

3. The foregoing amendments shall become effective on the date of publication in the FEDERAL REGISTER.

Dated: August 22, 1966.

[SEAL] ROBERT M. BALL,
Commissioner of Social Security.

Approved: September 8, 1966.

WILBUR J. COHEN,
Acting Secretary of Health,
Education, and Welfare.

[F.R. Doc. 66-10145; Filed, Sept. 15, 1966;
8:47 a.m.]

Title 42—PUBLIC HEALTH

Chapter I—Public Health Service, Department of Health, Education, and Welfare

SUBCHAPTER D—GRANTS

PART 53—GRANTS FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND MEDICAL FACILITIES

Mental Hospitals; Modernization Allotments; Competitive Bidding; Release for Good Cause

Notice of proposed rule making, public rule making procedures, and delay of effective date have been omitted as unnecessary in the issuance of the following amendments to Part 53, which relates solely to grants for construction and modernization of hospitals and medical facilities. These amendments relate to the construction and modernization of mental hospitals, allotments for modernization of hospitals and medical facilities, competitive bidding on fixed equipment, and release or "waiver" of the right of recovery for good cause.

These amendments shall become effective July 1, 1966.

1. Paragraph (d) of § 53.1 is revised to read as follows:

§ 53.1 Definitions.

(d) *Mental hospital.* A hospital (including long-term care, intensive care, or both) for the diagnosis and treatment of mental illness.

2. Subpart D of Part 53 is revised to read as follows:

Subpart D—Eligibility, Distribution and Priority of Beds for the Mentally Ill

- Sec.
53.31 Mental health services principally for persons residing in the community.
53.32 Mental health services not principally for persons residing in the community.

AUTHORITY: The provisions of this Subpart D issued under sec. 215, 58 Stat. 690, as amended; secs. 602, 603, 78 Stat. 448, 451; 42 U.S.C. 216, 291b, 291c.

Subpart D—Eligibility, Distribution and Priority of Beds for the Mentally Ill

§ 53.31 Mental health services principally for persons residing in the community.

(a) For the purpose of determining need and priority, the State plan approved or approvable under the Community Mental Health Centers Act (P.L. 88-164, 42 U.S.C. 2681 et seq.) shall constitute that portion of the plan under Title VI of the PHS Act (Hill-Burton) for construction of facilities for providing services principally for persons residing in a particular community or communities in or near which the facility is situated for the prevention or diagnosis of mental illness, or care and treatment of mentally ill patients, or rehabilitation of such persons.

(b) Special consideration shall be given to those projects for which the applicant sets forth in his application a reasonable and feasible proposal for the development, within a reasonable period of time, of a program for the provision of those essential elements of comprehensive mental health services prescribed in § 54.212 of this chapter relating to community mental health centers.

(c) An application for the construction of facilities specified in paragraph (a) of this section may be approved under this part only if the Surgeon General determines that funds are not available under the Community Mental Health Centers program (Part 54, Subpart C, of this chapter).

§ 53.32 Mental health services not principally for persons residing in the community.

(a) With respect to facilities for the mentally ill which do not provide services principally for persons residing in a particular community in or near which the facility is situated, special consideration shall be given to those projects for remodeling or replacing services and facilities which do not increase bed capacity, or if services are being expanded, the applicant demonstrates that no alternative plan for provision of such expanded services is feasible.

(b) An application for construction of facilities specified in paragraph (a) of this section may be approved only if it conforms with the State plan approved under Title VI of the Public Health Service Act (Hill-Burton).

(c) The number of beds required to provide adequate hospital services for mentally ill patients in any State or service area shall be determined by the following method: Divide the current average daily census of each hospital by 0.90 (occupancy factor).

(d) The count of existing mental hospital beds shall include the beds in mental hospitals which are not included in the count of beds in any other category, and also beds in any general hospital which are specifically assigned for

the inpatient care of patients with mental illness.

(e) Existing mental hospital beds shall be classified as conforming or non-conforming according to plant evaluation standards as set forth in Subpart B of this part.

3. The heading of Subpart I—Priority of Projects is revised to read as follows:

Subpart I—Priority of Projects (Excluding Mental Hospitals)

4. Section 53.91 is revised to read as follows:

§ 53.91 Allotments for modernization.

