

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.

§ 300ff-25. Continuum of health insurance coverage**(a) In general**

A State may use amounts received under a grant awarded under section 300ff-21 of this title to establish a program of financial assistance under section 300ff-22(b)(3)(F) of this title to assist eligible low-income individuals with HIV/AIDS in—

- (1) maintaining a continuity of health insurance; or
- (2) receiving medical benefits under a health insurance program, including risk-pools.

(b) Limitations

Assistance shall not be utilized under subsection (a)—

- (1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and
- (2) to pay any amount expended by a State under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

(July 1, 1944, ch. 373, title XXVI, § 2615, as added Pub. L. 101-381, title II, § 201, Aug. 18, 1990, 104 Stat. 590; amended Pub. L. 109-415, title II, §§ 201(c)(3), 204(a), title VII, §§ 702(3), 703, Dec. 19, 2006, 120 Stat. 2788, 2796, 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. (b)(2), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XIX of the Social Security Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

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 L. 111-87 repealed Pub.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 L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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.

Subsec. (a). Pub. L. 109-415, §§ 201(c)(3), 204(a), 702(3), in introductory provisions, substituted “HIV/AIDS” for “HIV disease”, “section 300ff-21 of this title” for “this part”, and “section 300ff-22(b)(3)(F) of this title” for “section 300ff-22(a)(3) of this title”.

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§ 300ff-26. Provision of treatments**(a) In general**

A State shall use a portion of the amounts provided under a grant awarded under section 300ff-21 of this title to establish a program under section 300ff-22(b)(3)(B) of this title to provide therapeutics to treat HIV/AIDS or prevent the serious deterioration of health arising from HIV/AIDS in eligible individuals, including measures for the prevention and treatment of opportunistic infections.

(b) Eligible individual

To be eligible to receive assistance from a State under this section an individual shall—

- (1) have a medical diagnosis of HIV/AIDS; and
- (2) be a low-income individual, as defined by the State.

(c) State duties

In carrying out this section the State shall—

- (1) ensure that the therapeutics included on the list of classes of core antiretroviral therapeutics established by the Secretary under subsection (e) are, at a minimum, the treatments provided by the State pursuant to this section;
- (2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;
- (3) provide outreach to individuals with HIV/AIDS, and as appropriate to the families of such individuals;
- (4) facilitate access to treatments for such individuals;
- (5) document the progress made in making therapeutics described in subsection (a) available to individuals eligible for assistance under this section; and
- (6) encourage, support, and enhance adherence to and compliance with treatment regimens, including related medical monitoring.

Of the amount reserved by a State for a fiscal year for use under this section, the State may not use more than 5 percent to carry out services under paragraph (6), except that the percentage applicable with respect to such paragraph is 10 percent if the State demonstrates to the Secretary that such additional services are essential and in no way diminish access to the therapeutics described in subsection (a).

(d) Duties of Secretary

In carrying out this section, the Secretary shall review the current status of State drug reimbursement programs established under section 300ff-22(2)¹ of this title and assess barriers to the expanded availability of the treatments described in subsection (a). The Secretary shall also examine the extent to which States coordinate with other grantees under this subchapter

¹ See References in Text note below.

to reduce barriers to the expanded availability of the treatments described in subsection (a).

(e) List of classes of core antiretroviral therapeutics

For purposes of subsection (c)(1), the Secretary shall develop and maintain a list of classes of core antiretroviral therapeutics, which list shall be based on the therapeutics included in the guidelines of the Secretary known as the Clinical Practice Guidelines for Use of HIV/AIDS Drugs, relating to drugs needed to manage symptoms associated with HIV. The preceding sentence does not affect the authority of the Secretary to modify such Guidelines.

(f) Use of health insurance and plans

(1) In general

In carrying out subsection (a), a State may expend a grant under section 300ff-21 of this title to provide the therapeutics described in such subsection by paying on behalf of individuals with HIV/AIDS the costs of purchasing or maintaining health insurance or plans whose coverage includes a full range of such therapeutics and appropriate primary care services.

(2) Limitation

The authority established in paragraph (1) applies only to the extent that, for the fiscal year involved, the costs of the health insurance or plans to be purchased or maintained under such paragraph do not exceed the costs of otherwise providing therapeutics described in subsection (a).

(g) Drug rebate program

A State shall ensure that any drug rebates received on drugs purchased from funds provided pursuant to this section are applied to activities supported under this subpart, with priority given to activities described under this section.

(July 1, 1944, ch. 373, title XXVI, § 2616, as added Pub. L. 101-381, title II, § 201, Aug. 18, 1990, 104 Stat. 590; amended Pub. L. 104-146, § 3(c)(3), May 20, 1996, 110 Stat. 1355; Pub. L. 106-345, title II, § 204, Oct. 20, 2000, 114 Stat. 1332; Pub. L. 109-415, title II, §§ 201(c)(4), 202, 204(a), title VII, §§ 702(3), 703, Dec. 19, 2006, 120 Stat. 2788, 2796, 2820; Pub. L. 111-87, § 2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

Editorial Notes

REFERENCES IN TEXT

Section 300ff-22 of this title, referred to in subsec. (d), was amended generally by Pub. L. 109-415, title II, § 201(a), Dec. 19, 2006, 120 Stat. 2785, and, as so amended, does not contain a par. (2).

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.

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

Pub. L. 109-415, § 204(a), substituted “section 300ff-21 of this title” for “this part”.

Pub. L. 109-415, § 201(c)(4), substituted “section 300ff-22(b)(3)(B) of this title” for “section 300ff-22(a)(5) of this title”.

Subsec. (b)(1). Pub. L. 109-415, § 702(3), substituted “HIV/AIDS” for “HIV disease”.

Subsec. (c)(1). Pub. L. 109-415, § 202(a)(1), added par. (1) and struck out former par. (1) which read as follows: “determine, in accordance with guidelines issued by the Secretary, which treatments are eligible to be included under the program established under this section;”.

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

Subsec. (e). Pub. L. 109-415, § 202(a)(3), added subsec. (e). Former subsec. (e) redesignated (f).

Subsec. (f). Pub. L. 109-415, § 202(a)(2), redesignated subsec. (e) as (f).

Subsec. (f)(1). Pub. L. 109-415, § 702(3), substituted “HIV/AIDS” for “HIV disease”.

Pub. L. 109-415, § 204(a), substituted “section 300ff-21 of this title” for “this part”.

Subsec. (g). Pub. L. 109-415, § 202(b), added subsec. (g). 2000—Subsec. (c). Pub. L. 106-345, § 204(a), added par. (6) and concluding provisions.

Subsec. (e). Pub. L. 106-345, § 204(b), added subsec. (e). 1996—Subsec. (a). Pub. L. 104-146, § 3(c)(3)(A), substituted “shall use a portion of the amounts” for “may use amounts” and “section 300ff-22(a)(5) of this title to provide therapeutics to treat HIV disease” for “section 300ff-22(a)(4) of this title to provide treatments that have been determined to prolong life” and inserted before period “, including measures for the prevention and treatment of opportunistic infections”.

Subsec. (c)(5). Pub. L. 104-146, § 3(c)(3)(B), added par. (5).

Subsec. (d). Pub. L. 104-146, § 3(c)(3)(C), added subsec. (d).

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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-27. State application

(a) In general

The Secretary shall not make a grant to a State under section 300ff-21 of this title for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out section 300ff-21 of this title.

(b) Description of intended uses and agreements

The application submitted under subsection (a) shall contain—

(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV/AIDS during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include—

(A) a description of the types of programs operated or funded by the State for the pro-