

ity that provides room and board and personal care for and supervision of residents as necessary for the health, safety, and welfare of residents.

“(h) STANDARDS.—The Secretary may not enter into a contract with a facility under this section unless the facility meets the standards established in regulations prescribed under section 1730 of title 38, United States Code.”

§ 1710C. Traumatic brain injury: plans for rehabilitation and reintegration into the community

(a) PLAN REQUIRED.—The Secretary shall, for each individual who is a veteran or member of the Armed Forces who receives inpatient or outpatient rehabilitative hospital care or medical services provided by the Department for a traumatic brain injury—

- (1) develop an individualized plan for the rehabilitation and reintegration of the individual into the community with the goal of maximizing the individual's independence; and
- (2) provide such plan in writing to the individual—

(A) in the case of an individual receiving inpatient care, before the individual is discharged from inpatient care or after the individual's transition from serving on active duty as a member of the Armed Forces to receiving outpatient care provided by the Department; or

(B) as soon as practicable following a diagnosis of traumatic brain injury by a Department health care provider.

(b) CONTENTS OF PLAN.—Each plan developed under subsection (a) shall include, for the individual covered by such plan, the following:

(1) Rehabilitation objectives for improving (and sustaining improvement in) the physical, cognitive, behavioral, and vocational functioning of the individual with the goal of maximizing the independence and reintegration of such individual into the community.

(2) Access, as warranted, to all appropriate rehabilitative services and rehabilitative components of the traumatic brain injury continuum of care, and where appropriate, to long-term care services.

(3) A description of specific rehabilitative services and other services to achieve the objectives described in paragraph (1), which shall set forth the type, frequency, duration, and location of such services.

(4) The name of the case manager designated in accordance with subsection (d) to be responsible for the implementation of such plan.

(5) Dates on which the effectiveness of such plan will be reviewed in accordance with subsection (f).

(c) COMPREHENSIVE ASSESSMENT.—(1) Each plan developed under subsection (a) shall be based on a comprehensive assessment, developed in accordance with paragraph (2), of—

(A) the physical, cognitive, vocational, and neuropsychological and social impairments of the individual; and

(B) the family education and family support needs of the individual after the individual is discharged from inpatient care or at the commencement of and during the receipt of outpatient care and services.

(2) The comprehensive assessment required under paragraph (1) with respect to an individual is a comprehensive assessment of the matters set forth in that paragraph by a team, composed by the Secretary for purposes of the assessment, of individuals with expertise in traumatic brain injury, including any of the following:

- (A) A neurologist.
- (B) A rehabilitation physician.
- (C) A social worker.
- (D) A neuropsychologist.
- (E) A physical therapist.
- (F) A vocational rehabilitation specialist.
- (G) An occupational therapist.
- (H) A speech language pathologist.
- (I) A rehabilitation nurse.
- (J) An educational therapist.
- (K) An audiologist.
- (L) A blind rehabilitation specialist.
- (M) A recreational therapist.
- (N) A low vision optometrist.
- (O) An orthotist or prosthetist.
- (P) An assistive technologist or rehabilitation engineer.
- (Q) An otolaryngology physician.
- (R) A dietician.
- (S) An ophthalmologist.
- (T) A psychiatrist.

(d) CASE MANAGER.—(1) The Secretary shall designate a case manager for each individual described in subsection (a) to be responsible for the implementation of the plan developed for that individual under that subsection and the coordination of the individual's medical care.

(2) The Secretary shall ensure that each case manager has specific expertise in the care required by the individual for whom the case manager is designated, regardless of whether the case manager obtains such expertise through experience, education, or training.

(e) PARTICIPATION AND COLLABORATION IN DEVELOPMENT OF PLANS.—(1) The Secretary shall involve each individual described in subsection (a), and the family or legal guardian of such individual, in the development of the plan for such individual under that subsection to the maximum extent practicable.

(2) The Secretary shall collaborate in the development of a plan for an individual under subsection (a) with a State protection and advocacy system if—

(A) the individual covered by the plan requests such collaboration; or

(B) in the case of such an individual who is incapacitated, the family or guardian of the individual requests such collaboration.

