

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”.

(i) the number of living cases of HIV/AIDS in the State involved, as determined under subparagraph (D); less

(ii) a number equal to the sum of—

(I) the total number of living cases of HIV/AIDS that are within areas in such State that are eligible areas under subpart I of part A for the fiscal year involved, which individual number for an area is the number that applies under section 300ff-11 of this title for the area for such fiscal year; and

(II) the total number of such cases that are within areas in such State that are transitional areas under section 300ff-19 of this title for such fiscal year, which individual number for an area is the number that applies under such section for the fiscal year.

(D) Living cases of HIV/AIDS

(i) Requirement of names-based reporting

Except as provided in clause (ii), the number determined under this subparagraph for a State for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS in the State that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

(ii) Transition period; exemption regarding non-AIDS cases

For each of the fiscal years 2007 through 2012, a State is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living non-AIDS names-based cases of HIV be reported unless—

(I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State, subject to clause (vii); or

(II) no later than the beginning of fiscal year 2008 or a subsequent fiscal year through fiscal year 2012, the Secretary, after consultation with the chief executive of the State, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

(iii) Requirements for exemption for fiscal year 2007

For fiscal year 2007, an exemption under clause (ii) for a State applies only if, by October 1, 2006—

(I)(aa) the State had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

(bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

(II) the State had agreed that, by April 1, 2008, the State will begin accurate and

reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

(iv) Requirement for exemption as of fiscal year 2008

For each of the fiscal years 2008 through 2012, an exemption under clause (ii) for a State applies only if, as of April 1, 2008, the State is substantially in compliance with the agreement under clause (iii)(II).

(v) Progress toward names-based reporting

For fiscal year 2009 or a subsequent fiscal year, the Secretary may terminate an exemption under clause (ii) for a State if the State submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

(vi) Counting of cases in areas with exemptions

(I) In general

With respect to a State that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as “code-based reporting”), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the State in order to adjust for duplicative reporting in and among systems that use code-based reporting.

(II) Adjustment rate

The adjustment rate under subclause (I) for a State shall be a reduction of 5 percent for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012) in the number of living non-AIDS cases of HIV reported for the State.

(III) Increased adjustment for certain States previously using code-based reporting

For purposes of this subparagraph for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in a State that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if—

(aa) there is an area in such State that satisfies all of the conditions described in items (aa) through (cc) of section 300ff-13(a)(3)(C)(vi)(III) of this title; or

(bb)(AA) fiscal year 2007 was the first year in which the count of living non-AIDS cases of HIV in such area, for purposes of this part, was based on a names-based reporting system; and

(BB) the amount of funding that such State received under this part for fiscal year 2007 was less than 70 percent of the amount of funding that such State received under such part for fiscal year 2006.

(vii) List of States meeting standard regarding December 31, 2005

(I) In general

If a State is specified in subclause (II), the State shall be considered to meet the standard described in clause (ii)(I). No other State may be considered to meet such standard.

(II) Relevant States

For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Nebraska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

(viii) Rules of construction regarding acceptance of reports

(I) Cases of AIDS

With respect to a State that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such noncompliance, accept reports of living cases of AIDS that are in accordance with such clause.

(II) Applicability of exemption requirements

The provisions of clauses (ii) through (vii) may not be construed as having any legal effect for fiscal year 2013 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2012.

(ix) Program for detecting inaccurate or fraudulent counting

The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(x) Future fiscal years

For fiscal years beginning with fiscal year 2013, determinations under this paragraph shall be based only on living names-based cases of HIV/AIDS with respect to the State involved.

(E) Code-based States; limitation on increase in grant

(i) In general

For each of the fiscal years 2007 through 2012, if code-based reporting (within the meaning of subparagraph (D)(vi)) applies in a State as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to para-

graph (1) for the State may not for the fiscal year involved exceed by more than 5 percent the amount of the grant pursuant to this paragraph for the State for the preceding fiscal year, except that the limitation under this clause may not result in a grant pursuant to paragraph (1) for a fiscal year that is less than the minimum amount that applies to the State under such paragraph for such fiscal year.

(ii) Use of amounts involved

For each of the fiscal years 2007 through 2012, amounts available as a result of the limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to section 300ff-29a of this title, subject to subparagraph (H).

