

“(i) an amount determined in accordance with subparagraph (B); and
 “(ii) an amount determined in accordance with subparagraph (C).

“(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—

“(i) an amount equal to 75 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

“(ii) a percentage equal to the quotient of—

“(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control on the applicable date described in section 300ff-11(a) of this title; divided by

“(II) the sum of the cumulative number of such cases in all eligible areas for which an application for a grant under paragraph (1) has been approved.

“(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—

“(i) an amount equal to 25 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

“(ii) a percentage developed by the Secretary through consideration of the ratio of—

“(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

“(II) the per capita incidence of such cumulative cases in all eligible areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such areas).”

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, that the provisions of this section as in effect on Sept. 30, 2009, be revived, and that amendment by sections 3(a), 5(a), 6(b), 7(a), and 8(a)(1), (b)(1)(A), (2)(A), (C), (c)(1) of Pub. L. 111-87 be applicable to this section as so revived and effective as if enacted on Sept. 30, 2009, see section 2(a)(2), (3) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by sections 3(b)(2), (3), 4, 6(c)(1)(B), and 12(c)(2) of Pub. L. 104-146 effective Oct. 1, 1996, and amendment by section 6(c)(1)(A) of Pub. L. 104-146 effective May 20, 1996, see section 13 of Pub. L. 104-146, set out as a note under section 300ff-11 of this title.

§ 300ff-14. Use of amounts

(a) Requirements

The Secretary may not make a grant under section 300ff-11(a) of this title to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 300ff-12(b)(4)(C) of this title, by the HIV health services planning council that serves such eligible area;

(2) funds provided under section 300ff-11 of this title will be expended only for—

(A) core medical services described in subsection (c);

(B) support services described in subsection (d); and

(C) administrative expenses described in subsection (h); and

(3) the use of such funds will comply with the requirements of this section.

(b) Direct financial assistance to appropriate entities

(1) In general

The chief elected official of an eligible area shall use amounts from a grant under section 300ff-11 of this title to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

(2) Appropriate entities

Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

(c) Required funding for core medical services

(1) In general

With respect to a grant under section 300ff-11 of this title for an eligible area for a grant year, the chief elected official of the area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5)(B)(i) of subsection (h), use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this subchapter (including services regarding the co-occurring conditions of the individuals).

(2) Waiver

(A) In general

The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

(i) there are no waiting lists for AIDS Drug Assistance Program services under section 300ff-26 of this title; and

(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this subchapter.

(B) Notification of waiver status

When informing the chief elected official of an eligible area that a grant under section 300ff-11 of this title is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such year.

(3) Core medical services

For purposes of this subsection, the term “core medical services”, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual), means the following services:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 300ff-26 of this title.

- (C) AIDS pharmaceutical assistance.
- (D) Oral health care.
- (E) Early intervention services described in subsection (e).
- (F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 300ff-25 of this title.
- (G) Home health care.
- (H) Medical nutrition therapy.
- (I) Hospice services.
- (J) Home and community-based health services as defined under section 300ff-24(c) of this title.
- (K) Mental health services.
- (L) Substance abuse outpatient care.
- (M) Medical case management, including treatment adherence services.

(d) Support services

(1) In general

For purposes of this section, the term “support services” means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

(2) Medical outcomes

In this subsection, the term “medical outcomes” means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

(e) Early intervention services

(1) In general

For purposes of this section, the term “early intervention services” means HIV/AIDS early intervention services described in section 300ff-51(e) of this title, with follow-up referral provided for the purpose of facilitating the access of individuals receiving the services to HIV-related health services. The entities through which such services may be provided under the grant include public health departments, emergency rooms, substance abuse and mental health treatment programs, detoxification centers, detention facilities, clinics regarding sexually transmitted diseases, homeless shelters, HIV/AIDS counseling and testing sites, health care points of entry specified by eligible areas, federally qualified health centers, and entities described in section 300ff-52(a) of this title that constitute a point of access to services by maintaining referral relationships.

(2) Conditions

With respect to an entity that proposes to provide early intervention services under paragraph (1), such paragraph shall apply only if the entity demonstrates to the satisfaction of the chief elected official for the eligible area involved that—

- (A) Federal, State, or local funds are otherwise inadequate for the early intervention services the entity proposes to provide; and
- (B) the entity will expend funds pursuant to such paragraph to supplement and not

supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

(f) Priority for women, infants, children, and youth

(1) In general

For the purpose of providing health and support services to infants, children, youth, and women with HIV/AIDS, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall for each of such populations in the eligible area use, from the grants made for the area under section 300ff-11(a) of this title for a fiscal year, not less than the percentage constituted by the ratio of the population involved (infants, children, youth, or women in such area) with HIV/AIDS to the general population in such area of individuals with HIV/AIDS.