The allotment to the several States under section 602(a)(2) of the Act for modernization shall be computed as follows:

- (a) 33½ percent will be allotted to each State on the basis of population weighted by per capita income; and
(b) 66% percent will be allotted to each State on the basis of the extent of the need for modernization of the facilities:

Provided, however, That the Secretary may make such adjustments as are necessary to assure that the allotment to any State for any fiscal year shall not be less than the allotment to such State for the fiscal year 1966.

5. Paragraph (c) of § 53.128 is revised to read as follows:

§ 53.128 Assurances from applicant.

(c) That applicant will perform actual construction work by the lump sum (fixed price) contract method; employ adequate methods of obtaining competitive bidding prior to awarding the construction contract, either by public advertising or circularizing three or more bidders, and award the contract to the responsible bidder submitting the lowest acceptable bid; and will purchase all fixed equipment by adequate methods of competitive bidding (including such fixed equipment as is not purchased through the construction contract) and award the contract to the responsible bidder submitting the lowest acceptable bid, except that competitive bidding procedures need not be employed for the purchase of specific fixed equipment items which are not included in the construction contract where such action is found by the State agency and the Surgeon General, upon written justification by the applicant, to be required by the needs of the program.

6. Section 53.134 is amended by adding a new paragraph (c) to read as follows:

§ 53.134 Good cause for other use of facility.

(c) The facility has been acquired from an agency of the United States (e.g., the Federal Housing Administration under its mortgage insurance commitment program) which has made a

reasonable effort to dispose of it for operation as a public or nonprofit facility. (Sec. 215, 58 Stat. 690, as amended, secs. 602, 603, 78 Stat. 448, 451; 42 U.S.C. 216, 291b, 291c)

Dated: August 30, 1966.

[SEAL] WILLIAM H. STEWART,
Surgeon General.

Approved: September 9, 1966.

WILLIAM H. STEWART,
Chairman, Federal Hospital
Council.

WILBUR J. COHEN,
Acting Secretary.

[F.R. Doc. 66-10143; Filed, Sept. 15, 1966;
8:47 a.m.]

SUBCHAPTER E—FELLOWSHIPS, INTERNSHIPS, TRAINING

PART 61—FELLOWSHIPS

Notice of proposed rule making and public rule making procedures has been omitted in the issuance of the following revision which relates exclusively to the award of fellowships. As amended, Part 61 will be divided into subparts A and B relating to regular fellowships and service fellowships, respectively. The revisions in Subpart A make specific provision for fellowships relating to air pollution, community health services, medical library and related health sciences, communication of information, and writing and compilation of papers and other materials in sciences related to health; restrict sponsorship of fellows to public and other nonprofit institutions; make changes with respect to travel allowances, continuation, and termination; and add provisions relating to copyright and reproduction, inventions, interest, and hearings for fellows whose awards are terminated or not continued on grounds relating to loyalty or moral character. The revisions in Subpart B provide that fellowships may be established for research, studies, or investigations in any health-related field; eliminate the requirement for using a Fellowship Review Board to evaluate candidates for such fellowships; make changes with respect to travel allowances; and add provisions on benefits and training.

These regulations shall become effective immediately on publication in the FEDERAL REGISTER.

Part 61 is revised to read as follows:

Subpart A—Regular Fellowships

- Sec.
- 61.1 Definitions.
 - 61.2 Applicability.
 - 61.3 Purpose of regular fellowships.
 - 61.4 Establishment and conditions.
 - 61.5 Qualifications.
 - 61.6 Method of application.
 - 61.7 Review of applications; committees; awards.
 - 61.8 Benefits: Stipends, dependency allowances, travel allowances; vacation.
 - 61.9 Payments—Stipends, dependency allowances, travel allowances.
 - 61.10 Benefits: Tuition and other expenses.
 - 61.11 Payments—Tuition and other expenses.

- Sec.
- 61.12 Accountability.
 - 61.13 Duration and continuation.
 - 61.14 Separate consideration of information concerning moral character or loyalty.
 - 61.15 Moral character or loyalty; reference to Special Review Committee; review and recommendation.
 - 61.16 Termination of or refusal to continue award on grounds relating to moral character or loyalty; hearing.
 - 61.17 Termination on grounds other than those relating to moral character or loyalty.
 - 61.18 Publications.
 - 61.19 Copyright and reproduction.
 - 61.20 Inventions or discoveries.
 - 61.21 Interest.
 - 61.22 Nondiscrimination.

