

12598, June 17, 1987, 52 F.R. 23421, set out as a note under section 5569 of Title 5, Government Organization and Employees.

CHAPTER 11—PAYMENTS TO MENTALLY INCOMPETENT PERSONS

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Editorial Notes

AMENDMENTS

1990—Pub. L. 101-510, div. A, title XIV, §1484(f)(1), Nov. 5, 1990, 104 Stat. 1717, revised chapter heading so as to appear in all capital letters.

§ 601. Applicability

This chapter applies to—

(1) members of a uniformed service who are on active duty (other than for training) or who are on a retired list of that service; and

(2) members of the Fleet Reserve or Fleet Marine Corps Reserve.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
601	37:351.	June 21, 1950, ch. 342, §1, 64 Stat. 249.

The words “on active duty (other than for training)” are substituted for the words “on the active . . . list” to conform to longstanding administrative construction, and because there is no “active list” in the case of many of the uniformed services named, but only for certain regular component of those services, e.g., the “Regular Army” and the “Regular Air Force”. The words “a retired list of that service” are substituted for the words “retired list”, since there is more than one retired list for many of the services named. (See sections 1376, 3966, and 8966 of title 10, for example.) The words “members of the Reserve components of the respective services entitled to Federal pay either on the active or any retired list of said services” are omitted as covered by clause (1), since members of the reserve components are members of the uniformed services concerned. The word “transferred” is omitted as surplusage.

§ 602. Payments: designation of person to receive amounts due

(a) Active duty pay and allowances, amounts due for accrued or accumulated leave, or retired or retainer pay, that are otherwise payable to a member to whom this chapter applies and who is mentally incapable of managing his affairs, may be paid for that member's use or benefit to—

(1) a legal committee, guardian, or other representative that has been appointed by a court of competent jurisdiction;

(2) an individual to whom the member has granted authority to manage such funds pursuant to a valid and legally executed durable power of attorney; or

(3) any person designated by the Secretary concerned, or by any officer to whom he delegates his authority under this section, without

the appointment in judicial proceedings of a committee, guardian, or other legal representative.

(b) An individual may not be designated under subsection (a)(3) to receive payments unless a board consisting of at least three qualified medical officers or physicians, one of whom is specially qualified in the treatment of mental disorders, determines that the member is mentally incapable of managing the member's affairs. Any such board shall be appointed from available medical officers or physicians under his jurisdiction by the head of whichever of the following is providing medical treatment for the member, or by a person designated by that head—

- (1) Department of the Army;
- (2) Department of the Navy;
- (3) Department of the Air Force;
- (4) Department of Health and Human Services; or
- (5) Department of Veterans Affairs.

If the hospitalization or medical care of the member is not provided by the United States, the board shall be appointed by the Secretary of the department having jurisdiction of the member.

(c) A payment made to a person who is authorized to receive payments under this section discharges the obligation of the United States as to the amount paid.

(d) A person serving in a legal, medical, fiduciary, or other capacity, may not demand or accept a fee, commission, or other charge for any service performed under this chapter, unless a court of competent jurisdiction orders payment of such fee, commission, or other charge.

(e) A person who is designated under subsection (a)(3) to receive payments under this section shall furnish satisfactory assurance that the amounts received by him will be applied to the use and benefit of the incompetent member, and, where the payments may reasonably be expected to be more than \$25,000, shall provide a suitable bond to be paid for out of amounts due the incompetent member.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 483; Pub. L. 96-513, title V, §516(17), Dec. 12, 1980, 94 Stat. 2939; Pub. L. 101-189, div. A, title XVI, §1621(b)(1), Nov. 29, 1989, 103 Stat. 1604; Pub. L. 114-328, div. A, title VI, §645, Dec. 23, 2016, 130 Stat. 2167.)

HISTORICAL AND REVISION NOTES

<i>Revised section</i>	<i>Source (U.S. Code)</i>	<i>Source (Statutes at Large)</i>
602(a)	37:352 (1st sentence, less 31 words before provisos and less provisos).	June 21, 1950, ch. 342, §§2, 3 (less 1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86-145, §1, 73 Stat. 297.
602(b)	37:352 (last proviso of 1st sentence, 2d sentence, and last sentence).	
602(c)	37:352 (31 words before provisos of 1st sentence).	
602(d)	37:352 (1st proviso of 1st sentence).	
602(e)	37:352 (2d proviso of 1st sentence).	
602(f)	37:353 (less 1st 28 words).	

In subsection (a), the words “or persons” and “or officers” are omitted, since, under section 1 of title 1,