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U.S. Repatriation Program for Citizens Returned from Abroad

Introduction

Section 1113 of the Social Security Act (42 U.S.C. § 1313) permanently authorizes the Department of Health and Human Services (HHS) to provide temporary aid to certain repatriated U.S. citizens and their dependents. Eligible citizens must (1) be without available resources *and* (2) be identified by the Department of State (DOS) as having returned (or been brought) from a foreign country because the citizen was destitute, because the citizen (or dependent) was ill, or because of war, threat of war, invasion, or a similar crisis. Temporary aid is generally provided as a loan. The Social Security Amendments of 1961 (P.L. 87-64) established the program, following the repatriation of a “substantial number of American citizens from Cuba” (S.Rept. 87-425). Jurisdiction has traditionally been exercised by the House Ways and Means Committee and the Senate Finance Committee.

Federal Administration

Since August 2018, the program has been operated by the Office of Human Services Emergency Preparedness and Response (OHSEPR) within the HHS Administration for Children and Families (ACF). Previously, the program had been operated by the ACF Office of Refugee Resettlement (ORR). (Annual ORR Reports to Congress include some historical information on the program, though Section 1113 does not contain explicit reporting requirements.) ACF coordinates with DOS in operating the program. Under its own set of statutory authorities, DOS assists U.S. citizens while abroad by providing for their evacuation or return when their lives are endangered (22 U.S.C. § 4802) or when they are destitute (22 U.S.C. § 2671). This is generally done via loans or on a reimbursable basis. Once individuals arrive in the United States, ACF assumes responsibility for providing temporary aid under Section 1113 to eligible repatriates referred by DOS. Some operational responsibilities for the reception, temporary care, or transportation of eligible repatriates may be carried out by states through repatriation agreements with ACF or by a non-governmental organization under a cooperative agreement with ACF.

Eligible Costs and Services

The program provides temporary assistance to repatriates and may also cover administrative costs incurred by states or other entities. *Temporary assistance* is defined as money payments, medical care, temporary billeting, transportation, and other services (e.g., counseling) needed for the health or welfare of an individual. The resource test for eligibility looks at whether resources are “immediately accessible” to meet an individual’s needs. In general, assistance may not be provided for more than 90 days. Regulations make an exception if an individual is “handicapped in attaining self-support or self-care for reasons such as age, disability, or

lack of vocational preparation.” In such cases, aid may be extended by nine months, with prior approval from ACF.

Repayment of Temporary Assistance

Section 1113 generally requires recipients of temporary assistance to repay the federal government (i.e., the assistance is treated as a loan). However, the law also gives HHS the authority to effectively waive repayment. Federal regulations establish factors allowing for such waivers. For instance, repayment may be waived as a result of financial hardship or if recovering funds would be “against equity and good conscience.” ACF data suggest that relatively few waivers are granted each year (typically fewer than a dozen). Data also suggest that less than 20% of new loan costs are recovered each year. If costs are not recovered within 30 days, loans begin accruing interest. Costs recovered via loan repayments do not directly offset expenditures in the repatriation program.

Mass Emergency Repatriations

Beyond routine repatriations, the program occasionally responds to mass emergency repatriation events. Such events are typically the result of war or natural disasters. For example, the program supported mass repatriations from Lebanon amidst the Hezbollah-Israel War in 2006, and from Haiti due to an earthquake in 2010. During a mass emergency repatriation, ACF or participating states/entities typically set up a processing reception center at applicable ports of entry. This is done in coordination with DOS, as well as states selected to receive repatriates. At these centers, repatriates who do not have immediate access to resources complete an intake form and loan repayment agreement. Repatriates are interviewed to determine what assistance they need (e.g., travel costs, cash assistance). After a mass repatriation has ended, states or other entities submit claims for the administrative costs incurred and for temporary assistance provided directly to repatriates.

Funding Cap

The repatriation program is a capped mandatory spending program. The current cap of \$1 million per fiscal year was put in place in FY1990 (P.L. 101-382). The \$1 million cap has been temporarily waived or raised several times since then (including for FY1990), usually in response to a mass emergency repatriation event (see **Table 1**). In most cases, laws adjusted the funding cap by amending Section 1113 to temporarily waive or raise the cap in its entirety, not for a particular purpose (i.e., spending in excess of \$1 million was not limited to a particular purpose or activity, regardless of what prompted the cap adjustment). In two cases, however, the cap was effectively waived due to provisions in supplemental appropriations acts. These provisions allowed for additional spending *notwithstanding* the cap, but effectively constrained such spending by

imposing further limits on the purpose and availability of funds. In both cases, spending in excess of the cap was restricted to *assistance in response to specified incidents* (an earthquake in Haiti, an Ebola outbreak).