Subpart B—Service Fellowships

- 61.30 Definitions.
- 61.31 Applicability.
- 61.32 Purpose of service fellowships.
- 61.33 Establishment of service fellowships.
- 61.34 Qualifications.
- 61.35 Method of application.
- 61.36 Selection and appointment of service fellows.
- 61.37 Stipends, allowances, and benefits.
- 61.38 Duration of service fellowships.

Subpart A—Regular Fellowships

AUTHORITY: The provisions of this Subpart A issued under sec. 215, 58 Stat. 690, as amended, sec. 8, 77 Stat. 400; 42 U.S.C. 216, 1857g. Interpret or apply sections 301, 402, 58 Stat. 691, as amended, 707, sections 412, 422, 62 Stat. 464, 598, sec. 433, 64 Stat. 444, as amended, sec. 308, 74 Stat. 364, sec. 444, 76 Stat. 1073, sec. 3, 77 Stat. 394, sections 394, 395, 79 Stat. 1062; 42 U.S.C. 241, 282, 287a, 288a, 289c, 242f, 289g, 1857b, 280b-4, 280b-5.

§ 61.1 Definitions.

As used in this part:

(a) "Continuation award" is an award made by the Surgeon General, within the period of support recommended by a fellowship committee, without necessity for further action by the committee.

(b) "Noncitizen national" means any person who, though not a citizen of the United States, owes permanent allegiance to the United States.

(c) "Regular fellowship" means an award to support activity not requiring performance of services for the Public Health Service.

(d) "Surgeon General" means the Surgeon General of the U.S. Public Health Service or his delegate.

(e) "Continental United States" does not include Hawaii or Alaska.

§ 61.2 Applicability.

The regulations in this subpart apply to the establishment, award, and operation of all regular fellowships awarded under the Public Health Service Act and the Clean Air Act.

§ 61.3 Purpose of regular fellowships.

Regular fellowships are provided to encourage and promote:

(a) Research and training for research relating to (1) the physical and mental diseases and impairments of man, (2) the organization, provision, and financing of health services, (3) the causes, prevention, and control of air pollution, and (4) medical library and related health sciences and communication of information.

(b) Special scientific projects for the compilation of existing, or writing of original, contributions relating to scientific, social, or cultural advancements in sciences related to health.

§ 61.4 Establishment and conditions.

All regular fellowships in the Public Health Service shall be established by the Surgeon General. In establishing a fellowship or series of fellowships, the Surgeon General shall prescribe in writing the conditions (in addition to those provided in the regulations in this part) under which the fellowships are to be awarded and held.

§ 61.5 Qualifications.

In order to qualify for a regular fellowship, an applicant must:

(a) Meet the Public Health Service requirements of general suitability, including professional and personal fitness.

(b) Have been accepted by a public or other nonprofit institution for the purpose of the activity for which the fellowship is sought.

(c) Be free from any disease or disability that would interfere with the accomplishment of the fellowship purpose.

(d) If a citizen or noncitizen national of the United States, sign and file with the Surgeon General the following statement:

I do solemnly swear (or affirm) that I bear true faith and allegiance to the United States of America and will support and defend the Constitution and laws of the United States against all its enemies, foreign and domestic.

(e) Comply with such other requirements as may be prescribed by the Surgeon General.

§ 61.6 Method of application.

Application for a regular fellowship shall be made on forms prescribed by the Surgeon General. In addition to the information supplied by the applicant in his application, such further information may be required as is necessary to determine his qualifications and fitness.

§ 61.7 Review of applications; committees; awards.

The Surgeon General shall appoint one or more fellowship committees to examine the qualifications of applicants for fellowships and the merits of their proposals for research, training, or special scientific projects. A fellowship committee shall submit to the Surgeon General its recommendations concerning appointments. Awards of regular fellowships shall be made in writing by the Surgeon General.

§ 61.8 Benefits: Stipends, dependency allowances, travel allowances; vacation.

