

22, 1974, and amendment by section 3(3) of Pub. L. 93-538 effective Jan. 11, 1971, see section 6 of Pub. L. 93-538, set out as a note under section 3901 of this title.

COMPREHENSIVE POLICY FOR THE AUTOMOBILE
ADAPTIVE EQUIPMENT PROGRAM

Pub. L. 114-256, § 3, Dec. 14, 2016, 130 Stat. 1345, provided that:

“(a) COMPREHENSIVE POLICY.—The Secretary of Veterans Affairs shall develop a comprehensive policy regarding quality standards for providers who provide modification services to veterans under the automobile adaptive equipment program.

“(b) SCOPE.—The policy developed under subsection (a) shall cover each of the following:

“(1) The Department of Veterans Affairs-wide management of the automobile adaptive equipment program.

“(2) The development of standards for safety and quality of equipment and installation of equipment through the automobile adaptive equipment program, including with respect to the defined differentiations in levels of modification complexity.

“(3) The consistent application of standards for safety and quality of both equipment and installation throughout the Department.

“(4) In accordance with subsection (c)(1), the certification of a provider by a manufacturer if the Secretary designates the quality standards of such manufacturer as meeting or exceeding the standards developed under this section.

“(5) In accordance with subsection (c)(2), the certification of a provider by a third party, nonprofit organization if the Secretary designates the quality standards of such organization as meeting or exceeding the standards developed under this section.

“(6) The education and training of personnel of the Department who administer the automobile adaptive equipment program.

“(7) The compliance of the provider with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) when furnishing automobile adaptive equipment at the facility of the provider.

“(8) The allowance, where technically appropriate, for veterans to receive modifications at their residence or location of choice, including standards that ensure such receipt and notification to veterans of the availability of such receipt.

“(c) CERTIFICATION OF MANUFACTURERS AND THIRD PARTY, NONPROFIT ORGANIZATIONS.—

“(1) CERTIFICATION OF MANUFACTURERS.—The Secretary shall approve a manufacturer as a certifying manufacturer for purposes of subsection (b)(4), if the manufacturer demonstrates that its certification standards meet or exceed the quality standards developed under this section.

“(2) CERTIFICATION OF THIRD PARTY, NONPROFIT ORGANIZATIONS.—

“(A) IN GENERAL.—The Secretary may approve two or more private, nonprofit organizations as third party, nonprofit certifying organizations for purposes of subsection (b)(5).

“(B) LIMITATION.—If at any time there is only one third party, nonprofit certifying organization approved by the Secretary for purposes of subsection (b)(5), such organization shall not be permitted to provide certifications under such subsection until such time as the Secretary approves a second third party, nonprofit certifying organization for purposes of such subsection.

“(d) UPDATES.—

“(1) INITIAL UPDATES.—Not later than 1 year after the date of the enactment of this Act [Dec. 14, 2016], the Secretary shall update Veterans Health Administration Handbook 1173.4, or any successor handbook or directive, in accordance with the policy developed under subsection (a).

“(2) SUBSEQUENT UPDATES.—Not less frequently than once every 6 years thereafter, the Secretary shall update such handbook, or any successor handbook or directive.

“(e) CONSULTATION.—The Secretary shall develop the policy under subsection (a), and revise such policy under subsection (d), in consultation with veterans service organizations, the National Highway Transportation Administration, industry representatives, manufacturers of automobile adaptive equipment, and other entities with expertise in installing, repairing, replacing, or manufacturing mobility equipment or developing mobility accreditation standards for automobile adaptive equipment.

“(f) CONFLICTS.—In developing and implementing the policy under subsection (a), the Secretary shall—

“(1) minimize the possibility of conflicts of interest, to the extent practicable; and

“(2) establish procedures that ensure against the use of a certifying organization referred to in subsection (b)(5) that has a financial conflict of interest regarding the certification of an eligible provider.

“(g) BIENNIAL REPORT.—

“(1) IN GENERAL.—Not later than 1 year after the date on which the Secretary updates Veterans Health Administration Handbook 1173.4, or any successor handbook or directive, under subsection (d), and not less frequently than once every other year thereafter through 2022, the Secretary shall submit to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives a report on the implementation and facility compliance with the policy developed under subsection (a).

