Subsec. (a)(1). Pub. L. 104–106, § 735(a)(1), substituted ''Defense Health Program Account'' for ''Military Health Care Account'' and ''medical and health care programs of the Department of Defense'' for ''the Civilian Health and Medical Program of the Uniformed Services''.

Subsec. (a)(2). Pub. L. 104–106, § 735(b), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Amounts appropriated to the account shall remain available until obligated or expended under subsection (b) or (c).''

Subsec. (b). Pub. L. 104–106, § 735(a)(2), substituted ''conducting programs and activities under this chapter, including contracts entered into'' for ''entering into a contract'' and inserted comma after ''title''.

Subsec. (c). Pub. L. 104–106, § 735(c), redesignated subsec. (e) as (c) and struck out former subsec. (c) which read as follows: ''ALLOCATION OF AMOUNTS IN ACCOUNT FOR PROVISION OF MEDICAL CARE BY SERVICE SECRETARIES.—(1) The Secretary of a military department shall, before the beginning of a fiscal year quarter, provide to the Secretary of Defense an estimate of the amounts necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of the Secretary for that quarter.

''(2) The Secretary of Defense shall, subject to amounts provided in advance in appropriation Acts, make available to each Secretary of a military department the amount from the account that the Secretary of Defense determines is necessary to pay for charges for benefits under the program for covered beneficiaries under the jurisdiction of such Secretary for that quarter.''

Subsec. (d). Pub. L. 104–106, § 735(c)(1), struck out subsec. (d) which read as follows: ''EXPENDITURE OF AMOUNTS FROM ACCOUNT BY SERVICE SECRETARIES.—The Secretary of a military department shall provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for a fiscal year quarter from amounts appropriated to the Secretary and from amounts from the account made available for that quarter to the Secretary by the Secretary of Defense. If the Secretary of a military department exhausts the amounts from the account made available to the Secretary for a fiscal year quarter, the Secretary shall transfer to the account from amounts appropriated to the Secretary an amount sufficient to provide medical and dental care to covered beneficiaries under the jurisdiction of the Secretary for the remainder of the fiscal year quarter.''

Subsec. (e). Pub. L. 104–106, § 735(c)(2), redesignated subsec. (e) as (c).

Subsec. (f). Pub. L. 104–106, § 735(c)(1), struck out subsec. (f) which read as follows: ''DEFINITIONS.—In this section:

''(1) The term 'account' means the Military Health Care Account established in subsection (a).

''(2) The term 'program' means the Civilian Health and Medical Program of the Uniformed Services.''

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 99–661, div. A, title VII, § 701(d)(3), Nov. 14, 1986, 100 Stat. 3898, provided that: ''Section 1100 of such title (as added by subsection (a)(1)) shall take effect on October 1, 1987.''

REPORTS TO CONGRESS

Pub. L. 99–661, div. A, title VII, § 701(c)(2), Nov. 14, 1986, 100 Stat. 3898, required Secretary to submit to Congress not later than May 1, 1987, a report on plans of Secretary for establishing diagnosis-related groups for inpatient services under section 1100(a) of this title, and not later than May 1, 1988, a report on plans of Secretary for establishing diagnosis-related groups for outpatient services under such section.

§ 1101. Resource allocation methods: capitation or diagnosis-related groups

(a) ESTABLISHMENT OF CAPITATION OR DRG METHOD.—The Secretary of Defense, after consultation with the other administering Secretaries, shall establish by regulation the use of capitation or diagnosis-related groups as the primary criteria for allocation of resources to facilities of the uniformed services.

(b) EXCEPTION FOR MOBILIZATION MISSIONS.—Capitation or diagnosis-related groups shall not be used to allocate resources to the facilities of the uniformed services to the extent that such resources are required by such facilities for mobilization missions.

(c) CONTENT OF REGULATIONS.—Such regulations may establish a system of diagnosis-related groups similar to the system established under section 1886(d)(4) of the Social Security Act (42 U.S.C. 1395ww(d)(4)). Such regulations may include the following:

(1) A classification of inpatient treatments by diagnosis-related groups and a similar classification of outpatient treatment.

(2) A methodology for classifying specific treatments within such groups.

(3) An appropriate weighting factor for each such diagnosis-related group which reflects the relative resources used by a facility of a uniformed service with respect to treatments classified within that group compared to treatments classified within other groups.

(4) An appropriate method for calculating or estimating the annual per capita costs of providing comprehensive health care services to members of the uniformed services on active duty and covered beneficiaries.

(Added Pub. L. 99–661, div. A, title VII, § 701(a)(1), Nov. 14, 1986, 100 Stat. 3897; amended Pub. L. 100–456, div. A, title XII, § 1233(e)(1), Sept. 29, 1988, 102 Stat. 2057; Pub. L. 103–160, div. A, title VII, § 714(a), (b)(1), Nov. 30, 1993, 107 Stat. 1690.)

Editorial Notes

AMENDMENTS

1993—Pub. L. 103–160, § 714(b)(1), substituted ''Resource allocation methods: capitation or diagnosis-related groups'' for ''Diagnosis-related groups'' as section catchline.

Subsec. (a). Pub. L. 103–160, § 714(a)(1), substituted ''Capitation or DRG Method'' for ''DRGs'' in heading and inserted ''capitation or'' before ''diagnosis-related groups'' in text.

Subsec. (b). Pub. L. 103–160, § 714(a)(2), substituted ''Capitation or diagnosis-related groups'' for ''Diagnosis-related groups''.