(F) Appropriations for treatment drug program

(i) Formula grants

With respect to the fiscal year involved, if under section 300ff-31b of this title an appropriations Act provides an amount exclusively for carrying out section 300ff-26 of this title, the portion of such amount allocated to a State shall be the product of—

(I) 100 percent of such amount, less the percentage reserved under clause (ii)(V); and

(II) the percentage constituted by the ratio of the State distribution factor for the State (as determined under subparagraph (B)) to the sum of the State distribution factors for all States;

which product shall then, as applicable, be increased under subparagraph (H).

(ii) Supplemental treatment drug grants

(I) In general

From amounts made available under subclause (V), the Secretary shall award supplemental grants to States described in subclause (II) to enable such States to purchase and distribute to eligible individuals under section 300ff-26(b) of this title pharmaceutical therapeutics described under subsections (c)(2) and (e) of such section.

(II) Eligible States

For purposes of subclause (I), a State shall be an eligible State if the State did not have unobligated funds subject to reallocation under subsection (d) in the previous fiscal year and, in accordance with criteria established by the Secretary, demonstrates a severe need for a grant under this clause. For purposes of determining severe need, the Secretary shall consider eligibility standards, formula composition, the number of eligible individuals to whom a State is unable to provide therapeutics described in section 300ff-26(a) of this title, and an unanticipated increase of eligible individuals with HIV/AIDS.

(III) State requirements

The Secretary may not make a grant to a State under this clause unless the

State agrees that the State will make available (directly or through donations of public or private entities) non-Federal contributions toward the activities to be carried out under the grant in an amount equal to \$1 for each \$4 of Federal funds provided in the grant, except that the Secretary may waive this subclause if the State has otherwise fully complied with section 300ff-27(d) of this title with respect to the grant year involved. The provisions of this subclause shall apply to States that are not required to comply with such section 300ff-27(d) of this title.

(IV) Use and coordination

Amounts made available under a grant under this clause shall only be used by the State to provide HIV/AIDS-related medications. The State shall coordinate the use of such amounts with the amounts otherwise provided under section 300ff-26(a) of this title in order to maximize drug coverage.

(V) Funding

For the purpose of making grants under this clause, the Secretary shall each fiscal year reserve 5 percent of the amount referred to in clause (i) with respect to section 300ff-26 of this title.

(iii) Code-based States; limitation on increase in formula grant

The limitation under subparagraph (E)(i) applies to grants pursuant to clause (i) of this subparagraph to the same extent and in the same manner as such limitation applies to grants pursuant to paragraph (1), except that the reference to minimum grants does not apply for purposes of this clause. Amounts available as a result of the limitation under the preceding sentence shall be made available by the Secretary as additional amounts for grants under clause (ii) of this subparagraph.

(G) Repealed. Pub. L. 109-415, title II, § 203(b)(2), Dec. 19, 2006, 120 Stat. 2792

(H) Increase in formula grants

(i) Assurance of amount

(I) General rule

For fiscal year 2010, the Secretary shall ensure, subject to clauses (ii) through (iv), that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (F) is not less than 95 percent of such total for the State for fiscal year 2009.

(II) Rule of construction

With respect to the application of subclause (I), the 95 percent requirement under such subclause shall apply with respect to each grant awarded under paragraph (1) and with respect to each grant awarded under subparagraph (F).

(ii) Fiscal years 2011 and 2012

For each of the fiscal years 2011 and 2012, the Secretary shall ensure that the total

for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (F) is not less than 100 percent of such total for the State for fiscal year 2010.

(iii) Fiscal year 2013

For fiscal year 2013, the Secretary shall ensure that the total for a State of the grant pursuant to paragraph (1) and the grant pursuant to subparagraph (F) is not less than 92.5 percent of such total for the State for fiscal year 2012.

(iv) Source of funds for increase

(I) In general

From the amount reserved under section 300ff-31b(b)(2) of this title for a fiscal year, and from amounts available for such section pursuant to subsection (d) of this section, the Secretary shall make available such amounts as may be necessary to comply with clause (i).