“(2) CONTENTS.—The report required by paragraph (1) shall include the following:

“(A) A description of the implementation plan for the policy developed under subsection (a) and any revisions to such policy under subsection (d).

“(B) A description of the performance measures used to determine the effectiveness of such policy in ensuring the safety of veterans enrolled in the automobile adaptive equipment program.

“(C) An assessment of safety issues due to improper installations based on a survey of recipients of adaptive equipment from the Department.

“(D) An assessment of the adequacy of the adaptive equipment services of the Department based on a survey of recipients of adaptive equipment from the Department.

“(E) An assessment of the training provided to the personnel of the Department with respect to administering the program.

“(F) An assessment of the certified providers of the Department of adaptive equipment with respect to meeting the minimum standards developed under subsection (b)(2).

“(h) DEFINITIONS.—In this section:

“(1) AUTOMOBILE ADAPTIVE EQUIPMENT PROGRAM.—The term ‘automobile adaptive equipment program’ means the program administered by the Secretary of Veterans Affairs pursuant to chapter 39 of title 38, United States Code.

“(2) VETERANS SERVICE ORGANIZATION.—The term ‘veterans service organization’ means any organization recognized by the Secretary for the representation of veterans under section 5902 of title 38, United States Code.”

§ 3903. Limitations on assistance; special training courses

(a)(1) Except as provided in paragraph (2), no eligible person shall be entitled to receive more than one automobile or other conveyance under the provisions of this chapter, and no payment shall be made under this chapter for the repair, maintenance, or replacement of an automobile or other conveyance.

(2) The Secretary may provide or assist in providing an eligible person with a second automobile or other conveyance under this chapter if—

(A) the Secretary receives satisfactory evidence that the automobile or other conveyance previously purchased with assistance under this chapter was destroyed—

- (i) as a result of a natural or other disaster, as determined by the Secretary; and
- (ii) through no fault of the eligible person; and

(B) the eligible person does not otherwise receive from a property insurer compensation for the loss.

(b)(1) Except as provided in subsection (d) of section 3902 of this title, no eligible person shall be provided an automobile or other conveyance under this chapter until it is established to the satisfaction of the Secretary, in accordance with regulations the Secretary shall prescribe, that the eligible person will be able to operate the automobile or other conveyance in a manner consistent with such person's own safety and the safety of others and will satisfy the applicable standards of licensure to operate the automobile or other conveyance established by the State of such person's residency or other proper licensing authority.

(2) The Secretary shall ensure that to the extent practicable an eligible person who is provided an automobile or other conveyance under this chapter is given the opportunity to make personal selections relating to such automobile or other conveyance.

(c)(1) An eligible person shall not be entitled to adaptive equipment under this chapter for more than two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period.

(2) In a case in which the four-year limitation in paragraph (1) of this subsection precludes an eligible person from being entitled to adaptive equipment under this chapter, if the Secretary determines that, due to circumstances beyond the control of such person, one of the automobiles or other conveyances for which adaptive equipment was provided to such person during the applicable four-year period is no longer available for the use of such person, the Secretary may provide adaptive equipment to such person for an additional automobile or other conveyance during such period. Provision of adaptive equipment under this paragraph is within the discretion of the Secretary. Any action to provide adaptive equipment under this paragraph shall be made pursuant to regulations which the Secretary shall prescribe.

(d) Adaptive equipment shall not be provided under this chapter unless it conforms to minimum standards of safety and quality prescribed by the Secretary.

(e)(1) The Secretary shall provide, directly or by contract, for the conduct of special driver training courses at every hospital and, where appropriate, at regional offices and other medical facilities, of the Department to instruct such eligible person to operate the type of automobile or other conveyance such person wishes to obtain with assistance under this chapter, and may make such courses available to any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is de-

termined by the Secretary to need the special training provided in such courses even though such veteran or member is not eligible for the assistance provided under this chapter.

(2) The Secretary is authorized to obtain insurance on automobiles and other conveyances used in conducting the special driver training courses provided under this subsection and to obtain, at Government expense, personal liability and property damage insurance for all persons taking such courses without regard to whether such persons are taking the course on an in-patient or out-patient basis.

