

## **PUBLIC HEALTH SERVICE ACT**

[As Amended Through P.L. 117–328, Enacted December 29, 2022]

【Currency: This publication is a compilation of the text of title XIX of Chapter 373 of the 78th Congress. It was last amended by the public law listed in the As Amended Through note above and below at the bottom of each page of the pdf version and reflects current law through the date of the enactment of the public law listed at <https://www.govinfo.gov/app/collection/comps/>】

【Note: While this publication does not represent an official version of any Federal statute, substantial efforts have been made to ensure the accuracy of its contents. The official version of Federal law is found in the United States Statutes at Large and in the United States Code. The legal effect to be given to the Statutes at Large and the United States Code is established by statute (1 U.S.C. 112, 204).】

【References in brackets 【】 are to title 42, United States Code】

### **TITLE XIX—BLOCK GRANTS**

#### **PART A—PREVENTIVE HEALTH AND HEALTH SERVICES BLOCK GRANT**

##### **AUTHORIZATION OF APPROPRIATIONS**

SEC. 1901. 【300w】 (a) For the purpose of allotments under section 1902, there are authorized to be appropriated \$205,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1998.

(b) Of the amount appropriated for any fiscal year under subsection (a), at least \$7,000,000 shall be made available for allotments under section 1902(b).

##### **ALLOTMENTS**

SEC. 1902. 【300w–1】 (a)(1) From the amounts appropriated under section 1901 for any fiscal year and available for allotment under this subsection, the Secretary shall allot to each State an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in paragraph (2) to the State and entities in the State for fiscal year 1981 bore to the total amount appropriated for such provisions of law for fiscal year 1981.

(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on September 30, 1981:

(A) The authority for grants under section 317 for preventive health service programs for the control of rodents.

(B) The authority for grants under section 317 for establishing and maintaining community and school-based fluoridation programs.

(C) The authority for grants under section 317 for preventive health service programs for hypertension.

(D) Sections 401 and 402 of the Health Services and Centers Amendments of 1978.

(E) Section 314(d).

(F) Section 339(a).

(G) Sections 1202, 1203, and 1204.

(b) From the amount required to be made available under section 1901(b) for allotments under this subsection for any fiscal year, the Secretary shall make allotments to each State on the basis of the population of the State.

(c) To the extent that all the funds appropriated under section 1901 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

(1) one or more States have not submitted an application or description of activities in accordance with section 1905 for the fiscal year;

(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

(3) some State allotments are offset or repaid under section 1906(b)(3);

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

(d)(1) If the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this part be provided directly by the Secretary to such tribe or organization, and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1981 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (a) bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

(5) The terms “Indian tribe” and “tribal organization” have the same meaning given such terms in section 4(b) and section 4(c) of the Indian Self-Determination and Education Assistance Act.

(e) The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotment to the States under this section. In conducting the study, the Secretary shall take into account—

- (1) the financial resources of the various States,
- (2) the populations of the States, and
- (3) any other factor which the Secretary may consider appropriate.

Before June 30, 1982, the Secretary shall submit a report to the Congress respecting the development of a formula and make such recommendations as the Secretary may deem appropriate in order to ensure the most equitable distribution of funds under allotments under this section.

#### PAYMENTS UNDER ALLOTMENTS TO STATES

SEC. 1903. [300w-2] (a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 203 of the Intergovernmental Cooperation Act of 1968 (42 U.S.C. 4213), to each State from its allotment under section 1902 (other than any amount reserved under section 1902(d)) from amounts appropriated for that fiscal year.

(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) by—

- (1) the fair market value of any supplies or equipment furnished the State, and
- (2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 1904. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

#### USE OF ALLOTMENTS

SEC. 1904. [300w-3] (a)(1) Except as provided in subsections (b) and (c), payments made to a State under section 1903 may be used for the following:

- (A) Activities consistent with making progress toward achieving the objectives established by the Secretary for the health status of the population of the United States for the

year 2000 (in this part referred to as “year 2000 health objectives”).

(B) Preventive health service programs for the control of rodents and for community and school-based fluoridation programs.

(C) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the purchase of equipment for the systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems. Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies or planning, respectively, is consistent with the requirements of section 1213(a).

(D) Providing services to victims of sex offenses and for prevention of sex offenses.

(E) The establishment, operation, and coordination of effective and cost-efficient systems to reduce the prevalence of illness due to asthma and asthma-related illnesses, especially among children, by reducing the level of exposure to cockroach allergen or other known asthma triggers through the use of integrated pest management, as applied to cockroaches or other known allergens. Amounts expended for such systems may include the costs of building maintenance and the costs of programs to promote community participation in the carrying out at such sites of integrated pest management, as applied to cockroaches or other known allergens. For purposes of this subparagraph, the term “integrated pest management” means an approach to the management of pests in public facilities that combines biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

(F) With respect to activities described in any of subparagraphs (A) through (E), related planning, administration, and educational activities.

(G) Monitoring and evaluation of activities carried out under any of subparagraphs (A) through (F).

(2) Except as provided in subsection (b), amounts paid to a State under section 1903 from its allotment under section 1902(b) may only be used for providing services to rape victims and for rape prevention.

(3) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this part.

(b) A State may not use amounts paid to it under section 1903 to—

- (1) provide inpatient services,
- (2) make cash payments to intended recipients of health services,
- (3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,
- (4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or

(5) provide financial assistance to any entity other than a public or nonprofit private entity.

Except as provided in subsection (a)(1)(E), the Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(c) A State may transfer not more than 7 percent of the amount allotted to the State under section 1902(a) for any fiscal year for use by the State under part B of this title and title V of the Social Security Act in such fiscal year as follows: At any time in the first three quarters of the fiscal year a State may transfer not more than 3 percent of the allotment of the State for the fiscal year for such use, and in the last quarter of a fiscal year a State may transfer for such use not more than the remainder of the amount of its allotment which may be transferred.

(d) Of the amount paid to any State under section 1903, not more than 10 percent paid from each of its allotments under subsections (a) and (b) of section 1902 may be used for administering the funds made available under section 1903. The State will pay from non-Federal sources the remaining costs of administering such funds.

#### APPLICATION FOR PAYMENTS; STATE PLAN

SEC. 1905. [300w-4] (a) IN GENERAL.—The Secretary may make payments under section 1903 to a State for a fiscal year only if—

(1) the State submits to the Secretary an application for the payments;

(2) the application contains a State plan in accordance with subsection (b);

(3) the application contains the certification described in subsection (c);

(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this part (including assurances regarding compliance with the agreements described in subsection (c)); and

(5) the application is in such form and is submitted by such date as the Secretary may require.

(b) STATE PLAN.—A State plan required in subsection (a)(2) for a fiscal year is in accordance with this subsection if the plan meets the following conditions:

(1) The plan is developed by the State agency with principal responsibility for public health programs, in consultation with the advisory committee established pursuant to subsection (c)(2).

(2) The plan specifies the activities authorized in section 1904 that are to be carried out with payments made to the State under section 1903, including a specification of the year 2000 health objectives for which the State will expend the payments.

(3) The plan specifies the populations in the State for which such activities are to be carried out.

(4) The plan specifies any populations in the State that have a disparate need for such activities.

(5) With respect to each population specified under paragraph (3), the plan contains a strategy for expending such payments to carry out such activities to make progress toward improving the health status of the population, which strategy includes—

(A) a description of the programs and projects to be carried out;

(B) an estimate of the number of individuals to be served by the programs and projects; and

(C) an estimate of the number of public health personnel needed to carry out the strategy.

(6) The plan specifies the amount of such payments to be expended for each of such activities and, with respect to the activity involved—

(A) the amount to be expended for each population specified under paragraph (3); and

(B) the amount to be expended for each population specified under paragraph (4).

(c) STATE CERTIFICATION.—The certification referred to in subsection (a)(3) for a fiscal year is a certification to the Secretary by the chief executive officer of the State involved as follows:

(1)(A) In the development of the State plan required in subsection (a)(2)—

(i) the chief health officer of the State held public hearings on the plan; and

(ii) proposals for the plan were made public in a manner that facilitated comments from public and private entities (including Federal and other public agencies).

(B) The State agrees that, if any revisions are made in such plan during the fiscal year, the State will, with respect to the revisions, hold hearings and make proposals public in accordance with subparagraph (A), and will submit to the Secretary a description of the revisions.

(2) The State has established an advisory committee in accordance with subsection (d).

(3) The State agrees to expend payments under section 1903 only for the activities authorized in section 1904.

(4) The State agrees to expend such payments in accordance with the State plan submitted under subsection (a)(2) (with any revisions submitted to the Secretary under paragraph (1)(B)), including making expenditures to carry out the strategy contained in the plan pursuant to subsection (b)(5).

(5)(A) The State agrees that, in the case of each population for which such strategy is carried out, the State will measure the extent of progress being made toward improving the health status of the population.

(B) The State agrees that—

(i) the State will collect and report data in accordance with section 1906(a); and

(ii) for purposes of subparagraph (A), progress will be measured through use of each of the applicable uniform data items developed by the Secretary under paragraph (2) of such section, or if no such items are applicable, through use of the uniform criteria developed by the Secretary under paragraph (3) of such section.

(6) With respect to the activities authorized in section 1904, the State agrees to maintain State expenditures for such activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1903.

(7) The State agrees to establish reasonable criteria to evaluate the effective performance of entities that receive funds from such payments and procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

(8) The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 1907.

(9) The State has in effect a system to protect from inappropriate disclosure patient and sex offense victim records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

(10) The State agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to—

(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety; and

(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.

(d) STATE ADVISORY COMMITTEE.—

(1) IN GENERAL.—For purposes of subsection (c)(2), an advisory committee is in accordance with this subsection if such committee is known as the State Preventive Health Advisory Committee (in this subsection referred to as the “Committee”) and the Committee meets the conditions described in the subsequent paragraphs of this subsection.

(2) DUTIES.—A condition under paragraph (1) for a State is that the duties of the Committee are—

(A) to hold public hearings on the State plan required in subsection (a)(2); and

(B) to make recommendations pursuant to subsection (b)(1) regarding the development and implementation of such plan, including recommendations on—

(i) the conduct of assessments of the public health;

(ii) which of the activities authorized in section 1904 should be carried out in the State;

(iii) the allocation of payments made to the State under section 1903;

(iv) the coordination of activities carried out under such plan with relevant programs of other entities; and

(v) the collection and reporting of data in accordance with section 1906(a).

(3) COMPOSITION.—

(A) A condition under paragraph (1) for a State is that the Committee is composed of such members of the general public, and such officials of the health departments of political subdivisions of the State, as may be necessary to provide adequate representation of the general public and of such health departments.

(B) With respect to compliance with subparagraph (A), the membership of advisory committees established pursuant to subsection (c)(2) may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized in section 1904.

(4) CHAIR; MEETINGS.—A condition under paragraph (1) for a State is that the State public health officer serves as the chair of the Committee, and that the Committee meets not less than twice each fiscal year.

REPORTS, DATA, AND AUDITS

SEC. 1906. [300w-5] (a)(1) For purposes of section 1905(c)(5)(B)(i), a State is collecting and reporting data for a fiscal year in accordance with this subsection if the State submits to the Secretary, not later than February 1 of the succeeding fiscal year, a report that—

(A) describes the purposes for which the State expended payments made to the State under section 1903;

(B) pursuant to section 1905(c)(5)(A), describes the extent of progress made by the State for purposes of such section;

(C) meets the conditions described in the subsequent paragraphs of this subsection; and

(D) contains such additional information regarding activities authorized in section 1904, and is submitted in such form, as the Secretary may require.

(2)(A) The Secretary, in consultation with the States, shall develop sets of data for uniformly defining health status for purposes of the year 2000 health objectives (which sets are in this subsection referred to as “uniform data sets”). Each of such sets shall consist of one or more categories of information (in this subsection individually referred to as a “uniform data item”). The Secretary shall develop formats for the uniform collecting and reporting of information on such items.

(B) A condition under paragraph (1)(C) for a fiscal year is that the State involved will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for one uniform data item from each of the uniform data sets, which items are selected for the State by the Secretary.



(C) In the case of fiscal year 1995 and each subsequent fiscal year, a condition under paragraph (1) for a State is that the State will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for each of the uniform data sets appropriate to the year 2000 health objectives that the State has, in the State plan submitted under section 1905 for the fiscal year, specified as a purpose for which payments under section 1903 are to be expended.

(3) The Secretary, in consultation with the States, shall establish criteria for the uniform collection and reporting of data on activities authorized in section 1904 with respect to which no uniform data items exist.

