

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

- Sec. 601. Applicability.
602. Payments: designation of person to receive amounts due.
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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

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Row 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".

§ 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

Table with 3 columns: Revised section, Source (U.S. Code), Source (Statutes at Large). Rows 602(a) through 602(f) detailing legislative history and amendments.

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

“words importing the singular include and apply to several persons, parties, or things”. The words “to whom he delegates his authority under this section” are substituted for the words “as the respective Secretaries may designate for such purposes” to obviate confusion between persons “designated to receive payments and those who perform the Secretary’s functions under the section. The words “the necessity of” are omitted as surplusage.

In subsection (c), the words “or persons” are omitted for the reasons given in the preceding paragraph. The words “discharges the obligation” are substituted for the words “shall constitute a complete discharge”.

In subsection (d), the words “under the authority of” are omitted as surplusage.

In subsection (e), the words “have been” and “including a requirement” are omitted as surplusage. The words “or persons” are omitted for the reason stated in the explanation under subsection (a), above.

Editorial Notes

AMENDMENTS

2016—Subsec. (a). Pub. L. 114-328, §645(1), struck out “, in the opinion of a board of medical officers or physicians,” after “and who” and substituted “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” for “use or benefit to any person designated”.

Subsec. (b). Pub. L. 114-328, §645(2), in introductory provisions, substituted “An individual may not be designated under subsection (a)(3) to receive payments unless a board consisting” for “The board shall consist” and inserted “determines that the member is mentally incapable of managing the member’s affairs. Any such board shall be” after “treatment of mental disorders.”

Subsec. (c). Pub. L. 114-328, §645(3), substituted “authorized to receive payments” for “designated”.

Subsec. (d). Pub. L. 114-328, §645(4), inserted “, unless a court of competent jurisdiction orders payment of such fee, commission, or other charge” before period at end.

Subsecs. (e), (f). Pub. L. 114-328, §645(5)–(7), redesignated subsec. (f) as (e), inserted “under subsection (a)(3)” after “who is designated” and substituted “\$25,000” for “\$1,000”, and struck out former subsec. (e) which read as follows: “This section does not apply in any case in which a legal committee, guardian, or other representative has been appointed by a court of competent jurisdiction, except as to payments made before the paying agency of the department concerned receives notice of that appointment.”

1989—Subsec. (b)(5). Pub. L. 101-189 substituted “Department of Veterans Affairs” for “Veterans’ Administration”.

1980—Subsec. (b)(4). Pub. L. 96-513 substituted “Department of Health and Human Services” for “Department of Health, Education, and Welfare”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-513 effective Dec. 12, 1980, see section 701(b)(3) of Pub. L. 96-513, set out as a note under section 101 of Title 10, Armed Forces.

§ 603. Regulations

The Secretary concerned and the Secretary of Veterans Affairs shall prescribe regulations necessary to carry out this chapter.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 101-189, div. A, title XVI, §1621(b)(2), Nov. 29, 1989, 103 Stat. 1604.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
603	37:353 (1st 28 words).	June 21, 1950, ch. 342, §3 (1st 28 words), 64 Stat. 249; Aug. 7, 1959, Pub. L. 86-145, §2, 73 Stat. 297.

The words “effectively” and “provisions of” are omitted as surplusage.

Editorial Notes

AMENDMENTS

1989—Pub. L. 101-189 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

§ 604. Determination of Secretary final

The determination as to the person authorized to receive a payment under section 602 of this title is final and is not subject to review by an official of the United States or a court.

(Pub. L. 87-649, Sept. 7, 1962, 76 Stat. 484; Pub. L. 89-718, §66, Nov. 2, 1966, 80 Stat. 1123.)

HISTORICAL AND REVISION NOTES

Revised section	Source (U.S. Code)	Source (Statutes at Large)
604	37:354.	June 21, 1950, ch. 342, §4, 64 Stat. 250.

The words “or persons” are omitted for the reasons stated in the revision note for section 602(a) of this revised title. The words “made by the respective secretaries, or by their duly designated subordinates” and the words “and conclusive” are omitted as surplusage.

Editorial Notes

AMENDMENTS

1966—Pub. L. 89-718 struck out “the” before “Secretary” in section catchline.

CHAPTER 13—ALLOTMENTS AND ASSIGNMENTS OF PAY

- Sec. 701. Members of the Army, Navy, Air Force, Marine Corps, and Space Force; contract surgeons.
- [702. Repealed.]
- 703. Allotments: members of Coast Guard.
- 704. Allotments: officers of Public Health Service.
- [705. Repealed.]
- 706. Allotments: commissioned officers of the National Oceanic and Atmospheric Administration.
- 707. Allotments: members of the National Guard.

Editorial Notes

AMENDMENTS

2021—Pub. L. 116-283, div. A, title IX, §925(h)(4), Jan. 1, 2021, 134 Stat. 3828, substituted “Members of the Army, Navy, Air Force, Marine Corps, and Space Force; contract surgeons” for “Members of the Army, Navy, Air Force, and Marine Corps; contract surgeons” in item 701.

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.

1985—Pub. L. 99-145, title VI, §683(a)(3), (b)(2), Nov. 8, 1985, 99 Stat. 665, 666, included reference to the Navy