Individuals awarded regular fellowships shall be entitled to such of the following benefits as are authorized for the particular series of fellowship:

(a) Stipend.

(b) Dependency allowances.

(c) When authorized in advance, separate allowances for travel. Such allowances may not exceed amounts prescribed by the Surgeon General for (1)

travel to the place where the fellow is to be located during the fellowship term, and (2) travel to return the fellow at the end of the fellowship term to his home or other place he left to carry out the fellowship, provided that (unless otherwise prescribed by the Surgeon General) such return travel is to or from a place outside the continental United States. No allowances will be granted for shipping personal effects or household goods and no allowances will be granted for transporting dependents, except as authorized by the Surgeon General for travel undertaken by dependents (spouse and/or dependent children only) to or from a place outside the continental United States where the fellow is to be located during the fellowship term and for return from such place or except as otherwise prescribed by the Surgeon General for a particular series of fellowships.

(d) *Vacation:* Stipends and allowances will not be increased, or be paid beyond the term of a fellowship, on account of vacation an individual might have been entitled to but did not take.

§ 61.9 Payments—stipends, dependency allowances, travel allowances.

Payments for stipends, dependency allowances, and the travel allowances specified in § 61.8 may be made directly to the fellow or to the sponsoring institution for payment to the fellow.

§ 61.10 Benefits: Tuition and other expenses.

The Surgeon General may authorize allowances for payment of expenses, in whole or in part, of tuition, fees, equipment, supplies, attendance at meetings required to carry out the purposes of the fellowship, or other expenses of the activities of the fellow.

§ 61.11 Payments—tuition and other expenses.

(a) *Tuition and fees.* Allowances for tuition and fees may be made to the fellow or sponsoring institution.

(b) *Other expenses; standard or maximum allowances.* Any allowances for equipment, supplies, attendance at meetings, and other expenses shall, except as may otherwise be prescribed herein or by the Surgeon General, be paid to the sponsoring institution. The Surgeon General may establish a standard allowance or a maximum allowance for payment to the sponsoring institution for such expenses.

(c) *Attendance at meetings—fellows sponsored by Federal agencies.* Allowances for expenses of attendance at meetings by fellows who are sponsored by Federal agencies may be paid directly to such fellows.

(d) *Installments.* Payments to sponsoring institutions and to fellows under this section or under § 61.9 may be made in advance or by way of reimbursement and, except as may otherwise be prescribed by the Surgeon General, in monthly installments.

§ 61.12 Accountability.

Payments shall be subject to such requirements relating to accountability as may be specified by the Surgeon General.

§ 61.13 Duration and continuation.

An award period may be any period not in excess of 2 years. The Surgeon General may make one or more continuation awards for an additional period upon a finding of satisfactory progress toward accomplishment of the purposes of the initial fellowship award. Additional support may be provided on appropriate justification after expiration of the period of support involved in the previous award.

§ 61.14 Separate consideration of information concerning moral character or loyalty.

No information in the records or possession of the Public Health Service concerning the moral character or loyalty of a fellow will be made available to any fellowship committee involved in recommending appointments of fellows.

§ 61.15 Moral character or loyalty; reference to Special Review Committee; review and recommendation.

(a) *Moral character or loyalty; reference to Special Review Committee.* Whenever the Surgeon General has substantial evidence with respect to any fellow (1) that the statement filed pursuant to § 61.5(d) was not made in good faith; or (2) that a fellow has (i) been convicted of a crime involving moral turpitude or (ii) engaged in conduct involving moral turpitude (unless in the case of either subdivision (i) or (ii) of this subparagraph, it is established that the fellow is, nevertheless, then a person of good moral character), the Surgeon General shall refer the pertinent records to a Special Review Committee established as prescribed in paragraph (b) of this section.

(b) *Special Review Committee; composition.* The Special Review Committee shall be composed of a representative of the Office of the Surgeon General designated by the Surgeon General as chairman but nonvoting member, the appropriate Associate Director or comparable official of the bureau involved, the Chief of the Division of Research Grants, the Director of the Institute or the Chief of the Division which awarded the fellowship in question, or their delegates, and two additional members appointed by the Surgeon General.

(c) *Information; supplementation.* The Committee may supplement the information referred to it by such correspondence, personal interviews, or other informal methods as necessary in order to make its recommendation as provided in paragraph (d) of this section.