(3) Notwithstanding any other provision of law, the Secretary may obtain, by purchase, lease, gift, or otherwise, any automobile, motor vehicle, or other conveyance deemed necessary to carry out the purposes of this subsection, and may sell, assign, transfer, or convey any such automobile, vehicle, or conveyance to which the Department obtains title for such price and upon such terms as the Secretary deems appropriate; and any proceeds received from any such disposition shall be credited to the applicable Department appropriation.

(Added Pub. L. 91-666, §2(a), Jan. 11, 1971, 84 Stat. 2000, §1903; amended Pub. L. 93-538, §4(a), (b), Dec. 22, 1974, 88 Stat. 1736, 1737; Pub. L. 94-581, title I, §108, Oct. 21, 1976, 90 Stat. 2847; Pub. L. 97-66, title III, §303, Oct. 17, 1981, 95 Stat. 1030; Pub. L. 98-543, title III, §305(b), Oct. 24, 1984, 98 Stat. 2748; renumbered §3903 and amended Pub. L. 102-83, §§4(a)(3), (4), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 106-117, title VIII, §804, Nov. 30, 1999, 113 Stat. 1586; Pub. L. 112-154, title VII, §701(e), Aug. 6, 2012, 126 Stat. 1204; Pub. L. 114-256, §2, Dec. 14, 2016, 130 Stat. 1345.)

Editorial Notes

PRIOR PROVISIONS

Provisions similar to those comprising this section were contained in former sections 1902 and 1904 of this title prior to the general revision of this chapter by Pub. L. 91-666.

AMENDMENTS

2016—Subsec. (b). Pub. L. 114-256 designated existing provisions as par. (1) and added par. (2).

2012—Subsec. (a). Pub. L. 112-154 designated existing provisions as par. (1), substituted "Except as provided in paragraph (2), no" for "No" and added par. (2).

1999—Subsec. (e)(2). Pub. L. 106-117 struck out "(not owned by the Government)" after "automobiles and other conveyances".

1991—Pub. L. 102-83, §5(a), renumbered section 1903 of this title as this section.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted "3902" for "1902".

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

Subsecs. (c)(2), (d). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" wherever appearing.

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

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration".

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

Subsec. (e)(3). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places.

Pub. L. 102-83, §4(a)(3), (4), substituted "Department" for "Veterans' Administration" in two places.

1984—Subsec. (c). Pub. L. 98-543 designated existing provisions as par. (1), substituted "two automobiles or other conveyances at any one time or (except as provided in paragraph (2) of this subsection) during any four-year period" for "one automobile or other conveyance at any one time", and added par. (2).

1981—Subsec. (b). Pub. L. 97-66 substituted "the Administrator shall prescribe" for "he shall prescribe" and "such person's" for "his" in two places.

1976—Subsec. (e)(1). Pub. L. 94-581, §108(1), substituted "any veteran, eligible for care under chapter 17 of this title or member of the Armed Forces, who is determined" for "any veteran or member of the Armed Forces, eligible for care under chapter 17 of this title, who is determined".

Subsec. (e)(3). Pub. L. 94-581, §108(2), added par. (3).

1974—Pub. L. 93-538, §4(b), substituted "Limitations on assistance; special training courses" for "Limitations on assistance" in section catchline.

Subsec. (e). Pub. L. 93-538, §4(a), added subsec. (e).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2012 AMENDMENT

Amendment by Pub. L. 112-154 effective on the date that is one year after Aug. 6, 2012, see section 701(g) of Pub. L. 112-154, set out as an Effective Date note under section 2109 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-543, title III, §305(c), Oct. 24, 1984, 98 Stat. 2748, provided that:

"(1) The amendments made by this section [amending this section and section 1902 [now 3902] of this title] shall take effect on January 1, 1985.

