

of Pub. L. 101-509, set out in a note under section 5376 of Title 5.

EXPENDITURES OR OBLIGATIONS OF HEALTH CARE FACILITIES PROVIDING HEALTH CARE SERVICES PRIOR TO DECEMBER 18, 1970; LIMITATIONS ON FEDERAL PARTICIPATION

Pub. L. 92-603, title II, §221(d), Oct. 30, 1972, 86 Stat. 1389, provided that: "In the case of a health care facility providing health care services as of December 18, 1970, which on such date is committed to a formal plan of expansion or replacement, the amendments made by the preceding provisions of this section [enacting this section and amending sections 705, 706, 709, 1395x, 1396a, and 1396b of this title] shall not apply with respect to such expenditures as may be made or obligations incurred for capital items included in such plan where preliminary expenditures toward the plan of expansion or replacement (including payments for studies, surveys, designs, plans, working drawings, specifications, and site acquisition, essential to the acquisition, improvement, expansion, or replacement of the health care facility or equipment concerned) of \$100,000 or more, had been made during the three-year period ended December 17, 1970."

§ 1320a-1a. Transferred

Editorial Notes

CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title XI, §1123, as added Oct. 31, 1994, Pub. L. 103-432, title II, §203(a), 108 Stat. 4454, which related to reviews of child and family services programs, and of foster care and adoption assistance programs, for conformity with State plan requirements, was renumbered section 1123A of act Aug. 14, 1935, by Pub. L. 104-193, title V, §504, Aug. 22, 1996, 110 Stat. 2278, and was transferred to section 1320a-2a of this title.

§ 1320a-2. Effect of failure to carry out State plan

In an action brought to enforce a provision of this chapter, such provision is not to be deemed unenforceable because of its inclusion in a section of this chapter requiring a State plan or specifying the required contents of a State plan. This section is not intended to limit or expand the grounds for determining the availability of private actions to enforce State plan requirements other than by overturning any such grounds applied in *Suter v. Artist M.*, 112 S. Ct. 1360 (1992), but not applied in prior Supreme Court decisions respecting such enforceability; provided, however, that this section is not intended to alter the holding in *Suter v. Artist M.* that section 671(a)(15) of this title is not enforceable in a private right of action.

(Aug. 14, 1935, ch. 531, title XI, §1123, as added Pub. L. 103-382, title V, §555(a), Oct. 20, 1994, 108 Stat. 4057.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1320a-2, act Aug. 14, 1935, ch. 531, title XI, §1123, as added Oct. 30, 1972, Pub. L. 92-603, title II, §241, 86 Stat. 1418; amended Dec. 5, 1980, Pub. L. 96-499, title IX, §911, 94 Stat. 2619; Sept. 3, 1982, Pub. L. 97-248, title I, §126, 96 Stat. 366; Apr. 7, 1986, Pub. L. 99-272, title IX, §9303(b)(4), 100 Stat. 189, related to qualifications for health care personnel, prior to repeal by Pub. L. 100-360, title IV, §430(a), as added Pub. L. 100-485, title VI, §608(b), (g)(1), Oct. 13, 1988, 102 Stat. 2412, 2424, effective as if included in the enactment of Pub. L. 100-360.

Another section 1123 of act Aug. 14, 1935, was renumbered section 1123A, and is classified to section 1320a-2a of this title.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Pub. L. 103-382, title V, §555(b), Oct. 20, 1994, 108 Stat. 4058, provided that: "The amendment made by subsection (a) [enacting this section] shall apply to actions pending on the date of the enactment of this Act [Oct. 20, 1994] and to actions brought on or after such date of enactment."

§ 1320a-2a. Reviews of child and family services programs, and of foster care and adoption assistance programs, for conformity with State plan requirements

(a) In general

The Secretary, in consultation with the State agencies administering the State programs under parts B and E of subchapter IV, shall promulgate regulations for the review of such programs to determine whether such programs are in substantial conformity with—

- (1) State plan requirements under such parts B and E,
- (2) implementing regulations promulgated by the Secretary, and
- (3) the relevant approved State plans.

(b) Elements of review system

The regulations referred to in subsection (a) shall—

- (1) specify the timetable for conformity reviews of State programs, including—
 - (A) an initial review of each State program;
 - (B) a timely review of a State program following a review in which such program was found not to be in substantial conformity; and
 - (C) less frequent reviews of State programs which have been found to be in substantial conformity, but such regulations shall permit the Secretary to reinstate more frequent reviews based on information which indicates that a State program may not be in conformity;

(2) specify the requirements subject to review (which shall include determining whether the State program is in conformity with the requirement of section 671(a)(27) of this title), and the criteria to be used to measure conformity with such requirements and to determine whether there is a substantial failure to so conform;

(3) specify the method to be used to determine the amount of any Federal matching funds to be withheld (subject to paragraph (4)) due to the State program's failure to so conform, which ensures that—

(A) such funds will not be withheld with respect to a program, unless it is determined that the program fails substantially to so conform;

(B) such funds will not be withheld for a failure to so conform resulting from the State's reliance upon and correct use of formal written statements of Federal law or policy provided to the State by the Secretary; and