(II) Pro rata reduction

If the amounts referred to in subclause (I) for a fiscal year are insufficient to fully comply with clause (i) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to paragraph (1) for the fiscal year, other than grants for States for which increases under clause (i) apply and other than States described in paragraph (1)(A)(i)(I). A reduction under the preceding sentence may not be made in an amount that would result in the State involved becoming eligible for such an increase.

(v) Applicability

This paragraph may not be construed as having any applicability after fiscal year 2013.

(b) Allocation of assistance by States

(1) Allowances

Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A.

(2) Planning and evaluations

Subject to paragraph (4) and except as provided in paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under section 300ff-21 of this title for planning and evaluation activities.

(3) Administration

(A) In general

Subject to paragraph (4), and except as provided in paragraph (5), a State may not use more than 10 percent of amounts received under a grant awarded under section 300ff-21 of this title for administration.

(B) Allocations

In the case of entities and subcontractors to which a State allocates amounts received by the State under a grant under section

300ff-21 of this title, the State 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).

(C) Administrative activities

For the purposes of subparagraph (A), amounts may be used for administrative activities that include routine grant administration and monitoring activities, including a clinical quality management program under subparagraph (E).

(D) Subcontractor administrative costs

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

- (i) usual and recognized overhead, including established indirect rates for agencies;
- (ii) management oversight of specific programs funded under this subchapter; and
- (iii) other types of program support such as quality assurance, quality control, and related activities.

(E) Clinical quality management

(i) Requirement

Each State that receives a grant under section 300ff-21 of this title 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.

(ii) Use of funds

(I) In general

From amounts received under a grant awarded under section 300ff-21 of this title for a fiscal year, a State may use for activities associated with the clinical quality management program required in clause (i) not to exceed the lesser of—

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

(II) Relation to limitation on administrative expenses

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

(4) Limitation on use of funds

Except as provided in paragraph (5), a State may not use more than a total of 15 percent of amounts received under a grant awarded under section 300ff-21 of this title for the purposes described in paragraphs (2) and (3).

(5) Exception

With respect to a State that receives the minimum allotment under subsection (a)(1) for a fiscal year, such State, from the amounts received under a grant awarded under section 300ff-21 of this title for such fiscal year for the activities described in paragraphs (2) and (3), may, notwithstanding paragraphs (2) through (4), use not more than that amount required to support one full-time-equivalent employee.

(6) 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.

(c) Expedited distribution

(1) In general

Not less than 75 percent of the amounts received under a grant awarded to a State under section 300ff-21 of this title shall be obligated to specific programs and projects and made available for expenditure not later than—

(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and

(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

(2) Public comment

Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

(d) Reallocation

Any portion of a grant made to a State under section 300ff-21 of this title for a fiscal year that has not been obligated as described in subsection (c) ceases to be available to the State and shall be made available by the Secretary for grants under section 300ff-29a of this title, in addition to amounts made available for such grants under section 300ff-31b(b)(2) of this title.

(July 1, 1944, ch. 373, title XXVI, § 2618, as added Pub. L. 101-381, title II, § 201, Aug. 18, 1990, 104 Stat. 595; amended Pub. L. 102-531, title III, § 312(d)(30), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104-146, §§ 3(c)(5), (g)(2), 5, 6(c)(3), May 20, 1996, 110 Stat. 1355, 1363, 1365, 1368; Pub. L. 105-392, title IV, § 417, Nov. 13, 1998, 112 Stat. 3591; Pub. L. 106-345, title II, § 206, Oct. 20, 2000, 114 Stat. 1334; Pub. L. 109-415, title II, §§ 203, 204(a), title VII, §§ 702(1), 703, Dec. 19, 2006, 120 Stat. 2789, 2796, 2819, 2820; Pub. L. 111-87, §§ 2(a)(1), (3)(A), 3(b), 5(b), (c)(1), 7(b), 10(b), Oct. 30, 2009, 123 Stat. 2885, 2888, 2890, 2891, 2893, 2895.)

Editorial Notes

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. (a)(2)(A)(i). Pub. L. 111-87, §5(c)(1), substituted “subparagraph (F)” for “subparagraph (G)”.

Subsec. (a)(2)(D)(ii). Pub. L. 111-87, §3(b)(1)(A)(i), substituted “2012” for “2009” in introductory provisions.