(4) A condition under paragraph (1) for a fiscal year is that the State involved will make copies of the report submitted under such paragraph for the fiscal year available for public inspection, and will upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(b)(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under section 1903 and funds transferred under section 1904(c) for use under this part.

(2) Each State shall annually audit its expenditures from payments received under section 1903. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, in so far as practical, in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certification provided by the State under section 1905. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this part.

(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part and the certification provided by the State under section 1905.

(6) Not later than October 1, 1990, the Secretary shall report to the Congress on the activities of the States that have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

(c) Title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to audits of funds allotted under this part.

## WITHHOLDING

SEC. 1907. [300w-6] (a)(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certification provided under section 1905. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certification provided under section 1905. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 1905.

(4) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this part or certifications provided under section 1905.

(b)(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part and certifications provided under section 1905.

(2) The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 1905.

(c) Each State, and each entity which has received funds from an allotment made to a State under this part, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d)(1) In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

## NONDISCRIMINATION

SEC. 1908. [300w-7] (a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 1902, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

## CRIMINAL PENALTY FOR FALSE STATEMENTS

SEC. 1909. [300w-8] Whoever—

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this part, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.

## EMERGENCY MEDICAL SERVICES FOR CHILDREN

SEC. 1910. [300w–9] (a) For activities in addition to the activities which may be carried out by States under section 1904(a)(1)(F), the Secretary may make grants to States or accredited schools of medicine in States to support a program of demonstration projects for the expansion and improvement of emergency medical services for children who need treatment for trauma or critical care. Any grant made under this subsection shall be for not more than a 4-year period (with an optional 5th year based on performance), subject to annual evaluation by the Secretary. Only 3 grants under this subsection may be made in a State (to a State or to a school of medicine in such State) in any fiscal year.

(b) The Secretary may renew a grant made under subsection (a) for one additional one-year period only if the Secretary determines that renewal of such grant will provide significant benefits through the collection, analysis, and dissemination of information or data which will be useful to States in which grants under such subsection have not been made.

(c) For purposes of this section—

(1) the term “school of medicine” has the same meaning as in section 701(4); and

(2) the term “accredited” has the same meaning as in section 701(5).

(d) To carry out this section, there are authorized to be appropriated \$2,000,000 for fiscal year 1985 and for each of the two succeeding fiscal years, \$3,000,000 for fiscal year 1989, \$4,000,000 for fiscal year 1990, \$5,000,000 for each of the fiscal years 1991 and 1992, such sums as may be necessary for each of the fiscal years 1993 through 2005, \$25,000,000 for fiscal year 2010, \$26,250,000 for fiscal year 2011, \$27,562,500 for fiscal year 2012, \$28,940,625 for fiscal year 2013, \$30,387,656 for fiscal year 2014, \$20,213,000 for each of fiscal years 2015 through 2019, and \$22,334,000 for each of fiscal years 2020 through 2024.

PART B—BLOCK GRANTS REGARDING MENTAL HEALTH AND  
SUBSTANCE USE**Subpart I—Block Grants for Community Mental  
Health Services****SEC. 1911. [300x] FORMULA GRANTS TO STATES.**

(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Director of the Center for Mental Health Services, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1918. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 1917.

(b) PURPOSE OF GRANTS.—A funding agreement for a grant under subsection (a) is that, subject to section 1916, the State involved will expend the grant only for the purpose of—

(1) providing community mental health services for adults with a serious mental illness and children with a serious emo-

tional disturbance as defined in accordance with section 1912(c);

(2) carrying out the plan submitted under section 1912(a) by the State for the fiscal year involved;

(3) evaluating programs and services carried out under the plan; and

(4) planning, administration, and educational activities related to providing services under the plan.

**SEC. 1912. [300x-1] STATE PLAN FOR COMPREHENSIVE COMMUNITY MENTAL HEALTH SERVICES FOR CERTAIN INDIVIDUALS.**

(a) IN GENERAL.—The Secretary may make a grant under section 1911 only if—

(1) the State involved submits to the Secretary a plan for providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance;

(2) the plan meets the criteria specified in subsection (b); and

(3) the plan is approved by the Secretary.

(b) CRITERIA FOR PLAN.—In accordance with subsection (a), a State shall submit to the Secretary a plan every two years that, at a minimum, includes each of the following:

(1) SYSTEM OF CARE.—A description of the State's system of care that contains the following:

(A) COMPREHENSIVE COMMUNITY-BASED HEALTH SYSTEMS.—The plan shall—

(i) identify the single State agency to be responsible for the administration of the program under the grant, including any third party who administers mental health services and is responsible for complying with the requirements of this part with respect to the grant;

(ii) provide for an organized community-based system of care for individuals with mental illness, and describe available services and resources in a comprehensive system of care, including services for individuals with co-occurring disorders;

(iii) include a description of the manner in which the State and local entities will coordinate services to maximize the efficiency, effectiveness, quality, and cost-effectiveness of services and programs to produce the best possible outcomes (including health services, rehabilitation services, employment services, housing services, educational services, substance use disorder services, legal services, law enforcement services, social services, child welfare services, medical and dental care services, and other support services to be provided with Federal, State, and local public and private resources) with other agencies to enable individuals receiving services to function outside of inpatient or residential institutions, to the maximum extent of their capabilities, including services to be provided by local school systems under the Individuals with Disabilities Education Act;

(iv) include a description of how the State promotes evidence-based practices, including those evidence-based programs that address the needs of individuals with early serious mental illness regardless of the age of the individual at onset, provide comprehensive individualized treatment, or integrate mental and physical health services;

(v) include a description of case management services;

(vi) include a description of activities that seek to engage adults with a serious mental illness or children with a serious emotional disturbance and their caregivers where appropriate in making health care decisions, including activities that enhance communication among individuals, families, caregivers, and treatment providers; and

(vii) as appropriate to, and reflective of, the uses the State proposes for the block grant funds, include—

(I) a description of the activities intended to reduce hospitalizations and hospital stays using the block grant funds;

(II) a description of the activities intended to reduce incidents of suicide using the block grant funds;

(III) a description of how the State integrates mental health and primary care using the block grant funds, which may include providing, in the case of individuals with co-occurring mental and substance use disorders, both mental and substance use disorders services in primary care settings or arrangements to provide primary and specialty care services in community-based mental and substance use disorders settings; and

(IV) a description of recovery and recovery support services for adults with a serious mental illness and children with a serious emotional disturbance.

(B) MENTAL HEALTH SYSTEM DATA AND EPIDEMIOLOGY.—The plan shall contain an estimate of the incidence and prevalence in the State of serious mental illness among adults and serious emotional disturbance among children and present quantitative targets and outcome measures for programs and services provided under this subpart.

(C) CHILDREN'S SERVICES.—In the case of children with a serious emotional disturbance (as defined pursuant to subsection (c)), the plan shall provide for a system of integrated social services, educational services, child welfare services, juvenile justice services, law enforcement services, and substance use disorder services that, together with health and mental health services, will be provided in order for such children to receive care appropriate for their multiple needs (such system to include services provided under the Individuals with Disabilities Education Act).

(D) TARGETED SERVICES TO RURAL AND HOMELESS POPULATIONS.—The plan shall describe the State's outreach to and services for individuals who are homeless and how community-based services will be provided to individuals residing in rural areas.

(E) MANAGEMENT SERVICES.—The plan shall describe the financial resources available, the existing mental health workforce, and the workforce trained in treating individuals with co-occurring mental and substance use disorders, and shall provide for the training of providers of emergency health services regarding mental health. The plan shall further describe the manner in which the State intends to expend the grant under section 1911 for the fiscal year involved, and the manner in which the State intends to comply with each of the funding agreements in this subpart and subpart III.

(2) GOALS AND OBJECTIVES.—The establishment of goals and objectives for the period of the plan, including targets and milestones that are intended to be met, and the activities that will be undertaken to achieve those targets.

(c) DEFINITIONS REGARDING MENTAL ILLNESS AND EMOTIONAL DISTURBANCE; METHODS FOR ESTIMATE OF INCIDENCE AND PREVALENCE.—

(1) ESTABLISHMENT BY SECRETARY OF DEFINITIONS; DISSEMINATION.—For purposes of this subpart, the Secretary shall establish definitions for the terms “adults with a serious mental illness” and “children with a serious emotional disturbance”. The Secretary shall disseminate the definitions to the States.

(2) STANDARDIZED METHODS.—The Secretary shall establish standardized methods for making the estimates required in subsection (b)(11) with respect to a State. A funding agreement for a grant under section 1911 for the State is that the State will utilize such methods in making the estimates.

(3) DATE CERTAIN FOR COMPLIANCE BY SECRETARY.—Not later than 90 days after the date of the enactment of the ADAMHA Reorganization Act<sup>1</sup>, the Secretary shall establish the definitions described in paragraph (1), shall begin dissemination of the definitions to the States, and shall establish the standardized methods described in paragraph (2).

(d) REQUIREMENT OF IMPLEMENTATION OF PLAN.—

(1) COMPLETE IMPLEMENTATION.—Except as provided in paragraph (2), in making a grant under section 1911 to a State for a fiscal year, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a). If the Secretary determines that a State has not completely implemented the plan, the Secretary shall reduce the amount of the allotment under section 1911 for the State for the fiscal year involved by an amount equal to 10 percent of the amount determined under section 1918 for the State for the fiscal year.

<sup>1</sup> Enacted July 10, 1992.

(2) SUBSTANTIAL IMPLEMENTATION AND GOOD FAITH EFFORT REGARDING FISCAL YEAR 1993.—

(A) In making a grant under section 1911 to a State for fiscal year 1993, the Secretary shall make a determination of the extent to which the State has implemented the plan required in subsection (a). If the Secretary determines that the State has not substantially implemented the plan, the Secretary shall, subject to subparagraph (B), reduce the amount of the allotment under section 1911 for the State for such fiscal year by an amount equal to 10 percent of the amount determined under section 1918 for the State for the fiscal year.

(B) In carrying out subparagraph (A), if the Secretary determines that the State is making a good faith effort to implement the plan required in subsection (a), the Secretary may make a reduction under such subparagraph in an amount that is less than the amount specified in such subparagraph, except that the reduction may not be made in an amount that is less than 5 percent of the amount determined under section 1918 for the State for fiscal year 1993.

**SEC. 1913. [300x-2] CERTAIN AGREEMENTS.**

(a) ALLOCATION FOR SYSTEMS OF INTEGRATED SERVICES FOR CHILDREN.—

(1) IN GENERAL.—With respect to children with a serious emotional disturbance, a funding agreement for a grant under section 1911 is that—

(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 10 percent of the grant to increase (relative to fiscal year 1992) funding for the system of integrated services described in section 1912(b)(9);

(B) in the case of a grant for fiscal year 1994, the State will expend not less than 10 percent of the grant to increase (relative to fiscal year 1993) funding for such system; and

(C) in the case of a grant for any subsequent fiscal year, the State will expend for such system not less than an amount equal to the amount expended by the State for fiscal year 1994.

(2) WAIVER.—

(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of comprehensive community mental health services for children with a serious emotional disturbance<sup>2</sup>, as indicated by a comparison of the number of such children for which such services are sought with the availability in the State of the services.

<sup>2</sup>So in law. See section 201 of Public Law 102-321 (106 Stat. 381). Probably should be “disturbance”.



(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

(b) PROVIDERS OF SERVICES.—A funding agreement for a grant under section 1911 for a State is that, with respect to the plan submitted under section 1912(a) for the fiscal year involved—

(1) services under the plan will be provided only through appropriate, qualified community programs (which may include community mental health centers, child mental-health programs, psychosocial rehabilitation programs, mental health peer-support programs, and mental-health primary consumer-directed programs); and

(2) services under the plan will be provided through community mental health centers only if the centers meet the criteria specified in subsection (c).

(c) CRITERIA FOR MENTAL HEALTH CENTERS.—The criteria referred to in subsection (b)(2) regarding community mental health centers are as follows:

(1) With respect to mental health services, the centers provide services as follows:

(A) Services principally to individuals residing in a defined geographic area (hereafter in this subsection referred to as a “service area”).

(B) Outpatient services, including specialized outpatient services for children, the elderly, individuals with a serious mental illness, and residents of the service areas of the centers who have been discharged from inpatient treatment at a mental health facility.

(C) 24-hour-a-day emergency care services.

(D) Day treatment or other partial hospitalization services, or psychosocial rehabilitation services.

(E) Screening for patients being considered for admission to State mental health facilities to determine the appropriateness of such admission.

(2) The mental health services of the centers are provided, within the limits of the capacities of the centers, to any individual residing or employed in the service area of the center regardless of ability to pay for such services.

