

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 L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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”.

with HIV/AIDS and individuals knowledgeable of their HIV status but not in care;

(4) that the chief elected official of the eligible area will satisfy all requirements under section 300ff-14(c) of this title;

(5) that entities within the eligible area that will receive funds under a grant provided under section 300ff-11(a) of this title shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

(6) that funds received under a grant awarded under this subpart will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service—

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program (except for a program administered by or providing the services of the Indian Health Service); or

(B) by an entity that provides health services on a prepaid basis;

(7) to the maximum extent practicable, that—

(A) HIV health care and support services provided with assistance made available under this subpart will be provided without regard—

(i) to the ability of the individual to pay for such services; and

(ii) to the current or past health condition of the individual to be served;

(B) such services will be provided in a setting that is accessible to low-income individuals with HIV/AIDS; and

(C) a program of outreach will be provided to low-income individuals with HIV/AIDS to inform such individuals of such services;

(8) that the applicant has participated, or will agree to participate, in the statewide coordinated statement of need process where it has been initiated by the State public health agency responsible for administering grants under part B, and ensure that the services provided under the comprehensive plan are consistent with the statewide coordinated statement of need;

(9) that the eligible area has procedures in place to ensure that services provided with funds received under this subpart meet the criteria specified in section 300ff-14(b)(1) of this title; and

(10) that the chief elected official will submit to the lead State agency under section 300ff-27(b)(4) of this title, audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this subpart every 2 years and shall include necessary client-based data to compile unmet need calculations and State-wide coordinated statements of need process.

(b) Application

An eligible area that desires to receive a grant under section 300ff-13(b) of this title 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 the information required under such subsection and information concerning—

(1) the number of individuals to be served within the eligible area with assistance provided under the grant, including the identification of individuals with HIV/AIDS as described in clauses (i) through (iii) of section 300ff-13(b)(2)(A) of this title;

(2) demographic data on the population of such individuals;

(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors;

(4) the aggregate amounts expended for each such category of services;

(5) the manner in which the expected expenditures are related to the planning process for States that receive funding under part B (including the planning process described in section 300ff-27(b) of this title); and

(6) the expected expenditures and how those expenditures will improve overall client outcomes, as described under the State plan under section 300ff-27(b) of this title, and through additional outcomes measures as identified by the HIV health services planning council under section 300ff-12(b) of this title.

(c) Single application and grant award

(1) Application

The Secretary may phase in the use of a single application that meets the requirements of subsections (a) and (b) of section 300ff-13 of this title with respect to an eligible area that desires to receive grants under section 300ff-13 of this title for a fiscal year.

(2) Grant award

The Secretary may phase in the awarding of a single grant to an eligible area that submits an approved application under paragraph (1) for a fiscal year.

(d) Date certain for submission

(1) Requirement

Except as provided in paragraph (2), to be eligible to receive a grant under section 300ff-11(a) of this title for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 300ff-77 of this title for the fiscal year.

(2) Exception

The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

(3) Distribution by Secretary

Not later than 45 days after receiving an application that meets the requirements of subsection (a) from an eligible area, the Secretary shall distribute to such eligible area the

amounts awarded under the grant for which the application was submitted.

(4) Redistribution

Any amounts appropriated in any fiscal year under this subpart and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under section 300ff-11(a) of this title.

(e) Requirements regarding imposition of charges for services

(1) In general

The Secretary may not make a grant under section 300ff-11 of this title to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant—

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider—

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) Assessment of charge

With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this subpart may, in the case of individuals subject to a charge for purposes of such paragraph—

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the

amount of the charge, subject to such provisions.

(3) Applicability of limitation on amount of charge

The Secretary may not make a grant under section 300ff-11 of this title to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) Waiver regarding secondary agreements

The requirements established in paragraphs (1) through (3) shall be waived in accordance with section 300ff-14(d)(2)¹ of this title.

(July 1, 1944, ch. 373, title XXVI, §2605, as added Pub. L. 101-381, title I, §101(3), Aug. 18, 1990, 104 Stat. 582; amended Pub. L. 104-146, §§3(b)(5), 6(c)(2), May 20, 1996, 110 Stat. 1352, 1368; Pub. L. 106-345, title I, §122, title V, §503(a)(1), Oct. 20, 2000, 114 Stat. 1329, 1354; Pub. L. 109-415, title I, §§106(c), 107(b), title VII, §§702(3), 703, Dec. 19, 2006, 120 Stat. 2781, 2783, 2820; Pub. L. 111-87, §§2(a)(1), (3)(A), 6(c), Oct. 30, 2009, 123 Stat. 2885, 2892.)

Editorial Notes

REFERENCES IN TEXT

Section 300ff-12(b) of this title, referred to in subsec. (a)(2), was amended by Pub. L. 104-146, §3(b)(1)(D), May 20, 1996, 110 Stat. 1348, to redesignate pars. (2) and (3) as (3) and (4), respectively. As so redesignated, par. (3)(B) relates to consideration regarding designation of councils and par. (4)(B) relates to development of a comprehensive plan.

Section 300ff-14 of this title, referred to in subsecs. (a)(3) and (e)(4), was amended generally by Pub. L. 109-415, title I, §105, Dec. 19, 2006, 120 Stat. 2776, and as so amended, it does not contain a subsec. (b)(3) and subsec. (d)(2) does not relate to waivers. Provisions similar to those in former subsecs. (b)(3) and (d)(2) are contained in subsecs. (e) and (g)(2), respectively.