(2) Waiver

With respect to the population involved, the Secretary may provide to the chief elected official of an eligible area a waiver of the requirement of paragraph (1) if such official demonstrates to the satisfaction of the Secretary that the population is receiving HIV-related health services through the State Medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], the State children’s health insurance program under title XXI of such Act [42 U.S.C. 1397aa et seq.], or other Federal or State programs.

(g) Requirement of status as Medicaid provider

(1) Provision of service

Subject to paragraph (2), the Secretary may not make a grant under section 300ff-11(a) of this title for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State—

(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver

(A) In general

In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement

available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) Determination

A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(h) Administration

(1) Limitation

The chief elected official of an eligible area shall not use in excess of 10 percent of amounts received under a grant under this subpart for administrative expenses.

(2) Allocations by chief elected official

In the case of entities and subcontractors to which the chief elected official of an eligible area allocates amounts received by the official under a grant under this subpart, the official shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).

(3) Administrative activities

For purposes of paragraph (1), amounts may be used for administrative activities that include—

(A) routine grant administration and monitoring activities, including the development of applications for part A funds, the receipt and disbursal of program funds, the development and establishment of reimbursement and accounting systems, the development of a clinical quality management program as described in paragraph (5), the preparation of routine programmatic and financial reports, and compliance with grant conditions and audit requirements; and

(B) all activities associated with the grantee's contract award procedures, including the activities carried out by the HIV health services planning council as established under section 300ff-12(b) of this title, the development of requests for proposals, contract proposal review activities, negotiation and awarding of contracts, monitoring of contracts through telephone consultation, written documentation or onsite visits, reporting on contracts, and funding reallocation activities.

(4) Subcontractor administrative activities

For the purposes of this subsection, subcontractor administrative activities include—

(A) usual and recognized overhead activities, including established indirect rates for agencies;

(B) management oversight of specific programs funded under this subchapter; and

(C) other types of program support such as quality assurance, quality control, and related activities.

(5) Clinical quality management

(A) Requirement

The chief elected official of an eligible area that receives a grant under this subpart shall provide for the establishment of a clinical quality management program to assess the extent to which HIV health services provided to patients under the grant are consistent with the most recent Public Health Service guidelines for the treatment of HIV/AIDS and related opportunistic infection, and as applicable, to develop strategies for ensuring that such services are consistent with the guidelines for improvement in the access to and quality of HIV health services.

(B) Use of funds

(i) In general

From amounts received under a grant awarded under this subpart for a fiscal year, the chief elected official of an eligible area may use for activities associated with the clinical quality management program required in subparagraph (A) not to exceed the lesser of—

- (I) 5 percent of amounts received under the grant; or
- (II) \$3,000,000.

(ii) Relation to limitation on administrative expenses

The costs of a clinical quality management program under subparagraph (A) may not be considered administrative expenses for purposes of the limitation established in paragraph (1).

(i) Construction

A chief elected official may not use amounts received under a grant awarded under this subpart to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(July 1, 1944, ch. 373, title XXVI, §2604, as added Pub. L. 101-381, title I, §101(3), Aug. 18, 1990, 104 Stat. 580; amended Pub. L. 103-446, title XII, §1203(a)(3), Nov. 2, 1994, 108 Stat. 4689; Pub. L. 104-146, §3(b)(4), May 20, 1996, 110 Stat. 1351; Pub. L. 106-345, title I, §121, Oct. 20, 2000, 114 Stat. 1326; Pub. L. 109-415, title I, §§105, 107(b), title VII, §703, Dec. 19, 2006, 120 Stat. 2776, 2783, 2820; Pub. L. 111-87, §2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (f)(2) and (g)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XIX and XXI of the Act are classified generally to subchapters XIX (§1396 et seq.) and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 2604 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238c of this title.

AMENDMENTS

2009—Pub. L. 111-87 repealed Pub. L. 109-415, §703, and revived the provisions of this section as in effect on

Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009 Amendment; Revival of Section note below.

2006—Pub. L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, §2(a)(1), effective Sept. 30, 2009.

Pub. L. 109-415, §105, amended section generally. Prior to amendment, section related to requirements for allocation of funds, purposes for use of amounts, quality management program, expenditures for personnel, status of grantee as medicaid provider, administrative activities and expenses, and prohibited uses of amounts.

