par. (1).

Subsecs. (c), (d). Pub. L. 102-484, §4407(b)(3), (4), added subsec. (c) and redesignated former subsec. (c) as (d).

**Statutory Notes and Related Subsidiaries**

**EFFECTIVE DATE OF 1993 AMENDMENT**

Amendment by Pub. L. 103-35 applicable as if included in the enactment of Pub. L. 102-484, see section

202(b) of Pub. L. 103-35, set out as a note under section 155 of this title.

#### EFFECTIVE DATE

Section applicable to a person referred to in 10 U.S.C. 1072(2)(H) whose decree of divorce, dissolution, or annulment becomes final on or after Nov. 29, 1989, and to a person so referred to whose decree became final during the period from Sept. 29, 1988 to Nov. 28, 1989, as if section had become effective on Sept. 29, 1988, see section 731(d) of Pub. L. 101-189, set out as an Effective Date of 1989 Amendment note under section 1072 of this title.

#### APPLICATION OF AMENDMENTS BY PUB. L. 102-484 TO EXISTING CONTRACTS

Pub. L. 102-484, div. D, title XLIV, § 4407(c), Oct. 23, 1992, 106 Stat. 2708, provided that: "In the case of conversion health policies provided under section 1145(b) or 1086a(a) of title 10, United States Code, and in effect on the date of the enactment of this Act [Oct. 23, 1992], the Secretary of Defense shall—

"(1) arrange with the private insurer providing these policies to extend the term of the policies (and coverage of preexisting conditions) as provided by the amendments made by this section [amending this section and section 1145 of this title]; or

"(2) make other arrangements to implement the amendments made by this section with respect to these policies."

#### TERMINATION OF APPLICABILITY OF OTHER CONVERSION HEALTH POLICIES

Pub. L. 102-484, div. D, title XLIV, § 4408(c), Oct. 23, 1992, 106 Stat. 2712, provided that:

"(1) No person may purchase a conversion health policy under section 1145(b) or 1086a of title 10, United States Code, on or after October 1, 1994. A person covered by such a conversion health policy on that date may cancel that policy and enroll in a health benefits plan under section 1078a of such title.

"(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 retiree 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.)

#### Editorial Notes

##### 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).