(3) The mental health services of the centers are available and accessible promptly, as appropriate and in a manner which preserves human dignity and assures continuity and high quality care.

#### SEC. 1914. [300x-3] STATE MENTAL HEALTH PLANNING COUNCIL.

(a) IN GENERAL.—A funding agreement for a grant under section 1911 is that the State involved will establish and maintain a State mental health planning council in accordance with the conditions described in this section.

(b) DUTIES.—A condition under subsection (a) for a Council is that the duties of the Council are—

(1) to review plans provided to the Council pursuant to section 1915(a) by the State involved and to submit to the State any recommendations of the Council for modifications to the plans;

(2) to serve as an advocate for adults with a serious mental illness, children with a severe emotional disturbance, and other individuals with mental illnesses or emotional problems; and

(3) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

(c) MEMBERSHIP.—

(1) IN GENERAL.—A condition under subsection (a) for a Council is that the Council be composed of residents of the State, including representatives of—

(A) the principal State agencies with respect to—

(i) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

(ii) the development of the plan submitted pursuant to title XIX of the Social Security Act;

(B) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

(C) adults with serious mental illnesses who are receiving (or have received) mental health services; and

(D) the families of such adults or families of children with emotional disturbance.

(2) CERTAIN REQUIREMENTS.—A condition under subsection (a) for a Council is that—

(A) with respect to the membership of the Council, the ratio of parents of children with a serious emotional disturbance to other members of the Council is sufficient to provide adequate representation of such children in the deliberations of the Council; and

(B) not less than 50 percent of the members of the Council are individuals who are not State employees or providers of mental health services.

(d) DEFINITION.—For purposes of this section, the term “Council” means a State mental health planning council.

#### **SEC. 1915. [300x-4] ADDITIONAL PROVISIONS.**

(a) REVIEW OF STATE PLAN BY MENTAL HEALTH PLANNING COUNCIL.—The Secretary may make a grant under section 1911 to a State only if—

(1) the plan submitted under section 1912(a) with respect to the grant and the report of the State under section 1942(a) concerning the preceding fiscal year has been reviewed by the State mental health planning council under section 1914; and

(2) the State submits to the Secretary any recommendations received by the State from such council for modifications to the plan (without regard to whether the State has made the recommended modifications) and any comments concerning the annual report.

**(b) MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES FOR MENTAL HEALTH.—**

(1) **IN GENERAL.**—A funding agreement for a grant under section 1911 is that the State involved will maintain State expenditures for community mental health services at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

(2) **EXCLUSION OF CERTAIN FUNDS.**—The Secretary may exclude from the aggregate State expenditures under subsection (a), funds appropriated to the principle agency for authorized activities which are of a non-recurring nature and for a specific purpose.

**(3) WAIVER.—**

(A) **IN GENERAL.**—The Secretary may, upon the request of a State, waive the requirement established in paragraph (1) in whole or in part if the Secretary determines that extraordinary economic conditions in the State in the fiscal year involved or in the previous fiscal year justify the waiver<sup>3</sup>

(B) **DATE CERTAIN FOR ACTION UPON REQUEST.**—The Secretary shall approve or deny a request for a waiver under this paragraph not later than 120 days after the date on which the request is made.

(C) **APPLICABILITY OF WAIVER.**—A waiver provided by the Secretary under this paragraph shall be applicable only to the fiscal year involved.

**(4) NONCOMPLIANCE BY STATE.—****(A) IN GENERAL.—**

(i) **DETERMINATION.**—In making a grant under section 1911 to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with the agreement made under paragraph (1). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1911 for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(ii) **ALTERNATIVE.**—A State that has failed to comply with paragraph (1) and would otherwise be subject to a reduction in the State's allotment under section 1911 may, upon request by the State, in lieu of having the amount of the allotment under section 1911 for the State reduced for the fiscal year of the grant, agree to comply with a negotiated agreement that is approved by the Secretary and carried out in accordance with guidelines issued by the Secretary. If a State fails to enter into or comply with a negotiated agreement, the

<sup>3</sup>So in law. There probably should be a period at the end of paragraph (3)(A). See amendment made by section 8001(d)(1)(C) of Public Law 114–255.

Secretary may take action under this paragraph or the terms of the negotiated agreement.

(B) SUBMISSION OF INFORMATION TO THE SECRETARY.—

The Secretary may make a grant under section 1911 for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in subparagraph (A)(i).

**SEC. 1916. [300x-5] RESTRICTIONS ON USE OF PAYMENTS.**

(a) IN GENERAL.—A funding agreement for a grant under section 1911 is that the State involved will not expend the grant—

- (1) to provide inpatient services;
- (2) to make cash payments to intended recipients of health services;
- (3) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;
- (4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or
- (5) to provide financial assistance to any entity other than a public or nonprofit private entity.

(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under section 1911 is that the State involved will not expend more than 5 percent of the grant for administrative expenses with respect to the grant.

**SEC. 1917. [300x-6] APPLICATION FOR GRANT.**

(a) IN GENERAL.—For purposes of section 1911, an application for a grant under such section for a fiscal year in accordance with<sup>4</sup> this section if, subject to subsection (b)—

- (1) the plan is received by the Secretary not later than September 1 of the fiscal year prior to the fiscal year for which a State is seeking funds, and the report from the previous fiscal year as required under section 1942(a) is received by December 1 of the fiscal year of the grant;
- (2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);
- (3) the agreements are made through certification from the chief executive officer of the State;
- (4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;
- (5) the application contains the plan required in section 1912(a), the information required in section 1915(b), and the report required in section 1942(a);
- (6) the application contains recommendations in compliance with section 1915(a), or if no such recommendations are received by the State, the application otherwise demonstrates compliance with such section; and
- (7) the application (including the plan under section 1912(a)) is otherwise in such form, is made in such manner,

<sup>4</sup>So in law. See section 201 of Public Law 102-321 (106 Stat. 384). Probably should be “is in accordance with”.

and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(b) **WAIVERS REGARDING CERTAIN TERRITORIES.**—In the case of any territory of the United States except Puerto Rico, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 1916.

**SEC. 1918. [300x-7] DETERMINATION OF AMOUNT OF ALLOTMENT.**

(a) **STATES.**—

(1) **DETERMINATION UNDER FORMULA.**—Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1911 for a State for a fiscal year in accordance with the following formula:

$$A = \left( \frac{X}{U} \right)$$

(2) **DETERMINATION OF TERM “A”.**—For purposes of paragraph (1), the term “A” means the difference between—

(A) the amount appropriated under section 1920(a) for allotments under section 1911 for the fiscal year involved; and

(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

(3) **DETERMINATION OF TERM “U”.**—For purposes of paragraph (1), the term “U” means the sum of the respective terms “X” determined for the States under paragraph (4).

(4) **DETERMINATION OF TERM “X”.**—For purposes of paragraph (1), the term “X” means the product of—

(A) an amount equal to the product of—

(i) the term “P”, as determined for the State involved under paragraph (5); and

(ii) the factor determined under paragraph (8) for the State; and

(B) the greater of—

(i) 0.4; and

(ii) an amount equal to an amount determined for the State in accordance with the following formula:

$$1 - .35 \left( \frac{R\%}{P\%} \right)$$

(5) **DETERMINATION OF TERM “P”.**—

(A) For purposes of paragraph (4), the term “P” means the sum of—

(i) an amount equal to the product of 0.107 and the number of individuals in the State who are between 18 and 24 years of age (inclusive);

(ii) an amount equal to the product of 0.166 and the number of individuals in the State who are between 25 and 44 years of age (inclusive);

(iii) an amount equal to the product of 0.099 and the number of individuals in the State who are between 45 and 64 years of age (inclusive); and

(iv) an amount equal to the product of 0.082 and the number of individuals in the State who are 65 years of age or older.

(B) With respect to data on population that is necessary for purposes of making a determination under subparagraph (A), the Secretary shall use the most recent data that is available from the Secretary of Commerce pursuant to the decennial census and pursuant to reasonable estimates by such Secretary of changes occurring in the data in the ensuing period.

(6) DETERMINATION OF TERM “R%”.—

(A) For purposes of paragraph (4), the term “R%”, except as provided in subparagraph (D), means the percentage constituted by the ratio of the amount determined under subparagraph (B) for the State involved to the amount determined under subparagraph (C).

(B) The amount determined under this subparagraph for the State involved is the quotient of—

(i) the most recent 3-year arithmetic mean of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

(ii) the factor determined under paragraph (8) for the State.

(C) The amount determined under this subparagraph is the sum of the respective amounts determined for the States under subparagraph (B) (including the District of Columbia).

(D)(i) In the case of the District of Columbia, for purposes of paragraph (4), the term “R%” means the percentage constituted by the ratio of the amount determined under clause (ii) for such District to the amount determined under clause (iii).

(ii) The amount determined under this clause for the District of Columbia is the quotient of—

(I) the most recent 3-year arithmetic mean of total personal income in such District, as determined by the Secretary of Commerce; divided by

(II) the factor determined under paragraph (8) for the District.

(iii) The amount determined under this clause is the sum of the respective amounts determined for the States (including the District of Columbia) by making, for each State, the same determination as is described in clause (ii) for the District of Columbia.

(7) DETERMINATION OF TERM “P%”.—For purposes of paragraph (4), the term “P%” means the percentage constituted by the ratio of the term “P” determined under paragraph (5) for

the State involved to the sum of the respective terms “P” determined for the States.

(8) DETERMINATION OF CERTAIN FACTOR.—

(A) The factor determined under this paragraph for the State involved is a factor whose purpose is to adjust the amount determined under clause (i) of paragraph (4)(A), and the amounts determined under each of subparagraphs (B)(i) and (D)(ii)(I) of paragraph (6), to reflect the differences that exist between the State and other States in the costs of providing comprehensive community mental health services to adults with a serious mental illness and to children with a serious emotional disturbance.

(B) Subject to subparagraph (C), the factor determined under this paragraph and in effect for the fiscal year involved shall be determined according to the methodology described in the report entitled “Adjusting the Alcohol, Drug Abuse and Mental Health Services Block Grant Allocations for Poverty Populations and Cost of Service”, dated March 30, 1990, and prepared by Health Economics Research, a corporation, pursuant to a contract with the National Institute on Drug Abuse.

(C) The factor determined under this paragraph for the State involved may not for any fiscal year be greater than 1.1 or less than 0.9.

(D)(i) Not later than October 1, 1992, the Secretary, after consultation with the Comptroller General, shall in accordance with this section make a determination for each State of the factor that is to be in effect for the State under this paragraph. The factor so determined shall remain in effect through fiscal year 1994, and shall be recalculated every third fiscal year thereafter.

(ii) After consultation with the Comptroller General, the Secretary shall, through publication in the Federal Register, periodically make such refinements in the methodology referred to in subparagraph (B) as are consistent with the purpose described in subparagraph (A).

(b) MINIMUM ALLOTMENTS FOR STATES.—With respect to fiscal year 2000, and subsequent fiscal years, the amount of the allotment of a State under section 1911 shall not be less than the amount the State received under such section for fiscal year 1998.

(c) TERRITORIES.—

(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the amount of an allotment under section 1911 for a territory of the United States for a fiscal year shall be the product of—

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

(B) a percentage equal to the quotient of—

(i) the civilian population of the territory, as indicated by the most recently available data; divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

(2) MINIMUM ALLOTMENT FOR TERRITORIES.—The amount of an allotment under section 1911 for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year;

(B) \$50,000; and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 20.6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.

(3) RESERVATION OF AMOUNTS.—The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 1920(a) for allotments under section 1911 for the fiscal year.

(4) AVAILABILITY OF DATA ON POPULATION.—With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

(5) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of subsection (a), the term “State” does not include the territories of the United States.

#### SEC. 1919. [300x-8] DEFINITIONS.

For purposes of this subpart:

(1) The terms “adults with a serious mental illness” and “children with a serious emotional disturbance” have the meanings given such terms under section 1912(c)(1).

(2) The term “funding agreement”, with respect to a grant under section 1911 to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

#### SEC. 1920. [300x-9] FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, and subpart III and section 505(c) with respect to mental health, there are authorized to be appropriated \$857,571,000 for each of fiscal years 2023 through 2027.

(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE, DATA COLLECTION, AND PROGRAM EVALUATION.—

(1) IN GENERAL.—For the purpose of carrying out section 1948(a) with respect to mental health and the purposes specified in paragraphs (2) and (3), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) for a fiscal year.

(2) DATA COLLECTION.—The purpose specified in this paragraph is carrying out sections 505(c) and 1971 with respect to mental health.