Table 1. Temporary Adjustments to the Repatriation Funding Cap, FY1990 to the Present

Affected Year(s)	Treatment of the Funding Cap and Related Context
FY1990, FY1991	Cap effectively waived (P.L. 101-508). Context: conflict in Persian Gulf
FY2003	Cap effectively waived (P.L. 108-11). Context: conflict in Iraq
FY2006	Cap raised to \$6 million (P.L. 109-250). Context: conflict in Lebanon
FY2010	Cap raised to \$25 million (P.L. 111-127). Cap later effectively waived for assistance provided in response to the Haiti earthquake (P.L. 111-212). Context: Earthquake in Haiti
FY2015	Cap effectively waived for assistance provided in the response to the Ebola outbreak (P.L. 113-235). Context: Ebola outbreak
FY2017, FY2018	Cap raised to \$25 million (P.L. 115-57). Context: Hurricanes Irma, Jose (in Caribbean)

Source: Table prepared using results from a Lexis Advance search of bill text from 101st Congress to present. Context is drawn from various documents (e.g., conference reports). With two exceptions, the laws listed amended Section 1113. The exceptions (P.L. 111-212, P.L. 113-235) allowed for additional spending *notwithstanding* the statutory cap, but only for specified purposes with specified funds. Provisions in P.L. 111-212, P.L. 113-235, and P.L. 115-57 designated funds provided by those laws as an emergency requirement.

Budget Proposals to Increase the Cap

In the FY2020 and FY2021 President's budget requests, the Trump Administration proposed permanently increasing the cap on repatriation funding to \$10 million. The ACF budget justifications for both years contend that this would "better position the program to respond when a mass evacuation of U.S. citizens is necessary." This is not the first time a President has proposed increasing the repatriation funding cap. For instance, budget requests from the George W. Bush Administration for FY2005-FY2009 proposed increasing the annual cap to \$5 million, stating that the \$1 million cap was "no longer sufficient."

Additional Repatriation Authorities

In addition to the main repatriation authorities discussed above, HHS is also authorized to serve certain repatriates returned to U.S. soil as a result of mental illness (24 U.S.C. §§321 et seq.). These authorities were established in 1960 by P.L. 86-571 and are separate from authorities in Section 1113. To be eligible, a repatriate must be (1) certified as a U.S. national by DOS *and* (2) certified as having a mental health condition (e.g., deemed legally insane, in need of treatment in a mental hospital) by an appropriate authority. Lack of available resources is not a condition of eligibility. ACF may provide temporary care, treatment, and assistance in the form of hospitalization, other medical and remedial

care, food, lodging, money, transportation, and other goods and services. In limited cases, continuing care and treatment in a hospital may also be provided. With limited exceptions, the repatriates are expected to repay the government for services received.

Funding History and People Served

Table 2 displays funding data (cap levels, budget authority) and the number of people served since FY2010. In general, annual appropriations may be used for the main repatriation program, as well as for mentally ill repatriates. Section 1113 also authorizes HHS to accept gifts (in cash or in kind) to carry out the main program, but such gifts may only be obligated to the extent provided in appropriations acts. Since FY2010, the number of people served by the routine program ranged from about 600 to 900 each year. Adults account for the majority, and children represent about a quarter to a third, of those served annually.

Table 2. Repatriation Funding Cap, Final Funding, and Individuals Served, FY2010-FY2020 (\$ in thousands)

Fiscal Year	Funding Cap	Funding Provided	People Served
2010	\$25,000*	\$7,815	609 + 28,000
2011	\$1,000	\$1,000	720
2012	\$1,000	\$1,000	896
2013	\$1,000	\$952	919
2014	\$1,000	\$928	736
2015	\$1,000*	\$927	615
2016	\$1,000	\$932	617
2017	\$25,000	\$24,931	670 + 3,195
2018	\$25,000	\$2,937	not avail.
2019	\$1,000	\$938	not avail.
2020	\$1,000	\$941	not avail.

Source: Laws, budget justifications, and ORR Reports to Congress. The funding cap was temporarily raised from \$1 million to the amounts shown for FY2010, FY2017, and FY2018. *The asterisked caps for FY2010 and FY2015 were effectively waived beyond amounts shown for limited purposes, but HHS did not use this authority. People are those served in the routine programs, *plus* mass repatriations (if applicable). Funding reflects sequestration in FY2013-FY2020.

Current Issues

On February 24, 2020, the White House requested—as part of a larger supplemental request associated with the emergence of Coronavirus Disease 2019 (COVID-19)—an increase in the repatriation funding cap to \$10 million “for potential or future response activities.” Since then, media reports have raised concerns that ACF repatriation staff deployed earlier this year may not have been properly trained or outfitted with personal protective equipment before meeting with quarantined individuals. The concerns are drawn, in part, from accounts of an ACF whistleblower. The reports also raised broader questions about the role of the program in responding to mass repatriations in a public health context. To date, none of the enacted coronavirus

response measures (P.L. 116-123, P.L. 116-127, P.L. 116-136) have raised the repatriation funding cap.

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