Subsecs. (h)(1), (2), (5)(A), (i). Pub. L. 109-415, §107(b), substituted “this subpart” for “this part”.

2000—Subsec. (b)(1). Pub. L. 106-345, §121(a)(1), substituted “HIV-related services, as follows:” for “HIV-related—” in introductory provisions.

Subsec. (b)(1)(A). Pub. L. 106-345, §121(a)(2), substituted “Outpatient and ambulatory health services, including substance abuse treatment,” for “outpatient and ambulatory health and support services, including case management, substance abuse treatment and” and substituted a period for “; and” at end.

Subsec. (b)(1)(B). Pub. L. 106-345, §121(a)(4), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 106-345, §121(a)(3), redesignated subpar. (B) as (C) and substituted “Inpatient” for “inpatient”.

Subsec. (b)(1)(D). Pub. L. 106-345, §121(a)(5), added subpar. (D).

Subsec. (b)(3). Pub. L. 106-345, §121(b)(2), added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 106-345, §121(b)(1), (c), redesignated par. (3) as (4) and amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “For the purpose of providing health and support services to infants, children, and women with HIV disease, including treatment measures to prevent the perinatal transmission of HIV, the chief elected official of an eligible area, in accordance with the established priorities of the planning council, shall use, from the grants made for the area under section 300ff-11(a) of this title for a fiscal year, not less than the percentage constituted by the ratio of the population in such area of infants, children, and women with acquired immune deficiency syndrome to the general population in such area of individuals with such syndrome.”

Subsecs. (c) to (g). Pub. L. 106-345, §121(d), added subsec. (c) and redesignated former subsecs. (c) to (f) as (d) to (g), respectively.

1996—Subsec. (b)(1)(A). Pub. L. 104-146, §3(b)(4)(A), inserted “, substance abuse treatment and mental health treatment,” after “case management” and “which shall include treatment education and prophylactic treatment for opportunistic infections,” after “treatment services.”

Subsec. (b)(2)(A). Pub. L. 104-146, §3(b)(4)(B), inserted “, or private for-profit entities if such entities are the only available provider of quality HIV care in the area,” after “nonprofit private entities,” and substituted “homeless health centers, substance abuse treatment programs, and mental health programs” for “and homeless health centers”.

Subsec. (b)(3). Pub. L. 104-146, §3(b)(4)(C), added par. (3).

Subsec. (e). Pub. L. 104-146, §3(b)(4)(C), struck out “and planning” after “Administration” in heading, designated existing provisions as par. (1), inserted par. heading, struck out “accounting, reporting, and program oversight functions” after “for administration,” inserted at end “In the case of entities and subcontractors to which such officer allocates amounts received by the officer under the grant, the officer shall ensure that, of the aggregate amount so allocated, the total of the expenditures by such entities for administrative expenses does not exceed 10 percent (without regard to whether particular entities expend more than 10 percent for such expenses).”, and added pars. (2) and (3).

1994—Subsec. (b)(2)(A). Pub. L. 103-446 substituted “Department of Veterans Affairs facilities” for “Veterans Administration facilities”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, and that the provisions of this section as in effect on Sept. 30, 2009, be revived, see section 2(a)(2), (3)(A) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-146 effective Oct. 1, 1996, see section 13 of Pub. L. 104-146, set out as a note under section 300ff-11 of this title.

§ 300ff-15. Application

(a) In general

To be eligible to receive a grant under section 300ff-11 of this title, an eligible area shall prepare and submit to the Secretary an application, in accordance with subsection (c) regarding a single application and grant award, at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure—

(1)(A) that funds received under a grant awarded under this subpart will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services as described in section 300ff-14(b)(1) of this title;

(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services as described in section 300ff-14(b)(1) of this title at a level that is equal to the level of such expenditures by such political subdivisions for the preceding fiscal year; and

(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this subpart in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 300ff-12 of this title, and has developed or will develop the comprehensive plan in accordance with section 300ff-12(b)(3)(B)¹ of this title;

(3) that entities within the eligible area that receive funds under a grant under this subpart will maintain appropriate relationships with entities in the eligible area served that constitute key points of access to the health care system for individuals with HIV/AIDS (including emergency rooms, substance abuse treatment programs, detoxification centers, adult and juvenile detention facilities, sexually transmitted disease clinics, HIV counseling and testing sites, mental health programs, and homeless shelters), and other entities under section² 300ff-14(b)(3)¹ and 300ff-52(a) of this title, for the purpose of facilitating early intervention for individuals newly diagnosed

¹ See References in Text note below.

² So in original. Probably should be “sections”.