

**§ 10807. Legal actions**

(a) Prior to instituting any legal action in a Federal or State court on behalf of a<sup>1</sup> individual with mental illness, an eligible system, or a State agency or nonprofit organization which entered into a contract with an eligible system under section 10804(a) of this title, shall exhaust in a timely manner all administrative remedies where appropriate. If, in pursuing administrative remedies, the system, agency, or organization determines that any matter with respect to such individual will not be resolved within a reasonable time, the system, agency, or organization may pursue alternative remedies, including the initiation of a legal action.

(b) Subsection (a) does not apply to any legal action instituted to prevent or eliminate imminent serious harm to a<sup>1</sup> individual with mental illness.

(Pub. L. 99-319, title I, §107, May 23, 1986, 100 Stat. 482; Pub. L. 102-173, §10(1), Nov. 27, 1991, 105 Stat. 1219.)

**Editorial Notes**

## AMENDMENTS

1991—Pub. L. 102-173 substituted “individual with mental illness” for “mentally ill individual” in subsecs. (a) and (b).

## PART B—ADMINISTRATIVE PROVISIONS

**§ 10821. Applications****(a) Submission for allotment; contents**

No allotment may be made under this subchapter to an eligible system unless an application therefor is submitted to the Secretary. Each such application shall contain—

(1) assurances that amounts paid to such system from an allotment under this subchapter will be used to supplement and not to supplant the level of non-Federal funds available in the State in which such system is established to protect and advocate the rights of individuals with mental illness;

(2) assurances that such system will have a staff which is trained or being trained to provide advocacy services to individuals with mental illness and to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members;

(3) assurances that such system, and any State agency or nonprofit organization with which such system may enter into a contract under section 10804(a) of this title, will not, in the case of any individual who has a legal guardian, conservator, or representative other than the State, take actions which are duplicative of actions taken on behalf of such individual by such guardian, conservator, or representative unless such guardian, conservator, or representative requests the assistance of such system; and

(4) such other information as the Secretary may by regulation prescribe.

<sup>1</sup> So in original. Probably should be “an”.

**(b) Satisfaction of requirements regarding trained staff**

The assurance required under subsection (a)(2) regarding trained staff may be satisfied through the provision of training by individuals who have received or are receiving mental health services and family members of such individuals.

**(c) Duration of applications and assurances**

Applications submitted under this section shall remain in effect for a 4-year period, and the assurances required under this section shall be for the same 4-year period.

(Pub. L. 99-319, title I, §111, May 23, 1986, 100 Stat. 482; Pub. L. 100-509, §7(d), Oct. 20, 1988, 102 Stat. 2545; Pub. L. 102-173, §§7, 10(2), Nov. 27, 1991, 105 Stat. 1218, 1219; Pub. L. 102-321, title I, §163(c)(3)(A), July 10, 1992, 106 Stat. 377.)

**Editorial Notes**

## AMENDMENTS

1992—Subsec. (c). Pub. L. 102-321 substituted “4-year” for “3-year” in two places.

1991—Subsec. (a)(1). Pub. L. 102-173, §10(2), substituted “individuals with mental illness” for “mentally ill individuals”.

Subsec. (a)(2). Pub. L. 102-173, §§7(1), 10(2), substituted “individuals with mental illness” for “mentally ill individuals” and inserted before semicolon at end “and to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members”.

Subsecs. (b), (c). Pub. L. 102-173, §7(2), (3) added subsec. (b) and redesignated former subsec. (b) as (c).

1988—Pub. L. 100-509 designated existing provisions as subsec. (a) and added subsec. (b).

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102-321, set out as a note under section 236 of this title.

**§ 10822. Allotment formula and reallotments**

(a)(1)(A) Except as provided in paragraph (2) and subject to the availability of appropriations under section 10827 of this title, the Secretary shall make allotments under section 10803 of this title from amounts appropriated under section 10827 of this title for a fiscal year to eligible systems on the basis of a formula prescribed by the Secretary which is based equally—

(i) on the population of each State in which there is an eligible system; and

(ii) on the population of each such State weighted by its relative per capita income.

(B) For purposes of subparagraph (A)(ii), the term “relative per capita income” means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the Virgin Islands, the quotient shall be considered to be one.