(3) PROGRAM EVALUATION.—The purpose specified in this paragraph is the conduct of evaluations of prevention and treatment programs and services with respect to mental health



to determine methods for improving the availability and quality of such programs and services.

(c) EARLY SERIOUS MENTAL ILLNESS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a State shall expend not less than 10 percent of the amount the State receives for carrying out this section for each fiscal year to support evidence-based programs that address the needs of individuals with early serious mental illness, including psychotic disorders, regardless of the age of the individual at onset.

(2) STATE FLEXIBILITY.—In lieu of expending 10 percent of the amount the State receives under this section for a fiscal year as required under paragraph (1), a State may elect to expend not less than 20 percent of such amount by the end of such succeeding fiscal year.

(d) CRISIS CARE.—

(1) IN GENERAL.—Except as provided in paragraph (3), a State shall expend at least 5 percent of the amount the State receives pursuant to section 1911 for each fiscal year to support evidenced-based programs that address the crisis care needs of individuals with serious mental illnesses and children with serious emotional disturbances, which may include individuals (including children and adolescents) experiencing mental health crises demonstrating serious mental illness or serious emotional disturbance, as applicable.

(2) CORE ELEMENTS.—At the discretion of the single State agency responsible for the administration of the program of the State under a grant under section 1911, funds expended pursuant to paragraph (1) may be used to fund some or all of the core crisis care service components, as applicable and appropriate, including the following:

(A) Crisis call centers.

(B) 24/7 mobile crisis services.

(C) Crisis stabilization programs offering acute care or subacute care in a hospital or appropriately licensed facility, as determined by such State, with referrals to inpatient or outpatient care.

(3) STATE FLEXIBILITY.—In lieu of expending 5 percent of the amount the State receives pursuant to section 1911 for a fiscal year to support evidence-based programs as required by paragraph (1), a State may elect to expend not less than 10 percent of such amount to support such programs by the end of two consecutive fiscal years.

(4) RULE OF CONSTRUCTION.—Section 1912(b)(1)(A)(vi) shall not be construed as limiting the provision of crisis care services pursuant to paragraph (1).

## **Subpart II—Block Grants for Substance Use Prevention, Treatment, and Recovery Services**

### **SEC. 1921. [300x-21] FORMULA GRANTS TO STATES.**

(a) IN GENERAL.—For the purpose described in subsection (b), the Secretary, acting through the Center for Substance Abuse

Treatment, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1933. The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 1932.

(b) **AUTHORIZED ACTIVITIES.**—A funding agreement for a grant under subsection (a) is that, subject to section 1931, the State involved will expend the grant only for the purpose of carrying out the plan developed in accordance with section 1932(b) and for planning, carrying out, and evaluating activities to prevent, treat, and provide recovery support services for substance use disorders and for related activities authorized in section 1924.

**SEC. 1922. [300x-22] CERTAIN ALLOCATIONS.**

(a) **ALLOCATION REGARDING PRIMARY PREVENTION PROGRAMS.**—A funding agreement for a grant under section 1921 is that, in expending the grant, the State involved—

(1) will expend not less than 20 percent for programs for individuals who do not require treatment for substance use disorders, which programs—

(A) educate and counsel the individuals on such disorders; and

(B) provide for activities to reduce the risk of such disorders by the individuals;

(2) will, in carrying out paragraph (1)—

(A) give priority to programs for populations that are at risk of developing a pattern of such disorders; and

(B) ensure that programs receiving priority under subparagraph (A) develop community-based strategies for the prevention of such disorders, including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products.

(b) <sup>5</sup> **ALLOCATIONS REGARDING WOMEN.**—

(1) **IN GENERAL.**—Subject to paragraph (2), a funding agreement for a grant under section 1921 for a fiscal year is that—

(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 5 percent of the grant to increase (relative to fiscal year 1992) the availability of treatment services designed for pregnant women and women with dependent children (either by establishing new programs or expanding the capacity of existing programs);

<sup>5</sup> Paragraph (2)(A) of section 3303(f) of Public Law 106-310 (114 Stat. 1211) provides as follows:

(2) **CONFORMING AMENDMENTS.**—Effective upon the publication of the regulations developed in accordance with section 1932(e)(1) of the Public Health Service Act (42 U.S.C. 300x-32(d))—

(A) section 1922(c) of the Public Health Service Act (42 U.S.C. 300x-22(c)) is amended by—

(i) striking paragraph (2); and

(ii) redesignating paragraph (3) as paragraph (2); and

The reference to section 1922(c) probably should be a reference to section 1922(b), as amended by section 3303(a) of such Public Law.

(B) in the case of a grant for fiscal year 1994, the State will expend not less than 5 percent of the grant to so increase (relative to fiscal year 1993) the availability of such services for such women; and

(C) in the case of a grant for any subsequent fiscal year, the State will expend for such services for such women not less than an amount equal to the amount expended by the State for fiscal year 1994.

(2) **WAIVER.**—

(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the requirement established in paragraph (1) if the Secretary determines that the State is providing an adequate level of treatments services for women described in such paragraph, as indicated by a comparison of the number of such women seeking the services with the availability in the State of the services.

(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made.

(C) Any waiver provided by the Secretary under subparagraph (A) shall be applicable only to the fiscal year involved.

(3) **CHILDCARE AND PRENATAL CARE.**—A funding agreement for a grant under section 1921 for a State is that each entity providing treatment services with amounts reserved under paragraph (1) by the State will, directly or through arrangements with other public or nonprofit private entities, make available prenatal care to women receiving such services and, while the women are receiving the services, childcare.

**SEC. 1923. [300x-23] INTRAVENOUS SUBSTANCE USE.**

(a) **CAPACITY OF TREATMENT PROGRAMS.**—

(1) **NOTIFICATION OF REACHING CAPACITY.**—A funding agreement for a grant under section 1921 is that the State involved will, in the case of programs of treatment for intravenous substance use disorders<sup>6</sup>, require that any such program receiving amounts from the grant, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact.

(2) **PROVISION OF TREATMENT.**—A funding agreement for a grant under section 1921 is that the State involved will, with respect to notifications under paragraph (1), ensure that each individual who requests and is in need of treatment for intravenous substance use disorders<sup>6</sup> is admitted to a program of such treatment not later than—

(A) 14 days after making the request for admission to such a program; or

(B) 120 days after the date of such request, if no such program has the capacity to admit the individual on the

<sup>6</sup> Section 1241(a)(4)(B) of division FF of Public Law 117-328 amends section 1923(a) by striking “drug abuse” and inserting “substance use disorders”. However the term “drug abuse” appears twice in subsection (a) and thus the amendment was carried out in both instances due to the probable intent of Congress.

date of such request and if interim services are made available to the individual not later than 48 hours after such request.

(b) **OUTREACH TO PERSONS WHO INJECT DRUGS.**—A funding agreement for a grant under section 1921 is that the State involved, in providing amounts from the grant to any entity for treatment services for persons who inject drugs, will require the entity to carry out activities to encourage individuals in need of such treatment to undergo treatment.

**SEC. 1924. [300x-24] REQUIREMENTS REGARDING TUBERCULOSIS AND HUMAN IMMUNODEFICIENCY VIRUS.**

(a) **TUBERCULOSIS.**—

(1) **IN GENERAL.**—A funding agreement for a grant under section 1921 is that the State involved will require that any entity receiving amounts from the grant for operating a program of treatment for substance use disorders—

(A) will, directly or through arrangements with other public or nonprofit private entities, routinely make available tuberculosis services to each individual receiving treatment for such disorders; and

(B) in the case of an individual in need of such treatment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the individual, will refer the individual to another provider of tuberculosis services.

(2) **TUBERCULOSIS SERVICES.**—For purposes of paragraph (1), the term “tuberculosis services”, with respect to an individual, means—

(A) counseling the individual with respect to tuberculosis;

(B) testing to determine whether the individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the individual; and

(C) providing such treatment to the individual.

(b) **HUMAN IMMUNODEFICIENCY VIRUS.**—

(1) **REQUIREMENT FOR CERTAIN STATES.**—In the case of a State described in paragraph (2), a funding agreement for a grant under section 1921 is that—

(A) with respect to individuals undergoing treatment for substance use disorders, the State will, subject to paragraph (3), carry out 1 or more projects to make available to the individuals early intervention services for HIV disease at the sites at which the individuals are undergoing such treatment;

(B) for the purpose of providing such early intervention services through such projects, the State will make available from the grant the percentage that is applicable for the State under paragraph (4); and

(C) the State will, subject to paragraph (5), carry out such projects only in geographic areas of the State that have the greatest need for the projects.

(2) **DESIGNATED STATES.**—For purposes of this subsection, a State described in this paragraph is any State whose rate of

cases of acquired immune deficiency syndrome is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the most recent calendar year for which such data are available).

(3) USE OF EXISTING PROGRAMS REGARDING SUBSTANCE USE DISORDERS.—With respect to programs that provide treatment services for substance use disorders, a funding agreement for a grant under section 1921 for a designated State is that each such program participating in a project under paragraph (1) will be a program that began operation prior to the fiscal year for which the State is applying to receive the grant. A program that so began operation may participate in a project under paragraph (1) without regard to whether the program has been providing early intervention services for HIV disease.

(4) APPLICABLE PERCENTAGE REGARDING EXPENDITURES FOR SERVICES.—

(A)(i) For purposes of paragraph (1)(B), the percentage that is applicable under this paragraph for a designated State is, subject to subparagraph (B), the percentage by which the amount of the grant under section 1921 for the State for the fiscal year involved is an increase over the amount specified in clause (ii).

(ii) The amount specified in this clause is the amount that was reserved by the designated State involved from the allotment of the State under section 1912A for fiscal year 1991 in compliance with section 1916(c)(6)(A)(ii) (as such sections were in effect for such fiscal year).

(B) If the percentage determined under subparagraph (A) for a designated State for a fiscal year is less than 2 percent (including a negative percentage, in the case of a State for which there is no increase for purposes of such subparagraph), the percentage applicable under this paragraph for the State is 2 percent. If the percentage so determined is 2 percent or more, the percentage applicable under this paragraph for the State is the percentage determined under subparagraph (A), subject to not exceeding 5 percent.

(5) REQUIREMENT REGARDING RURAL AREAS.—

(A) A funding agreement for a grant under section 1921 for a designated State is that, if the State will carry out 2 or more projects under paragraph (1), the State will carry out 1 such project in a rural area of the State, subject to subparagraph (B).

(B) The Secretary shall waive the requirement established in subparagraph (A) if the State involved certifies to the Secretary that—

(i) there is insufficient demand in the State to carry out a project under paragraph (1) in any rural area of the State; or

(ii) there are no rural areas in the State.

(6) MANNER OF PROVIDING SERVICES.—With respect to the provision of early intervention services for HIV disease to an

individual, a funding agreement for a grant under section 1921 for a designated State is that—

(A) such services will be undertaken voluntarily by, and with the informed consent of, the individual; and

(B) undergoing such services will not be required as a condition of receiving treatment services for substance use disorders or any other services.

(7) DEFINITIONS.—For purposes of this subsection:

(A) The term “designated State” means a State described in paragraph (2).

(B) The term “early intervention services”, with respect to HIV disease, means—

(i) appropriate pretest counseling;

(ii) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(iii) appropriate post-test counseling; and

(iv) providing the therapeutic measures described in clause (ii).

(C) The term “HIV disease” means infection with the etiologic agent for acquired immune deficiency syndrome.

(c) EXPENDITURE OF GRANT FOR COMPLIANCE WITH AGREEMENTS.—

(1) IN GENERAL.—A grant under section 1921 may be expended for purposes of compliance with the agreements required in this section, subject to paragraph (2).

(2) LIMITATION.—A funding agreement for a grant under section 1921 for a State is that the grant will not be expended to make payment for any service provided for purposes of compliance with this section to the extent that payment has been made, or can reasonably be expected to be made, with respect to such service—

(A) under any State compensation program, under any insurance policy, or under any Federal or State health benefits program (including the program established in title XVIII of the Social Security Act and the program established in title XIX of such Act); or

(B) by an entity that provides health services on a pre-paid basis.

(d) APPLICABILITY OF CERTAIN PROVISION.—Section 1931 applies to this section (and to each other provision of this subpart).

**SEC. 1925. [300x-25] GROUP HOMES FOR PERSONS IN RECOVERY FROM SUBSTANCE USE DISORDERS.**

(a) STATE REVOLVING FUNDS FOR ESTABLISHMENT OF HOMES.—A State, using funds available under section 1921, may establish and maintain the ongoing operation of a revolving fund in accordance with this section to support group homes for persons in recovery from substance use disorders as follows:

(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or other substance use disorders may reside in groups of not less than 6 individuals. The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity.

