

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 L. 111-87 repealed Pub.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).

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-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-

vision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

(C) information concerning—

(i) the number of individuals to be served with assistance provided under the grant;

(ii) demographic data on the population of the individuals to be served;

(iii) 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; and

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

(2) a determination of the size and demographics of the population of individuals with HIV/AIDS in the State;

(3) a determination of the needs of such population, with particular attention to—

(A) individuals with HIV/AIDS who know their HIV status and are not receiving HIV-related services; and

(B) disparities in access and services among affected subpopulations and historically underserved communities;

(4) the designation of a lead State agency that shall—

(A) administer all assistance received under this part;

(B) conduct the needs assessment and prepare the State plan under paragraph (3);

(C) prepare all applications for assistance under this part;

(D) receive notices with respect to programs under this subchapter;

(E) every 2 years, collect and submit to the Secretary all audits, consistent with Office of Management and Budget circular A133, from grantees within the State, including audits regarding funds expended in accordance with this part; and

(F) carry out any other duties determined appropriate by the Secretary to facilitate the coordination of programs under this subchapter.¹

(5) a comprehensive plan that describes the organization and delivery of HIV health care and support services to be funded with assistance received under section 300ff-21 of this title that shall include a description of the purposes for which the State intends to use such assistance, and that—

(A) establishes priorities for the allocation of funds within the State based on—

(i) size and demographics of the population of individuals with HIV/AIDS (as determined under paragraph (2)) and the needs of such population (as determined under paragraph (3));

(ii) availability of other governmental and non-governmental resources, including the State medicaid plan under title XIX of

the Social Security Act [42 U.S.C. 1396 et seq.] and the State Children's Health Insurance Program under title XXI of such Act [42 U.S.C. 1397aa et seq.] to cover health care costs of eligible individuals and families with HIV/AIDS;

(iii) capacity development needs resulting from disparities in the availability of HIV-related services in historically underserved communities and rural communities; and

(iv) the efficiency of the administrative mechanism of the State for rapidly allocating funds to the areas of greatest need within the State;

(B) includes a strategy for identifying individuals who know their HIV status and are not receiving such services and for informing the individuals of and enabling the individuals to utilize the services, giving particular attention to eliminating disparities in access and services among affected subpopulations and historically underserved communities, and including discrete goals, a timetable, and an appropriate allocation of funds;

(C) includes a strategy to coordinate the provision of such services with programs for HIV prevention (including outreach and early intervention) and for the prevention and treatment of substance abuse (including programs that provide comprehensive treatment services for such abuse);

(D) describes the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV/AIDS throughout the State;

(E) provides a description of the manner in which services funded with assistance provided under section 300ff-21 of this title will be coordinated with other available related services for individuals with HIV/AIDS;

(F) provides a description of how the allocation and utilization of resources are consistent with the statewide coordinated statement of need (including traditionally underserved populations and subpopulations) developed in partnership with other grantees in the State that receive funding under this subchapter; and

(G) includes key outcomes to be measured by all entities in the State receiving assistance under this subchapter; and²

(6) an assurance that the public health agency administering the grant for the State will periodically convene a meeting of individuals with HIV/AIDS, members of a Federally recognized Indian tribe as represented in the State, representatives of grantees under each part under this subchapter, providers, and public agency representatives for the purpose of developing a statewide coordinated statement of need;

(7) an assurance by the State that—

(A) the public health agency that is administering the grant for the State engages

¹ So in original. The period probably should be a semicolon.

² So in original. The word "and" probably should not appear.

in a public advisory planning process, including public hearings, that includes the participants under paragraph (6), and the types of entities described in section 300ff-12(b)(2) of this title, in developing the comprehensive plan under paragraph (5) and commenting on the implementation of such plan;

(B) the State will—

(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under section 300ff-21 of this title will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV/AIDS;

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

(iii) provide outreach to low-income individuals with HIV/AIDS to inform such individuals of the services available under section 300ff-21 of this title; and

(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in section 300ff-25 of this title, submit a plan to the Secretary that demonstrates that the State has established a program that assures that—

(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under section 300ff-21 of this title;