(3) In the case of a plan required by subsection (a) for a member of the Armed Forces who is serving on active duty, the Secretary shall collaborate with the Secretary of Defense in the development of such plan.

(4) In developing vocational rehabilitation objectives required under subsection (b)(1) and in conducting the assessment required under subsection (c), the Secretary shall act through the Under Secretary for Health in coordination with the Vocational Rehabilitation and Employment Service of the Department of Veterans Affairs.

(f) EVALUATION.—

(1) PERIODIC REVIEW BY SECRETARY.—The Secretary shall periodically review the effectiveness of each plan developed under subsection (a). The Secretary shall refine each such plan as the Secretary considers appropriate in light of such review.

(2) REQUEST FOR REVIEW BY VETERANS.—In addition to the periodic review required by paragraph (1), the Secretary shall conduct a review of the plan for an individual under paragraph (1) at the request of the individual, or in the case of an individual who is incapacitated, at the request of the guardian or designee of the individual.

(g) STATE DESIGNATED PROTECTION AND ADVOCACY SYSTEM DEFINED.—In this section, the term “State protection and advocacy system” means a system established in a State under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.) to protect and advocate for the rights of persons with development disabilities.

(h) REHABILITATIVE SERVICES DEFINED.—For purposes of this section, and sections 1710D and 1710E of this title, the term “rehabilitative services” includes—

- (1) rehabilitative services, as defined in section 1701 of this title;
- (2) treatment and services (which may be of ongoing duration) to sustain, and prevent loss of, functional gains that have been achieved; and
- (3) any other rehabilitative services or supports that may contribute to maximizing an individual's independence.

(Added Pub. L. 110–181, div. A, title XVII, §1702(a), Jan. 28, 2008, 122 Stat. 486; amended Pub. L. 112–154, title I, §107(a), (d), Aug. 6, 2012, 126 Stat. 1173.)

Editorial Notes

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in subsec. (g), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of the Act probably means subtitle C of title I of the Act, which is classified generally to part C (§15041 et seq.) of subchapter I of chapter 144 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of Title 42 and Tables.

AMENDMENTS

2012—Subsec. (a)(1). Pub. L. 112–154, §107(a)(1), inserted “with the goal of maximizing the individual's independence” before semicolon.

Subsec. (b)(1). Pub. L. 112–154, §107(a)(2)(A), inserted “(and sustaining improvement in)” after “improving” and “behavioral,” after “cognitive.”

Subsec. (b)(2). Pub. L. 112–154, §107(a)(2)(B), inserted “rehabilitative services and” before “rehabilitative components”.

Subsec. (b)(3). Pub. L. 112–154, §107(a)(2)(C), substituted “rehabilitative services” for “rehabilitative treatments” and struck out “treatments and” after “location of such”.

Subsec. (c)(2)(S). Pub. L. 112–154, §107(d), substituted “ophthalmologist” for “ophthamologist”.

Subsec. (h). Pub. L. 112–154, §107(a)(3), added subsec. (h).

Statutory Notes and Related Subsidiaries

RESEARCH, EDUCATION, AND CLINICAL CARE PROGRAM ON TRAUMATIC BRAIN INJURY

Pub. L. 110–181, div. A, title XVII, §1704, Jan. 28, 2008, 122 Stat. 490, provided that:

“(a) IN GENERAL.—To improve the provision of health care by the Department of Veterans Affairs to veterans with traumatic brain injuries, the Secretary of Veterans Affairs shall—

“(1) conduct research, including—

“(A) research on the sequelae of mild to severe forms of traumatic brain injury;

“(B) research on visually-related neurological conditions;

“(C) research on seizure disorders;

“(D) research on means of improving the diagnosis, rehabilitative treatment, and prevention of such sequelae;

“(E) research to determine the most effective cognitive and physical therapies for such sequelae;

“(F) research on dual diagnosis of post-traumatic stress disorder and traumatic brain injury;

“(G) research on improving facilities of the Department concentrating on traumatic brain injury care; and

“(H) research on improving the delivery of traumatic brain injury care by the Department;

“(2) educate and train health care personnel of the Department in recognizing and treating traumatic brain injury; and

“(3) develop improved models and systems for the furnishing of traumatic brain injury care by the Department.