(d) *Review and recommendation.* The Committee shall review the pertinent records, determine whether there is substantial reason to believe that the award should be terminated or not continued either on grounds relating to moral character or on the ground that

the statement filed pursuant to § 61.5(d) was not made in good faith, and make its recommendation to the Surgeon General in writing, with reasons therefor, accordingly.

§ 61.16 Termination of or refusal to continue award on grounds relating to moral character or loyalty; hearing.

If, after review of the recommendation of the Special Review Committee, the Surgeon General believes that the award should be terminated or should not be continued, he shall notify the fellow and sponsoring institution in writing that unless a request for a hearing is made by the fellow within 20 days after the fellow's receipt of such notice, his fellowship will be terminated or his application for continuation of the award denied. A copy of the regulations under this subpart and a copy of Part 10 of Title 45, Code of Federal Regulations, shall be enclosed with the notice. The notice shall set forth, as specifically as security permits, the grounds for the questions pertaining to moral character or loyalty. Any such request for a hearing shall be promptly submitted by the Surgeon General to the Chairman of the Departmental Fellowship Review Panel for handling in accordance with such Part 10.

§ 61.17 Termination on grounds other than those relating to moral character or loyalty.

The Surgeon General may terminate a fellowship upon receipt from the fellow of a written request for termination. The Surgeon General shall terminate any fellowship prior to the date it would otherwise expire if he determines that the fellow's performance is unsatisfactory or that the fellow or the sponsoring institution is unfit or unable to carry out the purpose of the fellowship. The fellow and the sponsoring institution shall be notified in writing of such termination.

§ 61.18 Publications.

Publication, distribution, and disposition of all manuscripts and other materials resulting from a fellowship awarded hereunder shall be subject to the conditions that all such materials shall bear appropriate acknowledgement of Public Health Service support, that fellows shall furnish copies of such publications or other materials as may be requested by the Surgeon General, and to such other conditions as the Surgeon General may prescribe.

§ 61.19 Copyright and reproduction.

Where the work accomplished under a fellowship award results in a book or other copyrightable material, the author is free to copyright the work, but the Public Health Service reserves a royalty-free, nonexclusive, and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, all copyrightable or copyrighted material resulting from the fellowship award.

§ 61.20 Inventions or discoveries.

Any fellowship award made hereunder is subject to the regulations of the Department of Health, Education, and Welfare set forth in Title 45 CFR Parts 6 and 8, as amended. Such regulations shall apply to any activity for which fellowship funds are in fact used, whether within the scope of the fellowship as approved or otherwise. Appropriate measures shall be taken by the fellow, the sponsoring institution, and the Surgeon General to assure that no contracts, assignments, or other arrangements inconsistent with the fellowship obligation are entered into or continued and that all personnel involved in the supported activity are aware of and comply with such obligation. Laboratory notes, related technical data and information pertaining to inventions or discoveries shall be maintained for such periods, and filed with or otherwise made available to the Surgeon General or those whom he may designate at such times and in such manner as he may determine necessary to comply with such Department regulations.

§ 61.21 Interest.

Any interest earned through deposit or investment by the sponsoring institution of funds paid pursuant to the provisions of this subpart shall be paid to the United States as such interest is received by the sponsoring institution.

§ 61.22 Nondiscrimination.

Attention is called to the fact that funds paid to a sponsoring institution pursuant to § 61.11 in order to meet the expenses of the activities of a fellow are considered Federal financial assistance to such institution. The institution is thus subject in this respect to the prohibition against discrimination on the basis of race, color, or national origin imposed by Title VI, Civil Rights Act of 1964, and the implementing Regulation of the Department of Health, Education, and Welfare (45 CFR Part 80).

Subpart B—Service Fellowships

AUTHORITY: The provisions of this Subpart B issued under sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216. Interpret or apply secs. 207 and 208, 58 Stat. 685, as amended, 58 Stat. 686, as amended; 42 U.S.C. 209 and 210.

§ 61.30 Definitions.

As used in this part:

(a) "Service fellowship" is one which requires the performance of services, either full or part time, for the Public Health Service. A service fellow is an employee of the Public Health Service.

(b) "Surgeon General" means the Surgeon General of the U.S. Public Health Service or his delegate.