(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under section 300ff-21 of this title;

(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under section 300ff-21 of this title;

(F) the State will ensure that grant funds are not 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—

(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(ii) by an entity that provides health services on a prepaid basis (except for a

program administered by or providing the services of the Indian Health Service); and

(G) entities within areas in which activities under the grant are carried out will maintain appropriate relationships with entities in the 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 section³ 300ff-22(c) and 300ff-52(a) of this title, for the purpose of facilitating early intervention for individuals newly diagnosed with HIV/AIDS and individuals knowledgeable of their HIV status but not in care; and

(8) a comprehensive plan—

(A) containing an identification of individuals with HIV/AIDS as described in clauses (i) through (iii) of section 300ff-13(b)(2)(A) of this title and the strategy required under section 300ff-12(b)(4)(D)(iv) of this title;

(B) describing the estimated number of individuals within the State with HIV/AIDS who do not know their status;

(C) describing activities undertaken by the State to find the individuals described in subparagraph (A) and to make such individuals aware of their status;

(D) describing the manner in which the State will provide undiagnosed individuals who are made aware of their status with access to medical treatment for their HIV/AIDS; and

(E) describing efforts to remove legal barriers, including State laws and regulations, to routine testing.

(c) Requirements regarding imposition of charges for services

(1) In general

The Secretary may not make a grant under section 300ff-21 of this title to a State unless the State 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 charges on each such individual for the provision of such services; and

(ii) will impose charges 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

³ So in original. Probably should be "sections".

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 under section 300ff-21 of this title 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 regarding limitation 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-21 of this title unless the applicant of the grant 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

(A) In general

The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement 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 State 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 regarding the provision of services to the public.

(d) Requirement of matching funds regarding State allotments

(1) In general

In the case of any State to which the criterion described in paragraph (3) applies, the

Secretary may not make a grant under section 300ff-21 of this title unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2),⁴ make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than 16⅔ percent of such costs (\$1 for each \$5 of Federal funds provided in the grant);

(B) for any second fiscal year of such payments, not less than 20 percent of such costs (\$1 for each \$4 of Federal funds provided in the grant);

(C) for any third fiscal year of such payments, not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant);

(D) for any fourth fiscal year of such payments, not less than 33⅓ percent of such costs (\$1 for each \$2 of Federal funds provided in the grant); and

(E) for any subsequent fiscal year of such payments, not less than 33⅓ percent of such costs (\$1 for each \$2 of Federal funds provided in the grant).

(2) Determination of amount of non-Federal contribution

(A) In general

Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(B) Inclusion of certain amounts

(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this subchapter;

(ii) In making a determination for purposes of clause (i), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this subchapter (except for the program established in section 300ff-21 of this title) or under other provisions of law.

(3) Applicability of requirement

(A) Number of cases

A State referred to in paragraph (1) is any State for which the number of cases of HIV/AIDS reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the period described in subparagraph (B) constitutes in excess of 1 per-

⁴See References in Text note below.

cent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

(B) Period of time

The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

(C) Puerto Rico

For purposes of paragraph (1), the number of cases of HIV/AIDS reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

(4) Diminished State contribution

With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under section 300ff-21 of this title, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

(July 1, 1944, ch. 373, title XXVI, § 2617, as added Pub. L. 101-381, title II, § 201, Aug. 18, 1990, 104 Stat. 590; amended Pub. L. 102-531, title III, § 312(d)(29), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104-146, §§ 3(c)(4), 12(c)(3), May 20, 1996, 110 Stat. 1355, 1373; Pub. L. 106-345, title II, § 205, Oct. 20, 2000, 114 Stat. 1332; Pub. L. 109-415, title II, § 204(a), (c), (d), title VII, §§ 702(3), 703, Dec. 19, 2006, 120 Stat. 2796, 2797, 2820; Pub. L. 111-87, §§ 2(a)(1), (3)(A), 9, Oct. 30, 2009, 123 Stat. 2885, 2895.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(5)(A)(ii), 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.