“(b) COLLABORATION.—In carrying out research under subsection (a), the Secretary of Veterans Affairs shall collaborate with—

“(1) facilities that conduct research on rehabilitation for individuals with traumatic brain injury;

“(2) facilities that receive grants for such research from the National Institute on Disability and Rehabilitation Research of the Department of Education; and

“(3) the Defense and Veterans Brain Injury Center of the Department of Defense and other relevant programs of the Federal Government (including Centers of Excellence).

“(c) DISSEMINATION OF USEFUL INFORMATION.—The Under Secretary of Veterans Affairs for Health shall ensure that information produced by the research, education and training, and clinical activities conducted under this section that may be useful for other activities of the Veterans Health Administration is disseminated throughout the Veterans Health Administration.

“(d) TRAUMATIC BRAIN INJURY REGISTRY.—

“(1) IN GENERAL.—The Secretary of Veterans Affairs shall establish and maintain a registry to be known as the ‘Traumatic Brain Injury Veterans Health Registry’ (in this section referred to as the ‘Registry’).

“(2) DESCRIPTION.—The Registry shall include the following information:

“(A) A list containing the name of each individual who served as a member of the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom who exhibits symptoms associated with traumatic brain injury, as determined by the Secretary of Veterans Affairs, and who—

“(i) applies for care and services furnished by the Department of Veterans Affairs under chapter 17 of title 38, United States Code; or

“(ii) files a claim for compensation under chapter 11 of such title on the basis of any disability which may be associated with such service.

“(B) Any relevant medical data relating to the health status of an individual described in subparagraph (A) and any other information the Secretary considers relevant and appropriate with respect to such an individual if the individual—

“(i) grants permission to the Secretary to include such information in the Registry; or

“(ii) is deceased at the time such individual is listed in the Registry.

“(3) NOTIFICATION.—When possible, the Secretary shall notify each individual listed in the Registry of significant developments in research on the health consequences of military service in the Operation Enduring Freedom and Operation Iraqi Freedom theaters of operations.”

[Functions which the Director of the National Institute on Disability and Rehabilitation Research exercised before July 22, 2014 (including all related functions of any officer or employee of the National Institute on Disability and Rehabilitation Research), transferred to the National Institute on Disability, Independent Living, and Rehabilitation Research, see subsection (n) of section 3515e of Title 42, The Public Health and Welfare.]

PILOT PROGRAM ON COMMUNITY-BASED BRAIN INJURY RESIDENTIAL REHABILITATIVE CARE SERVICES FOR VETERANS WITH TRAUMATIC BRAIN INJURY

Pub. L. 110-181, div. A, title XVII, §1705, Jan. 28, 2008, 122 Stat. 491, as amended by Pub. L. 113-146, title V, §501, Aug. 7, 2014, 128 Stat. 1792; Pub. L. 113-257, §2(a), (b), Dec. 18, 2014, 128 Stat. 2924, 2925; Pub. L. 115-62, title I, §107(a), (b), Sept. 29, 2017, 131 Stat. 1161, provided that:

“(a) PILOT PROGRAM.—Beginning not later than 90 days after the date of the enactment of this Act [Jan. 28, 2008], the Secretary of Veterans Affairs, in collaboration with the Defense and Veterans Brain Injury Center of the Department of Defense, shall carry out a pilot program to assess the effectiveness of providing community-based brain injury rehabilitative care services to eligible veterans to enhance the rehabilitation, quality of life, and community integration of such veterans.

“(b) PROGRAM LOCATIONS.—

“(1) IN GENERAL.—The pilot program shall be carried out at locations selected by the Secretary for purposes of the pilot program. Of the locations so selected—

“(A) at least one location shall be in each health care region of the Veterans Health Administration of the Department of Veterans Affairs that contains a polytrauma center of the Department of Veterans Affairs; and

“(B) any location other than a location described in subparagraph (A) shall be in an area that contains a high concentration of veterans with traumatic brain injuries, as determined by the Secretary.

“(2) SPECIAL CONSIDERATION FOR VETERANS IN RURAL AREAS.—The Secretary shall give special consideration to providing veterans in rural areas with an opportunity to participate in the pilot program.