PRIOR PROVISIONS

A prior section 2605 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238d of this title.

AMENDMENTS

2009—Pub. L. 111-87, §2(a)(1), (3)(A), 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.

Subsec. (b)(1). Pub. L. 111-87, §6(c), inserted “, including the identification of individuals with HIV/AIDS as described in clauses (i) through (iii) of section 300ff-13(b)(2)(A) of this title” before semicolon.

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, §107(b), substituted “this subpart” for “this part” wherever appearing.

Subsec. (a)(3). Pub. L. 109-415, §702(3), substituted “HIV/AIDS” for “HIV disease” in two places.

Subsec. (a)(6)(A). Pub. L. 109-415, §106(c)(1), inserted “(except for a program administered by or providing the services of the Indian Health Service)” before semicolon.

Subsec. (a)(7)(B), (C). Pub. L. 109-415, §702(3), which directed the substitution of “HIV/AIDS” for “HIV disease”, was executed by making the substitution for “HIV-disease”, to reflect the probable intent of Congress.

Subsec. (a)(10). Pub. L. 109-415, §106(c)(2), added par. (10).

Subsec. (b)(5), (6). Pub. L. 109-415, §106(c)(3), added pars. (5) and (6).

2000—Subsec. (a)(1)(A). Pub. L. 106-345, §122(b)(1)(A), substituted “services as described in section 300ff-14(b)(1) of this title” for “services to individuals with HIV disease”.

Subsec. (a)(1)(B). Pub. L. 106-345, §122(b)(1)(B), substituted “services as described in section 300ff-14(b)(1) of this title” for “services for individuals with HIV disease”.

Subsec. (a)(3) to (8). Pub. L. 106-345, §122(a), added pars. (3) and (4) and redesignated former pars. (3) to (6) as (5) to (8), respectively.

Subsec. (a)(9). Pub. L. 106-345, §122(b)(2)-(4), added par. (9).

Subsec. (d)(1). Pub. L. 106-345, §503(a)(1)(A), made technical amendment to reference in original act which appears in text as reference to section 300ff-77 of this title.

Subsec. (d)(4). Pub. L. 106-345, §503(a)(1)(B), inserted “section” before “300ff-11(a) of this title”.

1996—Subsec. (a). Pub. L. 104-146, §3(b)(5)(A)(i), inserted “, in accordance with subsection (c) regarding a single application and grant award,” after “application” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 104-146, §3(b)(5)(A)(ii), substituted “preceding fiscal year” for “1-year period preceding the first fiscal year for which a grant is received by the eligible area”.

Subsec. (a)(6). Pub. L. 104-146, §3(b)(5)(A)(iii)-(v), added par. (6).

Subsec. (b). Pub. L. 104-146, §3(b)(5)(B), substituted “Application” for “Additional application” in heading and substituted “application, in accordance with subsection (c) regarding a single application and grant award,” for “additional application” in introductory provisions.

Subsec. (c). Pub. L. 104-146, §3(b)(5)(D), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (c)(1). Pub. L. 104-146, §6(c)(2), which directed substitution of “section 300ff-77 of this title” for “section 300ff-18 of this title” in subsec. (c)(1), could not be executed because phrase “section 300ff-18 of this title” did not appear in text of subsec. (c)(1) subsequent to redesignation of subsec. (c) as (d) by Pub. L. 104-146, §3(b)(5)(C). See below.

Subsec. (d). Pub. L. 104-146, §3(b)(5)(C), redesignated subsec. (c) as (d). Former subsec. (d) redesignated (e).

Subsec. (e). Pub. L. 104-146, §3(b)(5)(C), redesignated subsec. (d) as (e).

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 section 6(c) 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 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-16. Technical assistance

The Administrator of the Health Resources and Services Administration shall, beginning on

August 18, 1990, provide technical assistance, including assistance from other grantees, contractors or subcontractors under this subchapter to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and, to assist entities in complying with the requirements of this subpart in order to make such entities eligible to receive a grant under this subpart. The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed \$75,000 for any metropolitan area, projected to be eligible for funding under section 300ff-11 of this title in the following fiscal year. Such grant amounts shall be deducted from the first year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 300ff-77 of this title for grants under this subpart may be used to carry out this section.

(July 1, 1944, ch. 373, title XXVI, §2606, as added Pub. L. 101-381, title I, §101(3), Aug. 18, 1990, 104 Stat. 585; amended Pub. L. 104-146, §3(b)(6), May 20, 1996, 110 Stat. 1353; Pub. L. 109-415, title I, §107(b), title VII, §703, Dec. 19, 2006, 120 Stat. 2783, 2820; Pub. L. 111-87, §2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2606 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238e 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, §107(b), substituted “this subpart” for “this part” wherever appearing.

1996—Pub. L. 104-146 substituted “Administration shall” for “Administration may”, inserted “, including assistance from other grantees, contractors or subcontractors under this subchapter to assist newly eligible metropolitan areas in the establishment of HIV health services planning councils and,” after “technical assistance”, and inserted at end “The Administrator may make planning grants available to metropolitan areas, in an amount not to exceed \$75,000 for any metropolitan area, projected to be eligible for funding under section 300ff-11 of this title in the following fiscal year. Such grant amounts shall be deducted from the first year formula award to eligible areas accepting such grants. Not to exceed 1 percent of the amount appropriated for a fiscal year under section 300ff-77 of this title for grants under this part may be used to carry out this section.”

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.