Subsec. (a)(2)(D)(ii)(II). Pub. L. 111-87, §3(b)(1)(A)(ii), substituted “or a subsequent fiscal year through fiscal year 2012” for “or 2009”.

Subsec. (a)(2)(D)(iv). Pub. L. 111-87, §3(b)(1)(B), substituted “2012” for “2010”.

Subsec. (a)(2)(D)(v). Pub. L. 111-87, §3(b)(1)(C), inserted “or a subsequent fiscal year” after “2009”.

Subsec. (a)(2)(D)(vi)(II). Pub. L. 111-87, §3(b)(1)(D), inserted “for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012)” after “5 percent”.

Subsec. (a)(2)(D)(vi)(III). Pub. L. 111-87, §7(b), added subcl. (III).

Subsec. (a)(2)(D)(viii)(II). Pub. L. 111-87, §3(b)(1)(E), substituted “2013” for “2010” and “2012” for “2009”.

Subsec. (a)(2)(D)(x). Pub. L. 111-87, §3(b)(1)(F), added cl. (x).

Subsec. (a)(2)(E)(i), (ii). Pub. L. 111-87, §3(b)(2), substituted “2012” for “2009”.

Subsec. (a)(2)(F)(ii)(V). Pub. L. 111-87, §10(b), struck out “, subject to subclause (VI)” before period.

Subsec. (a)(2)(H)(i). Pub. L. 111-87, §5(b)(1), (c)(1), substituted “2010” for “2007” and “2009” for “2006” and substituted “subparagraph (F)” for “subparagraph (G)” in two places.

Subsec. (a)(2)(H)(ii). Pub. L. 111-87, §5(b)(3), (c)(1), in heading, substituted “2011 and 2012” for “2008 and 2009” and, in text, substituted “2011 and 2012” for “2008 and 2009”, “subparagraph (F)” for “subparagraph (G)”, and “2010” for “2007”.

Pub. L. 111-87, §5(b)(2), redesignated cl. (iii) as (ii) and struck out former cl. (ii). Prior to amendment, text read as follows: “For purposes of clause (i) as applied for fiscal year 2007, the references in such clause to subparagraph (G) are deemed to be references to subparagraph (I) as such subparagraph was in effect for fiscal year 2006.”

Subsec. (a)(2)(H)(iii). Pub. L. 111-87, §5(b)(4), added cl. (iii). Former cl. (iii) redesignated (ii).

Subsec. (a)(2)(H)(v). Pub. L. 111-87, §5(b)(5), substituted “2013” for “2009”.

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

Pub. L. 109-415, §203(g)(1), substituted “section 300ff-31b of this title” for “section 300ff-77 of this title” in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 109-415, §203(g)(2)(A), substituted “each of the 50 States, the District of Columbia, Guam, and the Virgin Islands (referred to in this paragraph as a ‘covered State’)” for “each of the several States and the District of Columbia” in introductory provisions.

Subsec. (a)(1)(A)(i)(I). Pub. L. 109-415, §702(1), substituted “AIDS” for “acquired immune deficiency syndrome”.

Pub. L. 109-415, §203(g)(2)(B)(i), substituted “covered State” for “State or District”.

Subsec. (a)(1)(A)(i)(II). Pub. L. 109-415, §702(1), substituted “AIDS” for “acquired immune deficiency syndrome”.

Pub. L. 109-415, §203(g)(2)(B)(ii), substituted “covered State” for “State or District” and inserted “and” at end.

Subsec. (a)(1)(B). Pub. L. 109-415, §203(g)(3), substituted “each territory other than Guam and the Virgin Islands” for “each territory of the United States, as defined in paragraph (3).”

Subsec. (a)(2)(A). Pub. L. 109-415, §203(b)(1)(A), in introductory provisions substituted “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)” for “The amount referred to in paragraph (1)(A)(ii) for a State and para-

graph (1)(B) for a territory of the United States shall be the product of”, added cl. (i), and struck out former cl. (i) which read as follows:

“(i) an amount equal to the amount appropriated under section 300ff-77 of this title for the fiscal year involved for grants under this part, subject to subparagraphs (H) and (I); and”.

Subsec. (a)(2)(A)(ii)(I). Pub. L. 109-415, §203(b)(1)(B)(i), substituted “0.75” for “.80” and struck out “and” at end.