“(c) PROVISION OF COMMUNITY-BASED BRAIN INJURY RESIDENTIAL REHABILITATIVE CARE SERVICES.—

“(1) AGREEMENTS.—In carrying out the pilot program, the Secretary may enter into agreements for the provision of community-based brain injury rehabilitative care services on behalf of eligible veterans with a provider participating under a State plan or waiver under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.).

“(2) STANDARDS.—The Secretary may not place, transfer, or admit a veteran to any facility for community-based brain injury rehabilitative care services under the pilot program unless the Secretary determines that the facility meets such standards as the Secretary may prescribe for purposes of the pilot program. Such standards shall, to the extent practicable, be consistent with the standards of Federal, State, and local agencies charged with the responsibility of licensing or otherwise regulating or inspecting such facilities.

“(d) CONTINUATION OF CASE MANAGEMENT AND REHABILITATION SERVICES.—In carrying out the pilot program, the Secretary shall—

“(1) continue to provide each veteran who is receiving community-based brain injury rehabilitative care

services under the pilot program with rehabilitative services; and

“(2) designate employees of the Veterans Health Administration of the Department of Veterans Affairs to furnish case management services for veterans participating in the pilot program.

“(e) REPORTS.—

“(1) QUARTERLY REPORTS.—

“(A) IN GENERAL.—For each calendar quarter occurring during the period beginning January 1, 2015, and ending September 30, 2017, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the pilot program.

“(B) ELEMENTS.—Each report submitted under subparagraph (A) shall include each of the following for the quarter preceding the quarter during which the report is submitted the following:

“(i) The number of individuals that participated in the pilot program.

“(ii) The number of individuals that successfully completed the pilot program.

“(iii) The degree to which pilot program participants and family members of pilot program participants were satisfied with the pilot program.

“(iv) The interim findings and conclusions of the Secretary with respect to the success of the pilot program and recommendations for improvement.

“(2) FINAL REPORT.—

“(A) IN GENERAL.—Not later than December 6, 2017, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a final report on the pilot program.

“(B) ELEMENTS.—The final report required by subparagraph (A) shall include the following:

“(i) A description of the pilot program.

“(ii) The Secretary's assessment of the utility of the activities carried out under the pilot program in enhancing the rehabilitation, quality of life, and community reintegration of veterans with traumatic brain injury.

“(iii) An evaluation of the pilot program in light of independent living programs carried out by the Secretary under title 38, United States Code, including—

“(I) whether the pilot program duplicates services provided under such independent living programs;

“(II) the ways in which the pilot program provides different services than the services provided under such independent living program;

“(III) how the pilot program could be better defined or shaped; and

“(IV) whether the pilot program should be incorporated into such independent living programs.

“(iv) Such recommendations as the Secretary considers appropriate regarding improving the pilot program.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘community-based brain injury rehabilitative care services’ means services of a facility in providing room, board, rehabilitation, and personal care for and supervision of residents for their health, safety, and welfare.

“(2) The term ‘case management services’ includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through a contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

“(3) The term ‘eligible veteran’ means a veteran who—

“(A) is enrolled in the patient enrollment system of the Department of Veterans Affairs under section 1705 of title 38, United States Code;

“(B) has received hospital care or medical services provided by the Department of Veterans Affairs for a traumatic brain injury;

“(C) is unable to manage routine activities of daily living without supervision and assistance, as determined by the Secretary; and

“(D) could reasonably be expected to receive ongoing services after the end of the pilot program under this section under another program of the Federal Government or through other means, as determined by the Secretary.”

“(g) TERMINATION.—The pilot program shall terminate on January 6, 2018.”

[Pub. L. 115-62, title I, §107(c), Sept. 29, 2017, 131 Stat. 1161, provided that: “Not later than December 6, 2017, the Secretary of Veterans Affairs shall notify veterans participating in the pilot program under such section [section 1705 of Pub. L. 110-181, set out above] regarding a plan for transition of care for such veterans.”]

[Pub. L. 113-257, §2(c), Dec. 18, 2014, 128 Stat. 2925, provided that: “The amendments made by this section [amending section 1705 of Pub. L. 110-181, set out above] shall take effect on the date of the enactment of this Act [Dec. 18, 2014].”]