(c) "Continental United States" does not include Hawaii or Alaska.

§ 61.31 Applicability.

The regulations in this part apply to the establishment of service fellowships in the Public Health Service, the designation of persons to receive such fellowships, and the appointment of service

fellows under authority of section 207(g) of the Public Health Service Act.

§ 61.32 Purpose of service fellowships.

Service fellowships in the Public Health Service are for the purpose of encouraging and promoting research, studies, and investigations related to health. Such fellowships may be provided to secure the services of talented scientists for a period of limited duration for health-related research, studies, and investigations where the nature of the work or the character of the individual's services render customary employing methods impracticable or less effective.

§ 61.33 Establishment of service fellowships.

All service fellowships shall be established by the Surgeon General. In establishing a service fellowship, or a series of service fellowships, the Surgeon General shall prescribe in writing the conditions (in addition to those provided in the regulations in this part) under which service fellows will be appointed and will hold their fellowships.

§ 61.34 Qualifications.

Scholastic and other qualifications shall be prescribed by the Surgeon General for each service fellowship, or series of service fellowships. Each individual appointed to a service fellowship shall (a) have presented satisfactory evidence of general suitability, including professional and personal fitness; (b) be free from any disease or disability that would interfere with his carrying out the purpose of the fellowship; and (c) possess any other qualifications as reasonably may be prescribed.

§ 61.35 Method of application.

Application for a service fellowship shall be made in accordance with procedures established by the Surgeon General.

§ 61.36 Selection and appointment of service fellows.

The Surgeon General shall (a) prescribe a suitable professional and personal fitness review and an examination of the applicant's qualifications; (b) designate in writing persons to receive service fellowships; and (c) establish procedures for the appointment of service fellows.

§ 61.37 Stipends, allowances, and benefits.

(a) *Stipends.* Service fellows shall be entitled to such stipend as is authorized by the Surgeon General for each service fellowship or series of service fellowships.

(b) *Travel and transportation allowances.* Under conditions prescribed by the Surgeon General, an individual appointed as a service fellow may be authorized travel allowances or transportation and per diem for himself, travel allowances or transportation for his immediate family, and transportation of household goods and personal effects, in conjunction with travel authorized by the Service (1) from place of residence, within or outside the continental United States, to first duty station, (2) for any

change of duty station ordered by the Service during the term of the fellowship, and (3) from last duty station to the place of residence which he left to accept the fellowship, or to some other place at no greater cost to the Government. A service fellow shall be entitled to travel allowances or transportation and per diem while traveling on official business away from his permanent duty station during the term of the fellowship. Except as otherwise provided herein, a service fellow shall be entitled to travel and transportation allowances authorized in this part at the same rates as may be authorized by law and regulations for other civilian employees of the Public Health Service. If a service fellow dies during the term of a fellowship, and his place of residence which he left to accept the fellowship was outside the continental United States, the payment of expenses of preparing the remains for burial and transporting them to the place of residence for interment may be authorized. In the case of deceased service fellows whose place of residence was within the continental United States, payment of the expenses of preparing the remains and transporting them to the place of residence for interment may be authorized as provided for other civilian employees of the Public Health Service.

(c) *Benefits.* In addition to other benefits provided herein, service fellows shall be entitled to benefits as provided by law or regulation for other civilian employees of the Public Health Service.

(d) *Training.* Service fellows are eligible for training at Government expense on the same basis as other civilian employees.

§ 61.38 Duration of service fellowships.

Initial appointments to service fellowships may be made for varying periods not in excess of 2 years. Such appointments may be extended on a year-to-year basis in accordance with procedures and requirements established by the Surgeon General.

Dated: September 9, 1966.

[SEAL] WILLIAM H. STEWART,
Surgeon General.

Approved:

JOHN W. GARDNER,
Secretary.

[F.R. Doc. 66-10144; Filed, Sept. 15, 1966;
8:47 a.m.]

Title 50—WILDLIFE AND FISHERIES

Chapter I—Bureau of Sport Fisheries and Wildlife, Fish and Wildlife Service, Department of the Interior

PART 32—HUNTING

Clear Lake National Wildlife Refuge, Calif.

The following special regulations are issued and are effective on date of pub-