

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

Pub. L. 109-415, §204(a), substituted “this section” for “this part”.

Pub. L. 109-415, §201(c)(1), struck out subsec. (a) designation and heading before “The Secretary” and struck out subsec. (b) which related to priority for women, infants, and children.

2000—Subsec. (b). Pub. L. 106-345 amended heading and text of subsec. (b) 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, a State shall use, of the funds allocated under this part to the State for a fiscal year, not less than the percentage constituted by the ratio of the population in the State of infants, children, and women with acquired immune deficiency syndrome to the general population in the State of individuals with such syndrome.”

1996—Pub. L. 104-146, §3(c)(1), designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

Subsec. (a). Pub. L. 104-146, §7(b)(2), inserted at end “The authority of the Secretary to provide grants under this part is subject to section 300ff-34(e)(2) of this title (relating to the decrease in perinatal transmission of HIV disease).”

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-22. General use of grants

(a) In general

A State may use amounts provided under grants made under section 300ff-21 of this title for—

- (1) core medical services described in subsection (b);
- (2) support services described in subsection (c); and
- (3) administrative expenses described in section 300ff-28(b)(3) of this title.

(b) Required funding for core medical services

(1) In general

With respect to a grant under section 300ff-21 of this title for a State for a grant year, the State shall, of the portion of the grant remaining after reserving amounts for purposes of subparagraphs (A) and (E)(ii)(I) of section 300ff-28(b)(3) of this title, use not less than 75 percent to provide core medical services that are needed in the State 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 State for

a grant year if the Secretary determines that, within the State—

- (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 a State that a grant under section 300ff-21 of this title is being made to the State for a fiscal year, the Secretary shall inform the State whether a waiver under subparagraph (A) is in effect for the fiscal year.

(3) Core medical services

For purposes of this subsection, the term “core medical services”, with respect to an individual infected 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 (d).
- (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.

(c) Support services

(1) In general

For purposes of this subsection, 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) Definition of medical outcomes

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

(d) 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 ac-

cess 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 States, 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 State 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 subparagraph to supplement and not supplant other funds available to the entity for the provision of early intervention services for the fiscal year involved.

(e) 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, a State 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 a State a waiver of the requirement of paragraph (1) if such State 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.

(f) Construction

A State may not use amounts received under a grant awarded under section 300ff-21 of this title 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, §2612, as added Pub. L. 101-381, title II, §201, Aug. 18, 1990, 104 Stat. 586; amended Pub. L. 104-146, §3(c)(2), May

20, 1996, 110 Stat. 1354; Pub. L. 106-345, title II, §202, title V, §503(b), Oct. 20, 2000, 114 Stat. 1330, 1355; Pub. L. 109-415, title II, §201(a), title VII, §703, Dec. 19, 2006, 120 Stat. 2785, 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 subsec. (e)(2), 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.

CODIFICATION

Another section 3(c)(2) of Pub. L. 104-146 amended section 300ff-23 of this title.

PRIOR PROVISIONS

A prior section 2612 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238k 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; 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, §201(a), reenacted section catchline without change and amended text generally, substituting provisions relating to general use of grants, required funding for core medical services, support and early intervention services, priority for women, infants, children, and youth, and prohibition against use of amounts for real property improvement or to make cash payments, for provisions relating to general use of grants, support services and outreach, early intervention services, and establishment of a quality management program in each State.

2000—Pub. L. 106-345, §202(1), designated existing provisions as subsec. (a) and inserted heading.

Subsec. (a)(1). Pub. L. 106-345, §503(b), made technical amendment to directory language of Pub. L. 104-146, §3(c)(2)(A)(iii). See 1996 Amendment note below.

Subsec. (b) to (d). Pub. L. 106-345, §202(2), added subsecs. (b) to (d).

1996—Pub. L. 104-146, §3(c)(2)(A), as amended by Pub. L. 106-345, §503(b), struck out “(a) In general” before “A State may use amounts”, added par. (1), redesignated former pars. (1) to (4) as (2) to (5), respectively, substituted “therapeutics to treat HIV disease” for “treatments, that have been determined to prolong life or prevent serious deterioration of health,” in par. (5), and inserted after par. (5) “Services described in paragraph (1) shall be delivered through consortia designed as described in paragraph (2), where such consortia exist, unless the State demonstrates to the Secretary that delivery of such services would be more effective when other delivery mechanisms are used. In making a determination regarding the delivery of services, the State shall consult with appropriate representatives of service providers and recipients of services who would be affected by such determination, and shall include in its demonstration to the Secretary the findings of the State regarding such consultation.”

Subsec. (b). Pub. L. 104-146, §3(c)(2)(B), struck out heading and text of subsec. (b). Text read as follows: “A State shall use not less than 15 percent of funds allocated under this part to provide health and support services to infants, children, women, and families with HIV disease.”

Statutory Notes and Related Subsidiaries**EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION**

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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-23. Grants to establish HIV care consortia**(a) Consortia**

A State may, subject to subsection (f), use amounts provided under a grant awarded under section 300ff-21 of this title to provide assistance under section 300ff-22(a) of this title to an entity that—

(1) is an association of one or more public, and one or more nonprofit private,¹ (or private for-profit providers or organizations if such entities are the only available providers of quality HIV care in the area)¹ health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV/AIDS; and

(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV/AIDS, that may include—

(A) essential health services such as case management services, medical, nursing, substance abuse treatment, mental health treatment, and dental care, diagnostics, monitoring, prophylactic treatment for opportunistic infections, treatment education to take place in the context of health care delivery, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for individuals with HIV/AIDS including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this subchapter as a “consortium” or “consortia”.

¹ So in original. The comma probably should follow parenthetical phrase.

(b) Assurances**(1) Requirement**

To receive assistance from a State under subsection (a), an applicant consortium shall provide the State with assurances that—

(A) within any locality in which such consortium is to operate, the populations and subpopulations of individuals and families with HIV/AIDS have been identified by the consortium, particularly those experiencing disparities in access and services and those who reside in historically underserved communities;

(B) the service plan established under subsection (c)(2) by such consortium is consistent with the comprehensive plan under section 300ff-27(b)(4) of this title and addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A).

(2) Exception

Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that—

(A) subpopulations exist within the community to be served that have unique service requirements; and

(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

(c) Application**(1) In general**

To receive assistance from the State under subsection (a), a consortium shall prepare and submit to the State, an application that—

(A) demonstrates that the consortium includes agencies and community-based organizations—

(i) with a record of service to populations and subpopulations with HIV/AIDS requiring care within the community to be served; and

(ii) that are representative of populations and subpopulations reflecting the local incidence of HIV and that are located in areas in which such populations reside;

(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include—

(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

(ii) assurances that, in metropolitan areas, the geographic area to be served by