§ 1710D. Traumatic brain injury: comprehensive program for long-term rehabilitation

(a) COMPREHENSIVE PROGRAM.—In developing plans for the rehabilitation and reintegration of individuals with traumatic brain injury under section 1710C of this title, the Secretary shall develop and carry out a comprehensive program of long-term care and rehabilitative services (as defined in section 1710C of this title) for post-acute traumatic brain injury rehabilitation that includes residential, community, and home-based components utilizing interdisciplinary teams.

(b) LOCATION OF PROGRAM.—The Secretary shall carry out the program developed under subsection (a) in each Department polytrauma rehabilitation center designated by the Secretary.

(c) ELIGIBILITY.—A veteran is eligible for care under the program developed under subsection (a) if the veteran is otherwise eligible to receive hospital care and medical services under section 1710 of this title and—

(1) served on active duty in a theater of combat operations (as determined by the Secretary in consultation with the Secretary of Defense) during a period of war after the Persian Gulf War, or in combat against a hostile force during a period of hostilities after November 11, 1998;

(2) is diagnosed as suffering from moderate to severe traumatic brain injury; and

(3) is unable to manage routine activities of daily living without supervision or assistance, as determined by the Secretary.

(d) REPORT.—Not later than one year after the date of the enactment of this section, and annually thereafter, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report containing the following information:

(1) A description of the operation of the program.

(2) The number of veterans provided care under the program during the year preceding such report.

(3) The cost of operating the program during the year preceding such report.

(Added Pub. L. 110-181, div. A, title XVII, §1702(a), Jan. 28, 2008, 122 Stat. 488; amended Pub. L. 112-154, title I, §107(b), Aug. 6, 2012, 126 Stat. 1173; Pub. L. 114-58, title VI, §601(5), Sept. 30, 2015, 129 Stat. 538.)

Editorial Notes

REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (d), is the date of enactment of Pub. L. 110-181, which was approved Jan. 28, 2008.

AMENDMENTS

2015—Subsec. (c)(1). Pub. L. 114-58 struck out “(as defined in section 1712A(a)(2)(B) of this title)” after “hostilities”.

2012—Subsec. (a). Pub. L. 112-154 inserted “and rehabilitative services (as defined in section 1710C of this title)” after “long-term care” and struck out “treatment” before “teams”.

§ 1710E. Traumatic brain injury: use of non-Department facilities for rehabilitation

(a) COOPERATIVE AGREEMENTS.—The Secretary, in implementing and carrying out a plan developed under section 1710C of this title, may provide hospital care and medical services, including rehabilitative services (as defined in section 1710C of this title), through cooperative agreements with appropriate public or private entities that have established long-term neurobehavioral rehabilitation and recovery programs.

(b) COVERED INDIVIDUALS.—The care and services provided under subsection (a) shall be made available to an individual—

(1) who is described in section 1710C(a) of this title; and

(2)(A) to whom the Secretary is unable to provide such treatment or services at the frequency or for the duration prescribed in such plan; or

(B) for whom the Secretary determines that it is optimal with respect to the recovery and rehabilitation for such individual.

(c) AUTHORITIES OF STATE PROTECTION AND ADVOCACY SYSTEMS.—Nothing in subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 shall be construed as preventing a State protection and advocacy system (as defined in section 1710C(g) of this title) from exercising the authorities described in such subtitle with respect to individuals provided rehabilitative treatment or services under section 1710C of this title in a non-Department facility.

(d) STANDARDS.—The Secretary may not provide treatment or services as described in subsection (a) at a non-Department facility under such subsection unless such facility maintains standards for the provision of such treatment or services established by an independent, peer-reviewed organization that accredits specialized rehabilitation programs for adults with traumatic brain injury.

(Added Pub. L. 110-181, div. A, title XVII, §1703(a), Jan. 28, 2008, 122 Stat. 489; amended Pub. L. 111-163, title V, §509, May 5, 2010, 124 Stat. 1162; Pub. L. 112-154, title I, §107(c), Aug. 6, 2012, 126 Stat. 1173.)