(2) The programs are carried out in accordance with guidelines issued under subsection (b).

(3) Not less than \$100,000 is available for the fund.

(4) Loans made from the revolving fund do not exceed \$4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made.

(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved.

(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

(B) any resident of the housing who violates such prohibition will be expelled from the housing;

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

(b) **ISSUANCE BY SECRETARY OF GUIDELINES.**—The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a).

(c) **APPLICABILITY TO TERRITORIES.**—The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico.

**SEC. 1926. [300x-26] SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER AGE OF 21.**

(a) **IN GENERAL.**—A funding agreement for a grant under section 1921 is that the State involved will—

(1) annually conduct random, unannounced inspections to ensure that retailers do not sell tobacco products to individuals under the age of 21; and

(2) annually submit to the Secretary a report describing—

(A) the activities carried out by the State to ensure that retailers do not sell tobacco products to individuals under the age of 21;

(B) the extent of success the State has achieved in ensuring that retailers do not sell tobacco products to individuals under the age of 21; and

(C) the strategies to be utilized by the State to ensure that retailers do not sell tobacco products to individuals

under the age of 21 during the fiscal year for which the grant is sought.

(b) NONCOMPLIANCE OF STATE.—

(1) IN GENERAL.—Before making a grant under section 1921 to a State, the Secretary shall make a determination of whether the State has maintained compliance with subsection (a). If, after notice to the State and an opportunity for a hearing, the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount up to 10 percent of the amount determined under section 1933 for the State for the applicable fiscal year.

(2) LIMITATION.—

(A) IN GENERAL.—A State shall not have funds withheld pursuant to paragraph (1) if such State for which the Secretary has made a determination of noncompliance under such paragraph—

(i) certifies to the Secretary by May 1 of the fiscal year for which the funds are appropriated, consistent with subparagraph (B), that the State will commit additional State funds, in accordance with paragraph (1), to ensure that retailers do not sell tobacco products to individuals under 21 years of age;

(ii) agrees to comply with a negotiated agreement for a corrective action plan that is approved by the Secretary and carried out in accordance with guidelines issued by the Secretary; or

(iii) is a territory that receives less than \$1,000,000 for a fiscal year under section 1921.

(B) CERTIFICATION.—

(i) IN GENERAL.—The amount of funds to be committed by a State pursuant to subparagraph (A)(i) shall be equal to 1 percent of such State's allocation determined under section 1933 for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary.

(ii) STATE EXPENDITURES.—For a fiscal year in which a State commits funds as described in clause (i), such State shall maintain State expenditures for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for the preceding fiscal year, plus the additional funds for tobacco compliance activities required under clause (i). The State shall submit a report to the Secretary on all State obligations of funds for such fiscal year and all State expenditures for the preceding fiscal year for tobacco prevention and compliance activities by program activity by July 31 of such fiscal year.

(iii) DISCRETION.—The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certifi-



cation described in subparagraph (A)(i) as late as July 31 of such fiscal year.

(C) FAILURE TO CERTIFY.—If a State described in subparagraph (A) fails to certify to the Secretary pursuant to subparagraph (A)(i) or enter into, or comply with, a negotiated agreement under subparagraph (A)(ii), the Secretary may take action pursuant to paragraph (1).

(c) IMPLEMENTATION OF REPORTING REQUIREMENTS.—

(1) TRANSITION PERIOD.—The Secretary shall—

(A) not withhold amounts under subsection (b) for the 3-year period immediately following the date of enactment of division N of the Further Consolidated Appropriations Act, 2020; and

(B) use discretion in exercising its authority under subsection (b) during the 2-year period immediately following the 3-year period described in subparagraph (A), to allow for a transition period for implementation of the reporting requirements under subsection (a)(2).

(2) REGULATIONS OR GUIDANCE.—Not later than 180 days after the date of enactment of division N of the Further Consolidated Appropriations Act, 2020, the Secretary shall update regulations under part 96 of title 45, Code of Federal Regulations or guidance on the retailer compliance rate goal under subsection (b), the use of funds provided under section 1921 for purposes of meeting the requirements of this section, and reporting requirements under subsection (a)(2).

(3) COORDINATION.—The Secretary shall ensure the Assistant Secretary for Mental Health and Substance Use coordinates, as appropriate, with the Commissioner of Food and Drugs to ensure that the technical assistance provided to States under subsection (e) is consistent with applicable regulations for retailers issued under part 1140 of title 21, Code of Federal Regulations.

(d) TRANSITIONAL GRANTS.—

(1) IN GENERAL.—The Secretary shall award grants under this subsection to each State that receives funding under section 1921 to ensure compliance of each such State with this section.

(2) USE OF FUNDS.—A State receiving a grant under this subsection—

(A) shall use amounts received under such grant for activities to plan for or ensure compliance in the State with subsection (a); and

(B) in the case of a State for which the Secretary has made a determination under subsection (b) that the State is prepared to meet, or has met, the requirements of subsection (a), may use such funds for tobacco cessation activities, strategies to prevent the use of tobacco products by individuals under the age of 21, or allowable uses under section 1921.

(3) SUPPLEMENT NOT SUPPLANT.—Grants under this subsection shall be used to supplement and not supplant other Federal, State, and local public funds provided for activities under paragraph (2).

(4) AUTHORIZATION OF APPROPRIATIONS.—To carry out this subsection, there are authorized to be appropriated \$18,580,790 for each of fiscal years 2020 through 2024.

(5) SUNSET.—This subsection shall have no force or effect after September 30, 2024.

(e) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States related to the activities required under this section.

**SEC. 1927. [300x-27] TREATMENT SERVICES FOR PREGNANT WOMEN.**

(a) IN GENERAL.—A funding agreement for a grant under section 1921 is that the State involved—

(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant; and

(2) will, in carrying out paragraph (1), publicize the availability to such women of services from the facilities and the fact that the women receive such preference.

(b) REFERRALS REGARDING STATES.—A funding agreement for a grant under section 1921 is that, in carrying out subsection (a)(1)—

(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State; and

(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State—

(A) will refer the woman to a treatment facility that has the capacity to provide treatment services to the woman; or

(B) will, if no treatment facility has the capacity to admit the woman, make interim services available to the woman not later than 48 hours after the woman<sup>7</sup> seeks the treatment services.

**SEC. 1928. [300x-28] ADDITIONAL AGREEMENTS.**

(a) IMPROVEMENT OF PROCESS FOR APPROPRIATE REFERRALS FOR TREATMENT.—With respect to individuals seeking treatment services, a funding agreement for a grant under section 1921 is that the State involved will improve the process in the State for referring the individuals to treatment facilities that can provide to the individuals the treatment modality that is most appropriate for the individuals.

(b) PROFESSIONAL DEVELOPMENT.—A funding agreement for a grant under section 1921 is that the State involved will ensure that prevention, treatment, and recovery personnel operating in the State's substance use disorder prevention, treatment, and recovery systems have an opportunity to receive training, on an ongoing basis, concerning—

(1) recent trends in substance use disorders in the State;

<sup>7</sup>So in law. See section 202 of Public Law 102-321 (106 Stat. 396). Probably should be "woman".

(2) improved methods and evidence-based practices for providing substance use disorder prevention and treatment services;

(3) performance-based accountability;

(4) data collection and reporting requirements; and

(5) any other matters that would serve to further improve the delivery of substance use disorder prevention and treatment services within the State.

(c) **COORDINATION OF VARIOUS ACTIVITIES AND SERVICES.**—A funding agreement for a grant under section 1921 is that the State involved will coordinate prevention and treatment activities with the provision of other appropriate services (including health, social, correctional and criminal justice, educational, vocational rehabilitation, and employment services).

(d)<sup>8</sup> **WAIVER OF REQUIREMENT.**—

(1) **IN GENERAL.**—Upon the request of a State, the Secretary may provide to a State a waiver of any or all of the requirements established in this section if the Secretary determines that, with respect to services for the prevention and treatment of substance use disorders, the requirement involved is unnecessary for maintaining quality in the provision of such services in the State.

(2) **DATE CERTAIN FOR ACTING UPON REQUEST.**—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) **APPLICABILITY OF WAIVER.**—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

【Section 1929 was repealed by section 8002(f) of Public Law 114–255.】

**SEC. 1930. [300x–30] MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES.**

(a) **IN GENERAL.**—With respect to the principal agency of a State for carrying out authorized activities, a funding agreement for a grant under section 1921 for the State for a fiscal year is that such agency will for such year maintain aggregate State expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying for the grant.

(b) **EXCLUSION OF CERTAIN FUNDS.**—The Secretary may exclude from the aggregate State expenditures under subsection (a), funds appropriated to the principle agency for authorized activities which are of a non-recurring nature and for a specific purpose.

(c) **WAIVER.**—

<sup>8</sup>Paragraph (2)(B) of section 3303(f) of Public Law 106–310 (114 Stat. 1211) provides as follows:

(2) **CONFORMING AMENDMENTS.**—Effective upon the publication of the regulations developed in accordance with section 1932(e)(1) of the Public Health Service Act (42 U.S.C. 300x–32(d))—

(A) \* \* \*

(B) section 1928(d) of the Public Health Service Act (42 U.S.C. 300x–28(d)) is repealed.

(1) IN GENERAL.—Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) if the Secretary determines that extraordinary economic conditions exist in the State, or any part of the State, to justify the waiver.

(2) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) APPLICABILITY OF WAIVER.—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

(d) NONCOMPLIANCE BY STATE.—

(1) IN GENERAL.—In making a grant under section 1921 to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with any agreement made under subsection (a). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1921 for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(2) SUBMISSION OF INFORMATION TO SECRETARY.—The Secretary may make a grant under section 1921 for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1).

(3) ALTERNATIVE.—A State that has failed to comply with this section and would otherwise be subject to a reduction in the State's allotment under section 1921, may, upon request by the State, in lieu of having the State's allotment under section 1921 reduced, agree to comply with a negotiated agreement that is approved by the Secretary and carried out in accordance with guidelines issued by the Secretary. If a State fails to enter into or comply with a negotiated agreement, the Secretary may take action under this paragraph or the terms of the negotiated agreement.

#### **SEC. 1931. [300x-31] RESTRICTIONS ON EXPENDITURE OF GRANT.**

(a) IN GENERAL.—

(1) CERTAIN RESTRICTIONS.—A funding agreement for a grant under section 1921 is that the State involved will not expend the grant—

(A) to provide inpatient hospital services, except as provided in subsection (b);

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(E) to provide financial assistance to any entity other than a public or nonprofit private entity; or

(F) to carry out any program prohibited by section 256(b) of the Health Omnibus Programs Extension of 1988 (42 U.S.C. 300ee-5).

(2) LIMITATION ON ADMINISTRATIVE EXPENSES.—A funding agreement for a grant under section 1921 is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant.

(3) LIMITATION REGARDING PENAL AND CORRECTIONAL INSTITUTIONS.—A funding agreement for a State for a grant under section 1921 is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 1912A to the State for fiscal year 1991 (as section 1912A was in effect for such fiscal year).

(b) EXCEPTION REGARDING INPATIENT HOSPITAL SERVICES.—

(1) MEDICAL NECESSITY AS PRECONDITION.—With respect to compliance with the agreement made under subsection (a), a State may expend a grant under section 1921 to provide inpatient hospital services as treatment for substance use disorders only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

(2) RATE OF PAYMENT.—In the case of an individual for whom a grant under section 1921 is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance use disorders.

(c) WAIVER REGARDING CONSTRUCTION OF FACILITIES.—

(1) IN GENERAL.—The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) for the purpose of authorizing the State to expend a grant under section 1921 for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

(2) STANDARD REGARDING NEED FOR WAIVER.—The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

(3) AMOUNT.—In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for resi-

dential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

(4) **MATCHING FUNDS.**—The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than \$1 for each \$1 of Federal funds provided under section 1921.