"(2) In the case of a person who during the four-year period ending on December 31, 1984, was provided adaptive equipment under chapter 39 of title 38, United States Code, for an automobile or other conveyance and who has such automobile or other conveyance available for use on the date of the enactment of this Act [Oct. 24, 1984], the first four-year period applicable to such person under subsection (c) of section 1903 [now 3903] of such title (as amended by subsection (a)) shall begin on the most recent date before January 1, 1985, on which such person was provided such equipment."

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97-66, set out as a note under section 1114 of this title.

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 OF 1974 AMENDMENT

Amendment by Pub. L. 93-538 effective first day of second calendar month following Dec. 22, 1974, see section 6 of Pub. L. 93-538, set out as a note under section 3901 of this title.

§ 3904. Research and development

(a) In carrying out medical and prosthetic research under section 7303 of this title, the Secretary, through the Under Secretary for Health, shall provide for special emphasis on the research and development of adaptive equipment and adapted conveyances (including vans) meeting standards of safety and quality prescribed under subsection (d) of section 3903, including support for the production and distribution of devices and conveyances so developed.

(b) In carrying out subsection (a) of this section, the Secretary, through the Under Secretary for Health, shall consult and cooperate with the Secretary of Health and Human Services and the Secretary of Education, in connection with programs carried out under section 204(b)(3) of the Rehabilitation Act of 1973 (relating to the establishment and support of Rehabilitation Engineering Research Centers).

(Added Pub. L. 93-538, §5(a), Dec. 22, 1974, 88 Stat. 1737, §1904; amended Pub. L. 94-581, title II, §205(b)(2), (3), Oct. 21, 1976, 90 Stat. 2859; Pub. L. 95-602, title I, §122(f), Nov. 6, 1978, 92 Stat. 2987; Pub. L. 97-295, §4(69), Oct. 12, 1982, 96 Stat. 1310; Pub. L. 102-40, title IV, §403(b)(1), May 7, 1991, 105 Stat. 239; renumbered §3904 and amended Pub. L. 102-83, §§4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404-406; Pub. L. 102-405, title III, §302(c)(1), Oct. 9, 1992, 106 Stat. 1984; Pub. L. 105-220, title IV, §414(c), Aug. 7, 1998, 112 Stat. 1242.)

Editorial Notes

REFERENCES IN TEXT

Section 204(b)(3) of the Rehabilitation Act of 1973, referred to in subsec. (b), is classified to section 764(b)(3) of Title 29, Labor.

PRIOR PROVISIONS

Prior sections 4001 to 4005 were renumbered sections 7101 to 7105 of this title, respectively.

Another prior section 4005, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1241, related to applications for review on appeal, prior to repeal by Pub. L. 87-666.

Prior section 4006 was renumbered section 7106 of this title.

Another prior section 4006 was renumbered section 4007 of this title.

Prior section 4007 was renumbered section 7107 of this title.

Another prior section 4007, Pub. L. 85-857, Sept. 2, 1958, 72 Stat. 1242, related to simultaneously contested claims, prior to repeal by Pub. L. 87-666. See section 7105A of this title.

Prior sections 4008 to 4010, 4051 to 4056, 4061 to 4069, 4081 to 4085, 4091, 4092, and 4096 to 4098 were renumbered sections 7108 to 7110, 7251 to 7256, 7261 to 7269, 7281 to 7285, 7291, 7292, and 7296 to 7298 of this title, respectively.

AMENDMENTS

1998—Subsec. (b). Pub. L. 105-220 substituted "section 204(b)(3) of the Rehabilitation Act of 1973" for "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))".

1992—Subsecs. (a), (b). Pub. L. 102-405 substituted "Under Secretary for Health" for "Chief Medical Director".

1991—Pub. L. 102-83, §5(a), renumbered section 1904 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted "3903" for "1903".

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

Pub. L. 102-40 substituted "section 7303" for "section 4101".

Subsec. (b). Pub. L. 102-83, §4(b)(1), (2)(E), substituted "Secretary" for "Administrator" before "through".

1982—Subsec. (b). Pub. L. 97-295 substituted "Health and Human Services and the Secretary of Education" for "Health, Education, and Welfare and the Commissioner of the Rehabilitation Services Administration, Department of Health, Education, and Welfare", and "section 204(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 762(b)(2))" for "section 3(b) of the Rehabilitation