Subsection (b)(2), referred to in subsec. (d)(1), was redesignated subsec. (b)(4) by Pub. L. 106-345, title II, § 205(a)(1), Oct. 20, 2000, 114 Stat. 1332, and then subsec. (b)(5) by Pub. L. 109-415, title II, § 204(c)(2), Dec. 19, 2006, 120 Stat. 2796.

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)(8). Pub. L. 111-87, § 9, added par. (8).

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, § 204(a), substituted “section 300ff-21 of this title” for “this part” wherever appearing in subsecs. (a), (b), (c)(2), and (d).

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

Subsec. (b)(4). Pub. L. 109-415, § 204(c)(1)(B), added par. (4). Former par. (4) redesignated (5).

Subsec. (b)(5). Pub. L. 109-415, § 204(c)(1)(A), redesignated par. (4) as (5). Former par. (5) redesignated (6).

Subsec. (b)(5)(G). Pub. L. 109-415, § 204(c)(1)(C), added subpar. (G).

Subsec. (b)(6). Pub. L. 109-415, § 204(c)(2), inserted “members of a Federally recognized Indian tribe as represented in the State,” before “representatives of grantees”.

Pub. L. 109-415, § 204(c)(1)(A), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Subsec. (b)(7). Pub. L. 109-415, § 204(c)(1)(A), redesignated par. (6) as (7).

Subsec. (b)(7)(A). Pub. L. 109-415, § 204(c)(1)(D), substituted “paragraph (6)” for “paragraph (5)” and “paragraph (5)” for “paragraph (4)”.

Subsec. (b)(7)(F)(ii). Pub. L. 109-415, § 204(c)(3), inserted “(except for a program administered by or providing the services of the Indian Health Service)” before semicolon.

Subsec. (d)(3)(A), (C). Pub. L. 109-415, § 204(d), substituted “HIV/AIDS” for “acquired immune deficiency syndrome”.

2000—Subsec. (b)(2), (3). Pub. L. 106-345, § 205(a)(2), added pars. (2) and (3). Former pars. (2) and (3) redesignated (4) and (5), respectively.

Subsec. (b)(4). Pub. L. 106-345, § 205(a)(3)(A), (B), in introductory provisions substituted “comprehensive plan that describes the organization” for “comprehensive plan for the organization” and “, and that—” for “, including—”.

Pub. L. 106-345, § 205(a)(1), redesignated par. (2) as (4). Former par. (4) redesignated (6).

Subsec. (b)(4)(A) to (C). Pub. L. 106-345, § 205(a)(3)(D), which directed the amendment of par. (4) by adding subpars. (A) to (C) “before subparagraph (C)”, was executed by adding them before subpar. (D), to reflect the probable intent of Congress. Former subpars. (A) to (C) redesignated (D) to (F), respectively.

Subsec. (b)(4)(D). Pub. L. 106-345, § 205(a)(3)(C), (E), redesignated subpar. (A) as (D) and inserted “describes” before “the services and activities”.

Subsec. (b)(4)(E). Pub. L. 106-345, § 205(a)(3)(C), (F), redesignated subpar. (B) as (E) and inserted “provides” before “a description”.

Subsec. (b)(4)(F). Pub. L. 106-345, § 205(a)(3)(C), (G), redesignated subpar. (C) as (F) and inserted “provides” before “a description”.

Subsec. (b)(5). Pub. L. 106-345, § 205(a)(1), (b)(1), redesignated par. (3) as (5) and substituted “HIV disease” for “HIV”.

Subsec. (b)(6). Pub. L. 106-345, § 205(a)(1), redesignated par. (4) as (6).

Subsec. (b)(6)(A). Pub. L. 106-345, § 205(b)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part:”.

Subsec. (b)(6)(G). Pub. L. 106-345, § 205(c), added subpar. (G).

1996—Subsec. (b)(2)(C). Pub. L. 104-146, § 3(c)(4)(A), added subpar. (C).

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

Subsec. (b)(4). Pub. L. 104-146, § 3(c)(4)(B), redesignated par. (3) as (4).