(5) **DATE CERTAIN FOR ACTING UPON REQUEST.**—The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

**SEC. 1932. [300x-32] APPLICATION FOR GRANT; APPROVAL OF STATE PLAN.**

(a) **IN GENERAL.**—For purposes of section 1921, an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsection (c)—

(1) the application is received by the Secretary not later than October 1 of the fiscal year for which the State is seeking funds;

(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

(3) the agreements are made through certification from the chief executive officer of the State;

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(5) the application contains the report required in section 1942(a);

(6)(A) the application contains a plan in accordance with subsection (b) and the plan is approved by the Secretary; and

(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 1921; and

(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(b) **STATE PLAN.**—

(1) **IN GENERAL.**—In order for a State to be in compliance with subsection (a)(6), the State shall submit to the Secretary a plan that, at a minimum, includes the following:

(A) A description of the State's system of care that—

(i) identifies the single State agency responsible for the administration of the program, including any third party who administers substance use disorder

services and is responsible for complying with the requirements of the grant;

(ii) provides information on the need for substance use disorder prevention and treatment services in the State, including estimates on the number of individuals who need treatment, who are pregnant women, women with dependent children, individuals with a co-occurring mental health and substance use disorder, persons who inject drugs, and persons who are experiencing homelessness;

(iii) provides aggregate information on the number of individuals in treatment within the State, including the number of such individuals who are pregnant women, women with dependent children, individuals with a co-occurring mental health and substance use disorder, persons who inject drugs, and persons who are experiencing homelessness;

(iv) provides a description of the system that is available to provide services by modality, including the provision of recovery support services;

(v) provides a description of the State's comprehensive statewide prevention efforts, including the number of individuals being served in the system, target populations, and priority needs, and provides a description of the amount of funds from the prevention set-aside expended on primary prevention;

(vi) provides a description of—

(I) the State's comprehensive statewide recovery support services activities, including the number of individuals being served, target populations, workforce capacity (consistent with clause (viii)), and priority needs; and

(II) the amount of funds received under this subpart expended on recovery support services, disaggregated by the amount expended for type of service activity;

(vii) provides a description of the financial resources available;

(viii) describes the existing substance use disorders workforce, including with respect to prevention, treatment, and recovery, and workforce trained in treating co-occurring substance use and mental disorders;

(ix) includes a description of how the State promotes evidence-based practices; and

(x) describes how the State integrates substance use disorder services and primary health care, which in the case of those individuals with co-occurring mental health and substance use disorders may include providing both mental health and substance use disorder services in primary care settings or providing primary and specialty care services in community-based mental health and substance use disorder service settings.

(B) The establishment of goals and objectives for the period of the plan, including targets and milestones that are intended to be met, and the activities that will be undertaken to achieve those targets.

(C) A description of how the State will comply with each funding agreement for a grant under section 1921 that is applicable to the State, including a description of the manner in which the State intends to expend grant funds.

(2) MODIFICATIONS.—

(A) AUTHORITY OF SECRETARY.—As a condition;<sup>9</sup> of making a grant under section 1921 to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

(B) STATE REQUEST FOR MODIFICATION.—If the State determines that a modification to such plan is necessary, the State may request the Secretary to approve the modification. Any such modification shall be in accordance with paragraph (1) and section 1941.

(3) AUTHORITY OF CENTER FOR SUBSTANCE ABUSE PREVENTION.—With respect to plans submitted by the States under subsection (a)(6), including any modification under paragraph (2), the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

(c) WAIVERS REGARDING CERTAIN TERRITORIES.—In the case of any territory of the United States except Puerto Rico, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 1931.

(d) ISSUANCE OF REGULATIONS; PRECONDITION TO MAKING GRANTS.—

(1) REGULATIONS.—Not later than August 25, 1992, the Secretary, acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 1921 to be in accordance with this section.

(2) ISSUANCE AS PRECONDITION TO MAKING GRANTS.—The Secretary may not make payments under any grant under section 1921 for fiscal year 1993 on or after January 1, 1993, unless the Secretary has issued standards under paragraph (1).

(e) WAIVER AUTHORITY FOR CERTAIN REQUIREMENTS.—

<sup>9</sup>The semicolon after “a condition” in paragraph (2)(A) probably should not appear. See amendment made by section 8002(i)(2)(B)(ii) of Public Law 114–255.



(1) IN GENERAL.—Upon the request of a State, the Secretary may waive the requirements of all or part of the sections described in paragraph (2) using objective criteria established by the Secretary by regulation after consultation with the States and other interested parties including consumers and providers.

(2) SECTIONS.—The sections described in paragraph (1) are sections 1922(b)<sup>10</sup>, 1923, 1924 and 1928.

(3) DATE CERTAIN FOR ACTING UPON REQUEST.—The Secretary shall approve or deny a request for a waiver under paragraph (1) and inform the State of that decision not later than 120 days after the date on which the request and all the information needed to support the request are submitted.

(4) ANNUAL REPORTING REQUIREMENT.—The Secretary shall annually report to the general public on the States that receive a waiver under this subsection.

**SEC. 1933. [300x-33] DETERMINATION OF AMOUNT OF ALLOTMENT.**

(a) STATES.—

(1) IN GENERAL.—Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 1921 for a State for a fiscal year as follows:

(A) The formula established in paragraph (1) of section 1918(a) shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 1918(a), except that, in the application of such formula for purposes of this subsection, the modifications described in subparagraph (B) shall apply.

(B) For purposes of subparagraph (A), the modifications described in this subparagraph are as follows:

(i) The amount specified in paragraph (2)(A) of section 1918(a) is deemed to be the amount appropriated under section 1935(a) for allotments under section 1921 for the fiscal year involved.

(ii) The term “P” is deemed to have the meaning given in paragraph (2) of this subsection. Section 1918(a)(5)(B) applies to the data used in determining such term for the States.

(iii) The factor determined under paragraph (8) of section 1918(a) is deemed to have the purpose of reflecting the differences that exist between the State involved and other States in the costs of providing authorized services.

(2) DETERMINATION OF TERM “P”.—For purposes of this subsection, the term “P” means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows:

(A) The percentage constituted by the ratio of—

<sup>10</sup> Section 8002(i)(3) of Public Law 114–255 provides for an amendment to subsection (e)(2) by striking “section 1922(c)” and inserting “section 1922(b)”. Such amendment was carried out above by striking “section[s] 1922(c)” and inserting “section[s] 1922(b)” in order to effectuate the probable intent of Congress.

(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in urbanized areas of the State and are between such years of age; to

(ii) an amount equal to the total of the respective sums determined for the States under clause (i).

(B) The percentage constituted by the ratio of—

(i) the total number of individuals in the State who are between 25 and 64 years of age (inclusive); to

(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

(b) MINIMUM ALLOTMENTS FOR STATES.—

(1) IN GENERAL.—With respect to fiscal year 2000, and each subsequent fiscal year, the amount of the allotment of a State under section 1921 shall not be less than the amount the State received under such section for the previous fiscal year increased by an amount equal to 30.65 percent of the percentage by which the aggregate amount allotted to all States for such fiscal year exceeds the aggregate amount allotted to all States for the previous fiscal year.

(2) LIMITATIONS.—

(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not receive an allotment under section 1921 for a fiscal year in an amount that is less than an amount equal to 0.375 percent of the amount appropriated under section 1935(a) for such fiscal year.

(B) EXCEPTION.—In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 1921 for a fiscal year (as compared to the amount allotted to the State in the prior fiscal year) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 1935(a) for such fiscal year exceeds the amount appropriated for the prior fiscal year.

(3) DECREASE IN OR EQUAL APPROPRIATIONS.—If the amount appropriated under section 1935(a) for a fiscal year is equal to or less than the amount appropriated under such section for the prior fiscal year, the amount of the State allotment under section 1921 shall be equal to the amount that the State received under section 1921 in the prior fiscal year decreased by the percentage by which the amount appropriated for such fiscal year is less than the amount appropriated for such section for the prior fiscal year.

(c) TERRITORIES.—

(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the amount of an allotment under section 1921 for a territory of the United States for a fiscal year shall be the product of—

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

(B) a percentage equal to the quotient of—

(i) the civilian population of the territory, as indicated by the most recently available data; divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

(2) MINIMUM ALLOTMENT FOR TERRITORIES.—The amount of an allotment under section 1921 for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year;

(B) \$50,000; and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.

(3) RESERVATION OF AMOUNTS.—The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 1935(a) for allotments under section 1921 for the fiscal year.

(4) AVAILABILITY OF DATA ON POPULATION.—With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

(5) APPLICABILITY OF CERTAIN PROVISIONS.—For purposes of subsections (a) and (b), the term “State” does not include the territories of the United States.

(d) INDIAN TRIBES AND TRIBAL ORGANIZATIONS.—

(1) IN GENERAL.—If the Secretary—

(A) receives a request from the governing body of an Indian Tribe or Tribal organization within any State that funds under this subpart be provided directly by the Secretary to such Tribe or organization; and

(B) makes a determination that the members of such Tribe or Tribal organization would be better served by means of grants made directly by the Secretary under this subpart;

the Secretary shall reserve from the allotment under section 1921 for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the Tribe or Tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the use of substances bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities.

(2) INDIAN TRIBE OR TRIBAL ORGANIZATION AS GRANTEE.—The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian Tribe or Tribal organization serving the individuals for whom such a determination has been made.

(3) APPLICATION.—In order for an Indian Tribe or Tribal organization to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

(4) DEFINITIONS.—The terms “Indian Tribe” and “Tribal organization” have the meanings given the terms “Indian tribe” and “tribal organization” in subsections (b) and (c) of section 4 of the Indian Self-Determination and Education Assistance Act.

**SEC. 1934. [300x-34] DEFINITIONS.**

For purposes of this subpart:

(1) The term “authorized activities”, subject to section 1931, means the activities described in section 1921(b).

(2) The term “funding agreement”, with respect to a grant under section 1921 to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

(3) The term “prevention activities”, subject to section 1931, means activities to prevent substance use disorders.

(4) The term “substance use disorder” means the recurrent use of alcohol or other drugs that causes clinically significant impairment.

(5) The term “treatment activities” means treatment services and, subject to section 1931, authorized activities that are related to treatment services.

(6) The term “treatment facility” means an entity that provides treatment services.

(7) The term “treatment services”, subject to section 1931, means treatment for substance use disorders.

**SEC. 1935. [300x-35] FUNDING.**

(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subpart, subpart III and section 505(d) with respect to substance use disorders, and section 515(d), there are authorized to be appropriated \$1,908,079,000 for each of fiscal years 2023 through 2027.

(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE, NATIONAL DATA BASE, DATA COLLECTION, AND PROGRAM EVALUATIONS.—

(1) IN GENERAL.—

(A) For the purpose of carrying out section 1948(a) with respect to substance use disorders, section 515(d), and the purposes specified in subparagraphs (B) and (C), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) each fiscal year.

(B) The purpose specified in this subparagraph is carrying out sections 505(d) and 1971 with respect to substance use disorders.

(C) The purpose specified in this subparagraph is the conduct of evaluations of authorized activities to determine methods for improving the availability and quality of such activities.

(2) ACTIVITIES OF CENTER FOR SUBSTANCE ABUSE PREVENTION.—Of the amounts reserved under paragraph (1) for a fis-

cal year, the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall obligate 20 percent for carrying out paragraph (1)(C), section 1948(a) with respect to prevention activities, and section 515(d).

(3) CORE DATA SET.—A State that receives a new grant, contract, or cooperative agreement from amounts available to the Secretary under paragraph (1), for the purposes of improving the data collection, analysis and reporting capabilities of the State, shall be required, as a condition of receipt of funds, to collect, analyze, and report to the Secretary for each fiscal year subsequent to receiving such funds a core data set to be determined by the Secretary in conjunction with the States.

### Subpart III—General Provisions

#### SEC. 1941. [300x-51] OPPORTUNITY FOR PUBLIC COMMENT ON STATE PLANS.

A funding agreement for a grant under section 1911 or 1921 is that the State involved will make the plan required in section 1912, and the plan required in section 1932, respectively, public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the plan (including any revisions) and after the submission of the plan to the Secretary.

#### SEC. 1942. [300x-52] REQUIREMENT OF REPORTS AND AUDITS BY STATES.

(a) REPORT.—A funding agreement for a grant under section 1911 or 1921 is that the State involved will submit to the Secretary a report in such form and containing such information as the Secretary determines (after consultation with the States) to be necessary for securing a record and a description of—

(1) the purposes for which the grant received by the State for the preceding fiscal year under the program involved were expended and a description of the activities of the State under the program;

(2) the recipients of amounts provided in the grant; and

(3) the amount provided to each recipient in the previous fiscal year.

(b) AUDITS.—A funding agreement for a grant under section 1911 or 1921 is that the State will, with respect to the grant, comply with chapter 75 of title 31, United States Code.

(c) AVAILABILITY TO PUBLIC.—A funding agreement for a grant under section 1911 or 1921 is that the State involved will—

(1) make copies of the reports and audits described in this section available for public inspection within the State; and

(2) provide copies of the report under subsection (a), upon request, to any interested person (including any public agency).

