

used in connection with any quantity of a qualified drug, means the amount established with regard to such quantity of such drug by the Formulary Committee and approved by the Secretary.

"(b) Amounts to which an individual is entitled by reason of the provisions of section 1832(a)(3) shall be paid directly to such individual or, if such individual has assigned his right to receive any such amount to another person, the amount so assigned shall be paid to such other person. No individual shall be paid any amount by reason of the provisions of section 1832(a)(3) prior to the presentation by him (or by another on his behalf) of documentary or other proof satisfactory to the Secretary establishing his entitlement thereto.

"(c) The benefits provided by reason of section 1832(a)(3) may be paid by the Secretary or the Secretary may utilize the service of carriers for the administration of such benefits under contracts entered into between the Secretary and such carriers for such purpose. To the extent determined by the Secretary to be appropriate, the provisions relating to contracts entered into pursuant to section 1842 shall be applicable to contracts entered into pursuant to this subsection.

"FORMULARY COMMITTEE

"Sec. 1846. (a) There is hereby established a Formulary Committee to consist of the Surgeon General of the Public Health Service, the Commissioner of the Food and Drug Administration, and the Director of the National Institutes of Health.

"(b) (1) It shall be the duty of the Formulary Committee, with the advice and assistance of the Formulary Advisory Group (established pursuant to section 1847) to—

"(A) determine which drugs and biologicals shall constitute qualified drugs for purposes of the benefits provided under section 1832(a); and

"(B) determine, with the approval of the Secretary, the allowable expense, for purposes of such benefits, of the various quantities of any drug determined by the Committee to constitute a qualified drug; and

"(C) publish and disseminate at least once each calendar year among individuals insured under this part, physicians, pharmacists, and other interested persons, in accordance with directives of the Secretary, an alphabetic list naming each drug or biological (by its generic name and by each other name by which it is known) which is a qualified drug together with the allowable expense of various quantities thereof, and if any such drug or biological is known by a trade name, the generic name shall also appear with such trade name.

"(2) (A) Until the Formulary Committee determines to the contrary, any drug or biological which is included in the United States Public Health Service Formulary shall be regarded as a qualified drug for purposes of the benefits provided under section 1832(a)(3). Drugs or biologicals not included in such Formulary shall be regarded as qualified drugs for such purposes upon determination of the Formulary Committee that such drugs or biologicals should be so regarded. Any drug or biological included on the list of qualified drugs shall, if listed by generic name, also be listed by its trade name or names, if any.

"(B) Drugs and biologicals shall be determined to be qualified drugs only if they can legally be obtained by the user pursuant to

a prescription of a physician; except that the Formulary Committee may include certain drugs and biologicals not requiring such a prescription if it determines such drugs or biologicals to be of a lifesaving nature.

"(C) In the interest of orderly, economical, and equitable administration of the benefits provided under section 1832(a)(3), the Formulary Committee may, by regulation, provide that a drug or biological otherwise regarded as being a qualified drug shall not be so regarded when prescribed below certain minimum quantities.

"(3) In determining the allowable expense for any quantity of any qualified drug, the Formulary Committee shall give due consideration to recognized pricing guides for drugs, and of other pertinent factors, with a view to determining with respect to each qualified drug a schedule of prices for various quantities thereof which reflects the cost thereof to the ultimate dispenser of the drug plus a reasonable fee for the preparation, handling, and distribution thereof to the consumer thereof. In any case in which a drug or biological is available by generic name and one or more trade names any one of which is different from such generic name the cost of such drug or biological, for purposes of the preceding sentence, shall be deemed to be the lowest cost of such drug, however named."

"ADVISORY GROUP TO FORMULARY COMMITTEE

"Sec. 1847. (a) For the purpose of assisting the Formulary Committee to carry out its duties and functions, the Secretary shall appoint an Advisory Group to the Formulary Committee (hereinafter in this section referred to as the 'Advisory Group'). The Advisory Group shall consist of seven members to be appointed by the Secretary. From time to time, the Secretary shall designate one of the members of the Advisory Group to serve as Chairman thereof. The members shall be so selected that each represents one or more of the following national organizations; an organization of physicians, an organization of manufacturers of drugs, an organization of pharmacists, an organization of persons concerned with public health, an organization of hospital pharmacists, an organization of colleges of medicine, an organization of colleges of pharmacy, and an organization of consumers. Each member shall hold office for a term of three years, except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term, and except that the terms of office of six of the members first taking office shall expire, as designated by the Secretary at the time of appointment, two at the end of the first year, two at the end of the second year, and two at the end of the third year, after the date of appointment. A member shall not be eligible to serve continuously for more than two terms.

"(b) Members of the Advisory Group, while attending meetings or conferences thereof or otherwise serving on business of the Advisory Group, shall be entitled to receive compensation at rates to be fixed by the Secretary, but not exceeding \$75 per day, including traveltime, and while so serving away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 3109 of title 5, United States Code, for persons in the Government service employed intermittently.