Subsec. (b)(4)(B)(iv). Pub. L. 104-146, § 12(c)(3), which directed amendment of par. (3)(B)(iv) by inserting “section” before “300ff-25”, was executed by making the amendment in par. (4)(B)(iv) to reflect the probable intent of Congress and the redesignation of par. (3) as (4) by Pub. L. 104-146, § 3(c)(4)(B). See above.

1992—Subsec. (d)(3)(A). Pub. L. 102-531 substituted “Centers for Disease Control and Prevention” for “Centers for Disease Control”.

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 9 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-27a. Spousal notification

(a) In general

The Secretary of Health and Human Services shall not make a grant under part B of title XXVI of the Public Health Service Act (42 U.S.C. 300ff-21 et seq.) to any State unless such State takes administrative or legislative action to require that a good faith effort be made to notify a spouse of a known HIV-infected patient that such spouse may have been exposed to the human immunodeficiency virus and should seek testing.

(b) Definitions

For purposes of this section:

(1) Spouse

The term “spouse” means any individual who is the marriage partner of an HIV-infected patient, or who has been the marriage partner of that patient at any time within the 10-year period prior to the diagnosis of HIV infection.

(2) HIV-infected patient

The term “HIV-infected patient” means any individual who has been diagnosed to be infected with the human immunodeficiency virus.

(3) State

The term “State” means any of the 50 States, the District of Columbia, or any territory of the United States.

(Pub. L. 104-146, §8, May 20, 1996, 110 Stat. 1372.)

Editorial Notes

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (a), is act July 1, 1944, ch. 373, 58 Stat. 682. Part B of title XXVI of the Act is classified generally to this part. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

CODIFICATION

Section was enacted as part of the Ryan White CARE Act Amendments of 1996, and not as part of the Public Health Service Act which comprises this chapter.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

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

§ 300ff-28. Distribution of funds

(a) Amount of grant to State

(1) Minimum allotment

Subject to the extent of amounts made available under section 300ff-31b of this title,

the amount of a grant to be made under section 300ff-21 of this title for—

(A) each of the 50 States, the District of Columbia, Guam, and the Virgin Islands (referred to in this paragraph as a “covered State”) for a fiscal year shall be the greater of—

(i)(I) with respect to a covered State that has less than 90 living cases of AIDS, as determined under paragraph (2)(D), \$200,000; or

(II) with respect to a covered State that has 90 or more living cases of AIDS, as determined under paragraph (2)(D), \$500,000; and

(ii) an amount determined under paragraph (2) and then, as applicable, increased under paragraph (2)(H); and

(B) each territory other than Guam and the Virgin Islands shall be the greater of \$50,000 or an amount determined under paragraph (2).

(2) Determination

(A) Formula

For purposes of paragraph (1), the amount referred to in this paragraph for a State (including a territory) for a fiscal year is, subject to subparagraphs (E) and (F)—

(i) an amount equal to the amount made available under section 300ff-31b of this title for the fiscal year involved for grants pursuant to paragraph (1), subject to subparagraph (F); and

(ii) the percentage constituted by the sum of—

(I) the product of 0.75 and the ratio of the State distribution factor for the State or territory (as determined under subsection (B)) to the sum of the respective State distribution factors for all States or territories;

(II) the product of .20 and the ratio of the non-EMA distribution factor for the State or territory (as determined under subparagraph (C)) to the sum of the respective non-EMA distribution factors for all States or territories; and

(III) if the State does not for such fiscal year contain any area that is an eligible area under subpart I of part A or any area that is a transitional area under section 300ff-19 of this title (referred to in this subclause as a “no-EMA State”), the product of 0.05 and the ratio of the number of cases that applies for the State under subparagraph (D) to the sum of the respective numbers of cases that so apply for all no-EMA States.

(B) State distribution factor

For purposes of subparagraph (A)(ii)(I), the term “State distribution factor” means an amount equal to the number of living cases of HIV/AIDS in the State involved, as determined under subparagraph (D).

(C) Non-EMA distribution factor

For purposes of subparagraph (A)(ii)(II), the term “non-ema¹ distribution factor” means an amount equal to the sum of—

¹ So in original. Probably should be “non-EMA”.