#### SEC. 1943. [300x-53] ADDITIONAL REQUIREMENTS.

(a) IN GENERAL.—A funding agreement for a grant under section 1911 or 1921 is that the State involved will—

(1)(A) for the fiscal year for which the grant involved is provided, provide for independent peer review to assess the quality, appropriateness, and efficacy of treatment services

provided in the State to individuals under the program involved; and

(B) ensure that, in the conduct of such peer review, not fewer than 5 percent of the entities providing services in the State under such program are reviewed (which 5 percent is representative of the total population of such entities);

(2) permit and cooperate with Federal investigations undertaken in accordance with section 1945; and

(3) provide to the Secretary any data required by the Secretary pursuant to subsections (c) and (d) of section 505 and will cooperate with the Secretary in the development of uniform criteria for the collection of data pursuant to such section.

(b) **PATIENT RECORDS.**—The Secretary may make a grant under section 1911 or 1921 only if the State involved has in effect a system to protect from inappropriate disclosure patient records maintained by the State in connection with an activity funded under the program involved or by any entity which is receiving amounts from the grant.

**SEC. 1944. [300x-54] DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.**

(a) **IN GENERAL.**—Amounts described in subsection (b) and available for a fiscal year pursuant to section 1911 or 1921, as the case may be, shall be allotted by the Secretary and paid to the States receiving a grant under the program involved, other than any State referred to in subsection (b) with respect to such program. Such amounts shall be allotted in a manner equivalent to the manner in which the allotment under the program involved was determined.

(b) **SPECIFICATION OF AMOUNTS.**—The amounts referred to in subsection (a) are any amounts that—

(1) are not paid to States under the program involved as a result of—

(A) the failure of any State to submit an application in accordance with the program;

(B) the failure of any State to prepare such application in compliance with the program; or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State under the program;

(2) are terminated, repaid, or offset under section 1945;

(3) in the case of the program established in section 1911, are available as a result of reductions in allotments under such section pursuant to section 1912(d) or 1915(b); or

(4) in the case of the program established in section 1921, are available as a result of reductions in allotments under such section pursuant to section 1926 or 1930.

**SEC. 1945. [300x-55] FAILURE TO COMPLY WITH AGREEMENTS.**

(a) **SUSPENSION OR TERMINATION OF PAYMENTS.**—Subject to subsection (e), if the Secretary determines that a State has materially failed to comply with the agreements or other conditions required for the receipt of a grant under the program involved, the Secretary may in whole or in part suspend payments under the grant, terminate the grant for cause, or employ such other rem-

edies (including the remedies provided for in subsections (b) and (c)) as may be legally available and appropriate in the circumstances involved.

(b) REPAYMENT OF PAYMENTS.—

(1) IN GENERAL.—Subject to subsection (e), the Secretary may require a State to repay with interest any payments received by the State under section 1911 or 1921 that the Secretary determines were not expended by the State in accordance with the agreements required under the program involved.

(2) OFFSET AGAINST PAYMENTS.—If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under the program involved.

(c) WITHHOLDING OF PAYMENTS.—

(1) IN GENERAL.—Subject to subsections (e) and (g)(3), the Secretary may withhold payments due under section 1911 or 1921 if the Secretary determines that the State involved is not expending amounts received under the program involved in accordance with the agreements required under the program.

(2) TERMINATION OF WITHHOLDING.—The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under the program involved in accordance with the agreements required under the program.

(d) APPLICABILITY OF REMEDIES TO CERTAIN VIOLATIONS.—

(1) IN GENERAL.—With respect to agreements or other conditions for receiving a grant under the program involved, in the case of the failure of a State to maintain material compliance with a condition referred to in paragraph (2), the provisions for noncompliance with the condition that are provided in the section establishing the condition shall apply in lieu of subsections (a) through (c) of this section.

(2) RELEVANT CONDITIONS.—For purposes of paragraph (1):

(A) In the case of the program established in section 1911, a condition referred to in this paragraph is the condition established in section 1912(d) and the condition established in section 1915(b).

(B) In the case of the program established in section 1921, a condition referred to in this paragraph is the condition established in section 1926 and the condition established in section 1930.

(e) OPPORTUNITY FOR HEARING.—Before taking action against a State under any of subsections (a) through (c) (or under a section referred to in subsection (d)(2), as the case may be), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing.

(f) REQUIREMENT OF HEARING IN CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—If the Secretary receives a complaint that a State has failed to maintain material compliance with the agreements or other conditions required for receiving a grant under the program involved (including any condition referred to for purposes of subsection (d)), and there appears to be rea-

sonable evidence to support the complaint, the Secretary shall promptly conduct a hearing with respect to the complaint.

(2) FINDING OF MATERIAL NONCOMPLIANCE.—If in a hearing under paragraph (1) the Secretary finds that the State involved has failed to maintain material compliance with the agreement or other condition involved, the Secretary shall take such action under this section as may be appropriate to ensure that material compliance is so maintained, or such action as may be required in a section referred to in subsection (d)(2), as the case may be.

(g) CERTAIN INVESTIGATIONS.—

(1) REQUIREMENT REGARDING SECRETARY.—The Secretary shall in fiscal year 1994 and each subsequent fiscal year conduct in not less than 10 States investigations of the expenditure of grants received by the States under section 1911 or 1921 in order to evaluate compliance with the agreements required under the program involved.

(2) PROVISION OF RECORDS ETC. UPON REQUEST.—Each State receiving a grant under section 1911 or 1921, and each entity receiving funds from the grant, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(3) LIMITATIONS ON AUTHORITY.—The Secretary may not institute proceedings under subsection (c) unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program. Any such investigation shall be conducted within the State by qualified investigators.

**SEC. 1946. [300x-56] PROHIBITIONS REGARDING RECEIPT OF FUNDS.**

(a) ESTABLISHMENT.—

(1) CERTAIN FALSE STATEMENTS AND REPRESENTATIONS.—A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from a grant made to the State under section 1911 or 1921.

(2) CONCEALING OR FAILING TO DISCLOSE CERTAIN EVENTS.—A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under section 1911 or 1921 shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such amount is due.

(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates any prohibition established in subsection (a) shall for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.



**SEC. 1947. [300x-57] NONDISCRIMINATION.****(a) IN GENERAL.—**

(1) **RULE OF CONSTRUCTION REGARDING CERTAIN CIVIL RIGHTS LAWS.**—For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under section 1911 or 1921 shall be considered to be programs and activities receiving Federal financial assistance.

(2) **PROHIBITION.**—No person shall on the ground of sex (including, in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under section 1911 or 1921.

**(b) ENFORCEMENT.—**

(1) **REFERRALS TO ATTORNEY GENERAL AFTER NOTICE.**—Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 1911 or 1921, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted;

(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964, as may be applicable; or

(C) take such other actions as may be authorized by law.

(2) **AUTHORITY OF ATTORNEY GENERAL.**—When a matter is referred to the Attorney General pursuant to paragraph (1)(A), or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.

**SEC. 1948. [300x-58] TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.**

(a) **TECHNICAL ASSISTANCE.**—The Secretary shall, without charge to a State receiving a grant under section 1911 or 1921, provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to the program involved. The Secretary may provide such technical assistance directly, through contract, or through grants.

(b) **PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.**—

(1) **IN GENERAL.**—Upon the request of a State receiving a grant under section 1911 or 1921, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out the program involved and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) **CORRESPONDING REDUCTION IN PAYMENTS.**—With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

**SEC. 1949. <sup>11</sup> [300x-59] PLANS FOR PERFORMANCE PARTNERSHIPS.**

(a) **DEVELOPMENT.**—The Secretary in conjunction with States and other interested groups shall develop separate plans for the programs authorized under subparts I and II for creating more flexibility for States and accountability based on outcome and other performance measures. The plans shall each include—

(1) a description of the flexibility that would be given to the States under the plan;

(2) the common set of performance measures that would be used for accountability, including measures that would be used for the program under subpart II for pregnant addicts, HIV transmission, tuberculosis, and those with a co-occurring substance use disorders and mental disorders, and for programs under subpart I for children with serious emotional disturbance and adults with serious mental illness and for individuals with co-occurring mental health and substance use disorders;

(3) the definitions for the data elements to be used under the plan;

(4) the obstacles to implementation of the plan and the manner in which such obstacles would be resolved;

(5) the resources needed to implement the performance partnerships under the plan; and

<sup>11</sup>Section 1949 appears according to the probable intent of the Congress. Section 3403(a) of Public Law 106-310 (114 Stat. 1219) provides that the section “is amended as follows.”. No amendatory instructions were then given, but a substitute text was provided. The amendment probably should have instructed that section 1949 “is amended to read as follows.”.

(6) an implementation strategy complete with recommendations for any necessary legislation.

(b) SUBMISSION.—Not later than 2 years after the date of the enactment of this Act<sup>12</sup>, the plans developed under subsection (a) shall be submitted to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Commerce of the House of Representatives.

(c) INFORMATION.—As the elements of the plans described in subsection (a) are developed, States are encouraged to provide information to the Secretary on a voluntary basis.

(d) PARTICIPANTS.—The Secretary shall include among those interested groups that participate in the development of the plan consumers of mental health or substance use disorders services, providers, representatives of political divisions of States, and representatives of racial and ethnic groups including Native Americans.

**SEC. 1950. [300x-60] RULE OF CONSTRUCTION REGARDING DELEGATION OF AUTHORITY TO STATES.**

With respect to States receiving grants under section 1911 or 1921, this part may not be construed to authorize the Secretary to delegate to the States the primary responsibility for interpreting the governing provisions of this part.

**SEC. 1951. [300x-61] SOLICITATION OF VIEWS OF CERTAIN ENTITIES.**

In carrying out this part, the Secretary, as appropriate, shall solicit the views of the States and other appropriate entities.

**SEC. 1952.<sup>13</sup> [300x-62] AVAILABILITY TO STATES OF GRANT PAYMENTS.**

Any amounts paid to a State for a fiscal year under section 1911 or 1921 shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid.

**SEC. 1953. [300x-63] CONTINUATION OF CERTAIN PROGRAMS.**

(a) IN GENERAL.—Of the amount allotted to the State of Hawaii under section 1911, and the amount allotted to such State under section 1921, an amount equal to the proportion of Native Hawaiians residing in the State to the total population of the State shall be available, respectively, for carrying out the program involved for Native Hawaiians.

(b) EXPENDITURE OF AMOUNTS.—The amount made available under subsection (a) may be expended only through contracts entered into by the State of Hawaii with public and private nonprofit organizations to enable such organizations to plan, conduct, and administer comprehensive substance use disorder and treatment programs for the benefit of Native Hawaiians. In entering into contracts under this section, the State of Hawaii shall give preference

<sup>12</sup>The probable intent of the Congress was that the reference to “this Act” be a reference to the Children’s Health Act of 2000 (Public Law 106–310), which provided a substitute text for section 1949 (see footnote 1), including subsection (b) above. That Act was enacted October 17, 2000. (A reference to “this Act” is a reference to the Public Health Service Act, which was enacted July 1, 1944.)

<sup>13</sup>Section 1952 appears according to the probable intent of the Congress. Section 3403(b) of Public Law 106–310 (114 Stat. 1220) provides that the section “is amended as follows.” No amendatory instructions were then given, but a substitute text was provided. The amendment probably should have instructed that section 1952 “is amended to read as follows.”

to Native Hawaiian organizations and Native Hawaiian health centers.

(c) DEFINITIONS.—For the purposes of this subsection<sup>14</sup>, the terms “Native Hawaiian”, “Native Hawaiian organization”, and “Native Hawaiian health center” have the meaning given such terms in section 2308 of subtitle D of title II of the Anti-Drug Abuse Act of 1988.

**SEC. 1954. [300x-64] DEFINITIONS.**

(a) DEFINITIONS FOR SUBPART III.—For purposes of this subpart:

(1) The term “program involved” means the program of grants established in section 1911 or 1921, or both, as indicated by whether the State involved is receiving or is applying to receive a grant under section 1911 or 1921, or both.

(2)(A) The term “funding agreement”, with respect to a grant under section 1911, has the meaning given such term in section 1919.

(B) The term “funding agreement”, with respect to a grant under section 1921, has the meaning given such term in section 1934.

(b) DEFINITIONS FOR PART B.—For purposes of this part:

(1) The term “Comptroller General” means the Comptroller General of the United States.

(2) The term “State”, except as provided in sections 1918(c)(5) and 1933(c)(5), means each of the several States, the District of Columbia, and each of the territories of the United States.

(3) The term “territories of the United States” means each of the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Palau, the Marshall Islands, and Micronesia.

(4) The term “interim services”, in the case of an individual in need of treatment for substance use disorders who has been denied admission to a program of such treatment on the basis of the lack of the capacity of the program to admit the individual, means services for reducing the adverse health effects of such disorders, for promoting the health of the individual, and for reducing the risk of transmission of disease, which services are provided until the individual is admitted to such a program.