Subsec. (c). Pub. L. 103–160, § 714(a)(3), substituted ''may'' for ''shall'' in two places in introductory provisions and added par. (4).

1988—Subsec. (c). Pub. L. 100–456 struck out ''(1)'' before ''Such regulations'' in introductory provisions.

Statutory Notes and Related Subsidiaries

REGULATIONS

Pub. L. 101–189, div. A, title VII, § 724, Nov. 29, 1989, 103 Stat. 1478, as amended by Pub. L. 102–190, div. A, title VII, § 719, Dec. 5, 1991, 105 Stat. 1404, provided that: ''The regulations required by section 1101(a) of title 10, United States Code, to establish the use of diagnosis-related groups as the primary criteria for the allocation

of resources to health care facilities of the uniformed services shall be prescribed to take effect not later than October 1, 1993, in the case of outpatient treatments.''

Pub. L. 99–661, div. A, title VII, §701(d)(4), Nov. 14, 1986, 100 Stat. 3898, as amended by Pub. L. 100–180, div. A, title VII, §724, Dec. 4, 1987, 101 Stat. 1116, provided that: ''The Secretary of Defense shall prescribe regulations as required by section 1101(a) of such title (as added by subsection (a)(1)) to take effect—

''(A) in the case of inpatient treatments, not later than October 1, 1988; and

''(B) in the case of outpatient treatments, not later than October 1, 1989.''

§ 1102. Confidentiality of medical quality assurance records: qualified immunity for participants

(a) CONFIDENTIALITY OF RECORDS.—Medical quality assurance records created by or for the Department of Defense as part of a medical quality assurance program are confidential and privileged. Such records may not be disclosed to any person or entity, except as provided in subsection (c).

(b) PROHIBITION ON DISCLOSURE AND TESTIMONY.—(1) No part of any medical quality assurance record described in subsection (a) may be subject to discovery or admitted into evidence in any judicial or administrative proceeding, except as provided in subsection (c).

(2) A person who reviews or creates medical quality assurance records for the Department of Defense or who participates in any proceeding that reviews or creates such records may not be permitted or required to testify in any judicial or administrative proceeding with respect to such records or with respect to any finding, recommendation, evaluation, opinion, or action taken by such person or body in connection with such records except as provided in this section.

(c) AUTHORIZED DISCLOSURE AND TESTIMONY.—(1) Subject to paragraph (2), a medical quality assurance record described in subsection (a) may be disclosed, and a person referred to in subsection (b) may give testimony in connection with such a record, only as follows:

(A) To a Federal executive agency or private organization, if such medical quality assurance record or testimony is needed by such agency or organization to perform licensing or accreditation functions related to Department of Defense health care facilities or to perform monitoring, required by law, of Department of Defense health care facilities.

(B) To an administrative or judicial proceeding commenced by a present or former Department of Defense health care provider concerning the termination, suspension, or limitation of clinical privileges of such health care provider.

(C) To a governmental board or agency or to a professional health care society or organization, if such medical quality assurance record or testimony is needed by such board, agency, society, or organization to perform licensing, credentialing, or the monitoring of professional standards with respect to any health care provider who is or was a member or an employee of the Department of Defense.

(D) To a hospital, medical center, or other institution that provides health care services, if such medical quality assurance record or testimony is needed by such institution to assess the professional qualifications of any health care provider who is or was a member or employee of the Department of Defense and who has applied for or been granted authority or employment to provide health care services in or on behalf of such institution.

(E) To an officer, employee, or contractor of the Department of Defense who has a need for such record or testimony to perform official duties.

(F) To a criminal or civil law enforcement agency or instrumentality charged under applicable law with the protection of the public health or safety, if a qualified representative of such agency or instrumentality makes a written request that such record or testimony be provided for a purpose authorized by law.

(G) In an administrative or judicial proceeding commenced by a criminal or civil law enforcement agency or instrumentality referred to in subparagraph (F), but only with respect to the subject of such proceeding.

(2) With the exception of the subject of a quality assurance action, the identity of any person receiving health care services from the Department of Defense or the identity of any other person associated with such department for purposes of a medical quality assurance program that is disclosed in a medical quality assurance record described in subsection (a) shall be deleted from that record or document before any disclosure of such record is made outside the Department of Defense. Such requirement does not apply to the release of information pursuant to section 552a of title 5.

(d) DISCLOSURE FOR CERTAIN PURPOSES.—(1) Nothing in this section shall be construed as authorizing or requiring the withholding from any person or entity aggregate statistical information regarding the results of Department of Defense medical quality assurance programs.

(2) Nothing in this section shall be construed as authority to withhold any medical quality assurance record from a committee of either House of Congress, any joint committee of Congress, or the Comptroller General if such record pertains to any matter within their respective jurisdictions.

(e) PROHIBITION ON DISCLOSURE OF RECORD OR TESTIMONY.—A person or entity having possession of or access to a record or testimony described by this section may not disclose the contents of such record or testimony in any manner or for any purpose except as provided in this section.

(f) EXEMPTION FROM FREEDOM OF INFORMATION ACT.—Medical quality assurance records described in subsection (a) may not be made available to any person under section 552 of title 5.

(g) LIMITATION ON CIVIL LIABILITY.—A person who participates in or provides information to a person or body that reviews or creates medical quality assurance records described in subsection (a) shall not be civilly liable for such participation or for providing such information if the participation or provision of information was in good faith based on prevailing professional standards at the time the medical quality assurance program activity took place.