**SEC. 1955. [300x-65] SERVICES PROVIDED BY NONGOVERNMENTAL ORGANIZATIONS.<sup>15</sup>**

(a) PURPOSES.—The purposes of this section are—

(1) to prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide substance

<sup>14</sup>So in law. See section 203 of Public Law 102-321 (106 Stat. 409). Probably should be “section”.

<sup>15</sup>Part G of title V of this Act (the second part G; see page 677) also relates to religious organizations as providers of substance abuse services. That part was added by section 144 of the Community Renewal Tax Relief Act of 2000 (as enacted into law by section 1(a)(7) of Public Law 106-554; 114 Stat. 2763A-619). Section 1955 above was added by section 3305 of Public Law 106-310 (114 Stat. 1212).

abuse services under this title and title V, and the receipt of services under such titles; and

(2) to allow the organizations to accept the funds to provide the services to the individuals without impairing the religious character of the organizations or the religious freedom of the individuals.

(b) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS.—

(1) IN GENERAL.—A State may administer and provide substance abuse services under any program under this title or title V through grants, contracts, or cooperative agreements to provide assistance to beneficiaries under such titles with nongovernmental organizations.

(2) REQUIREMENT.—A State that elects to utilize nongovernmental organizations as provided for under paragraph (1) shall consider, on the same basis as other nongovernmental organizations, religious organizations to provide services under substance abuse programs under this title or title V, so long as the programs under such titles are implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution. Neither the Federal Government nor a State or local government receiving funds under such programs shall discriminate against an organization that provides services under, or applies to provide services under, such programs, on the basis that the organization has a religious character.

(c) RELIGIOUS CHARACTER AND INDEPENDENCE.—

(1) IN GENERAL.—A religious organization that provides services under any substance abuse program under this title or title V shall retain its independence from Federal, State, and local governments, including such organization's control over the definition, development, practice, and expression of its religious beliefs.

(2) ADDITIONAL SAFEGUARDS.—Neither the Federal Government nor a State or local government shall require a religious organization—

(A) to alter its form of internal governance; or

(B) to remove religious art, icons, scripture, or other symbols,

in order to be eligible to provide services under any substance abuse program under this title or title V.

(d) EMPLOYMENT PRACTICES.—

(1) SUBSTANCE ABUSE.—A religious organization that provides services under any substance abuse program under this title or title V may require that its employees providing services under such program adhere to rules forbidding the use of drugs or alcohol.

(2) TITLE VII EXEMPTION.—The exemption of a religious organization provided under section 702 or 703(e)(2) of the Civil Rights Act of 1964 (42 U.S.C. 2000e–1, 2000e–2(e)(2)) regarding employment practices shall not be affected by the religious organization's provision of services under, or receipt of funds from, any substance abuse program under this title or title V.

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE.—

(1) IN GENERAL.—If an individual described in paragraph (3) has an objection to the religious character of the organization from which the individual receives, or would receive, services funded under any substance abuse program under this title or title V, the appropriate Federal, State, or local governmental entity shall provide to such individual (if otherwise eligible for such services) within a reasonable period of time after the date of such objection, services that—

(A) are from an alternative provider that is accessible to the individual; and

(B) have a value that is not less than the value of the services that the individual would have received from such organization.

(2) NOTICE.—The appropriate Federal, State, or local governmental entity shall ensure that notice is provided to individuals described in paragraph (3) of the rights of such individuals under this section.

(3) INDIVIDUAL DESCRIBED.—An individual described in this paragraph is an individual who receives or applies for services under any substance abuse program under this title or title V.

(f) NONDISCRIMINATION AGAINST BENEFICIARIES.—A religious organization providing services through a grant, contract, or cooperative agreement under any substance abuse program under this title or title V shall not discriminate, in carrying out such program, against an individual described in subsection (e)(3) on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to actively participate in a religious practice.

(g) FISCAL ACCOUNTABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), any religious organization providing services under any substance abuse program under this title or title V shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program.

(2) LIMITED AUDIT.—Such organization shall segregate government funds provided under such substance abuse program into a separate account. Only the government funds shall be subject to audit by the government.

(h) COMPLIANCE.—Any party that seeks to enforce such party's rights under this section may assert a civil action for injunctive relief exclusively in an appropriate Federal or State court against the entity, agency or official that allegedly commits such violation.

(i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES.—No funds provided through a grant or contract to a religious organization to provide services under any substance abuse program under this title or title V shall be expended for sectarian worship, instruction, or proselytization.

(j) EFFECT ON STATE AND LOCAL FUNDS.—If a State or local government contributes State or local funds to carry out any substance abuse program under this title or title V, the State or local government may segregate the State or local funds from the Federal funds provided to carry out the program or may commingle the State or local funds with the Federal funds. If the State or local

government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same manner, and to the same extent, as the provisions apply to the Federal funds.

(k) **TREATMENT OF INTERMEDIATE CONTRACTORS.**—If a non-governmental organization (referred to in this subsection as an “intermediate organization”), acting under a contract or other agreement with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide services under any substance abuse program under this title or title V, the intermediate organization shall have the same duties under this section as the government but shall retain all other rights of a nongovernmental organization under this section.

**SEC. 1956. [300x-66] SERVICES FOR INDIVIDUALS WITH CO-OCCURRING DISORDERS.**

States may use funds available for treatment under sections 1911 and 1921 to treat persons with co-occurring substance use disorders and mental disorders as long as funds available under such sections are used for the purposes for which they were authorized by law and can be tracked for accounting purposes.

**SEC. 1957. [300x-67] PUBLIC HEALTH EMERGENCIES.**

In the case of a public health emergency (as determined under section 319), the Secretary, on a State by State basis, may, as the circumstances of the emergency reasonably require and for the period of the emergency, grant an extension, or waive application deadlines or compliance with any other requirement, of a grant authorized under section 521, 1911, or 1921 or an allotment authorized under Public Law 99–319 (42 U.S.C. 10801 et seq.).

**SEC. 1958. [300x-68] JOINT APPLICATIONS.**

The Secretary, acting through the Assistant Secretary for Mental Health and Substance Use, shall permit a joint application to be submitted for grants under subpart I and subpart II upon the request of a State. Such application may be jointly reviewed and approved by the Secretary with respect to such subparts, consistent with the purposes and authorized activities of each such grant program. A State submitting such a joint application shall otherwise meet the requirements with respect to each such subpart.

## **PART C—CERTAIN PROGRAMS REGARDING MENTAL HEALTH AND SUBSTANCE USE**

### **Subpart I—Data Infrastructure Development**

**SEC. 1971. [300y] DATA INFRASTRUCTURE DEVELOPMENT.**

(a) **IN GENERAL.**—The Secretary may make grants to, and enter into contracts or cooperative agreements with States for the purpose of developing and operating mental health or substance use data collection, analysis, and reporting systems with regard to performance measures including capacity, process, and outcomes measures.

(b) **PROJECTS.**—The Secretary shall establish criteria to ensure that services will be available under this section to States that have a fundamental basis for the collection, analysis, and reporting of mental health and substance use performance measures and States that do not have such basis. The Secretary will establish criteria for determining whether a State has a fundamental basis for the collection, analysis, and reporting of data.

(c) **CONDITION OF RECEIPT OF FUNDS.**—As a condition of the receipt of an award under this section a State shall agree to collect, analyze, and report to the Secretary within 2 years of the date of the award on a core set of performance measures to be determined by the Secretary in conjunction with the States.

(d) **MATCHING REQUIREMENT.**—

(1) **IN GENERAL.**—With respect to the costs of the program to be carried out under subsection (a) by a State, the Secretary may make an award under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that is not less than 50 percent of such costs.

(2) **DETERMINATION OF AMOUNT CONTRIBUTED.**—Non-Federal contributions under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such contributions.

(e) **DURATION OF SUPPORT.**—The period during which payments may be made for a project under subsection (a) may be not less than 3 years nor more than 5 years.

(f) **AUTHORIZATION OF APPROPRIATION.**—

(1) **IN GENERAL.**—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001, 2002 and 2003.

(2) **ALLOCATION.**—Of the amounts appropriated under paragraph (1) for a fiscal year, 50 percent shall be expended to support data infrastructure development for mental health and 50 percent shall be expended to support data infrastructure development for substance use.

## **Subpart II—Interim Maintenance Treatment of Narcotics Dependence**

### **SEC. 1976. [300y–11] INTERIM MAINTENANCE TREATMENT.**

(a) **REQUIREMENT REGARDING SECRETARY.**—Subject to the following subsections of this section, for the purpose of reducing the incidence of the transmission of HIV disease pursuant to the intravenous use of heroin or other morphine-like drugs, the Secretary, in establishing conditions for the use of methadone in public or nonprofit private programs of treatment for dependence on such drugs, shall authorize such programs—



(1) to dispense methadone for treatment purposes to individuals who—

(A) meet the conditions for admission to such programs that dispense methadone as part of comprehensive treatment for such dependence; and

(B) are seeking admission to such programs that so dispense methadone, but as a result of the limited capacity of the programs, will not gain such admission until 14 or more days after seeking admission to the programs; and

(2) in dispensing methadone to such individuals, to provide only minimum ancillary services during the period in which the individuals are waiting for admission to programs of comprehensive treatment.

(b) INAPPLICABILITY OF REQUIREMENT IN CERTAIN CIRCUMSTANCES.—

(1) IN GENERAL.—The requirement established in subsection (a) for the Secretary does not apply if any or all of the following conditions are met:

(A) The preponderance of scientific research indicates that the risk of the transmission of HIV disease pursuant to the intravenous use of drugs is minimal.

(B) The preponderance of scientific research indicates that the medically supervised dispensing of methadone is not an effective method of reducing the extent of dependence on heroin and other morphine-like drugs.

(C) The preponderance of available data indicates that, of treatment programs that dispense methadone as part of comprehensive treatment, a substantial majority admit all individuals seeking services to the programs not later than 14 days after the individuals seek admission to the programs.

(2) EVALUATION BY SECRETARY.—In evaluating whether any or all of the conditions described in paragraph (1) have been met, the Secretary shall consult with the National Commission on Acquired Immune Deficiency Syndrome.

(c) CONDITIONS FOR OBTAINING AUTHORIZATION FROM SECRETARY.—

(1) IN GENERAL.—In carrying out the requirement established in subsection (a), the Secretary shall, after consultation with the National Commission on Acquired Immune Deficiency Syndrome, by regulation issue such conditions for treatment programs to obtain authorization from the Secretary to provide interim maintenance treatment as may be necessary to carry out the purpose described in such subsection. Such conditions shall include conditions for preventing the unauthorized use of methadone.

(2) COUNSELING ON HIV DISEASE.—The regulations issued under paragraph (1) shall provide that an authorization described in such paragraph may not be issued to a treatment program unless the program provides to recipients of the treatment counseling on preventing exposure to and the transmission of HIV disease.

(3) PERMISSION OF RELEVANT STATE AS CONDITION OF AUTHORIZATION.—The regulations issued under paragraph (1)

shall provide that the Secretary may not provide an authorization described in such paragraph to any treatment program in a State unless the chief public health officer of the State has certified to the Secretary that—

(A) such officer does not object to the provision of such authorizations to treatment programs in the State; and

(B) the provision of interim maintenance services in the State will not reduce the capacity of comprehensive treatment programs in the State to admit individuals to the programs (relative to the date on which such officer so certifies).

(4) DATE CERTAIN FOR ISSUANCE OF REGULATIONS; FAILURE OF SECRETARY.—The Secretary shall issue the final rule for purposes of the regulations required in paragraph (1), and such rule shall be effective, not later than the expiration of the 180-day period beginning on the date of the enactment of the ADAMHA Reorganization Act<sup>16</sup>. If the Secretary fails to meet the requirement of the preceding sentence, the proposed rule issued on March 2, 1989, with respect to part 291 of title 21, Code of Federal Regulations (docket numbered 88N–0444; 54 Fed. Reg. 8973 et seq.) is deemed to take effect as a final rule upon the expiration of such period, and the provisions of paragraph (3) of this subsection are deemed to be incorporated into such rule.

(d) DEFINITIONS.—For purposes of this section:

(1) The term “interim maintenance services” means the provision of methadone in a treatment program under the circumstances described in paragraphs (1) and (2) of subsection (a).

(2) The term “HIV disease” means infection with the etiologic agent for acquired immune deficiency syndrome.

(3) The term “treatment program” means a public or non-profit private program of treatment for dependence on heroin or other morphine-like drugs.

<sup>16</sup> Enacted July 10, 1992.