Subsec. (a)(2)(A)(ii)(II). Pub. L. 109-415, §203(b)(1)(B)(ii), inserted “non-EMA” after “respective” and substituted “; and” for period at end.

Subsec. (a)(2)(A)(ii)(III). Pub. L. 109-415, §203(b)(1)(B)(iii), added subcl. (III).

Subsec. (a)(2)(B). Pub. L. 109-415, §203(a)(1)(A), substituted “number of living cases of HIV/AIDS in the State involved” for “estimated number of living cases of acquired immune deficiency syndrome in the eligible area involved”.

Subsec. (a)(2)(C)(i). Pub. L. 109-415, §203(g)(4), struck out “or territory” after “State”.

Pub. L. 109-415, §203(a)(2)(A), substituted “number of living cases of HIV/AIDS” for “estimated number of living cases of acquired immune deficiency syndrome”.

Subsec. (a)(2)(C)(ii). Pub. L. 109-415, §203(a)(2)(B), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the estimated number of living cases of acquired immune deficiency syndrome in such State or territory that are within an eligible area (as determined under part A of this subchapter).”

Subsec. (a)(2)(D). Pub. L. 109-415, §203(a)(1)(B), amended subpar. (D) generally. Prior to amendment, subpar. (D) related to estimating the number of living cases of acquired immune deficiency syndrome in a State or territory.

Subsec. (a)(2)(E). Pub. L. 109-415, §203(b)(3), added subpar. (E).

Pub. L. 109-415, §203(b)(2), struck out heading and text of subpar. (E). Text read as follows: “If under section 300ff-13(a)(3)(D)(i) of this title the Secretary determines that data on cases of HIV disease are not sufficiently accurate and reliable, then notwithstanding subparagraph (D) of this paragraph, for any fiscal year prior to fiscal year 2007 the references in such subparagraph to cases of HIV disease do not have any legal effect.”

Subsec. (a)(2)(F). Pub. L. 109-415, §203(b)(4), redesignated subpar. (I) as (F).

Pub. L. 109-415, §203(b)(2), struck out heading and text of subpar. (F). Text read as follows: “For purposes of subparagraph (D), the cost index for Puerto Rico, the Virgin Islands, and Guam shall be 1.0.”

Subsec. (a)(2)(F)(i). Pub. L. 109-415, §203(c)(1), which directed amendment of subsec. (a)(2)(G)(i) by substituting “section 300ff-31b of this title” for “section 300ff-77 of this title” in introductory provisions, substituting a semicolon for a period at end of subcl. (II), and adding concluding provisions, was executed by making the amendment to subsec. (a)(2)(F)(i), to reflect the probable intent of Congress.

Subsec. (a)(2)(F)(ii). Pub. L. 109-415, §203(c)(2), which directed amendment of subsec. (a)(2)(G)(ii) by adding subcls. (I) to (III), striking out former subcls. (I) to (III), substituting “5 percent” for “3 percent” in subcl. (V), striking out subcl. (VI), and realigning margins, was executed by making the amendments to subsec. (a)(2)(F)(ii), to reflect the probable intent of Congress. Prior to amendment, subcls. (I) to (III) and (VI) related to supplemental grants to States to increase access to therapeutics described in section 300ff-26(a), eligibility for grants, requirements for grants, and reservation of amounts, respectively.

Subsec. (a)(2)(F)(iii). Pub. L. 109-415, §203(c)(3), which directed amendment of subsec. (a)(2)(G) by adding cl. (iii), was executed by making the amendment to subsec. (a)(2)(F), to reflect the probable intent of Congress.

Subsec. (a)(2)(G). Pub. L. 109-415, §203(b)(2), struck out heading and text of subpar. (G). Text read as follows: “The Secretary may, in determining the amount of a grant for a fiscal year under this subsection, adjust

the grant amount to reflect the amount of unexpended and uncanceled grant funds remaining at the end of the fiscal year preceding the year for which the grant determination is to be made. The amount of any such unexpended funds shall be determined using the financial status report of the grantee."

Subsec. (a)(2)(H). Pub. L. 109-415, § 203(d), added subpar. (H).

Pub. L. 109-415, § 203(b)(2), struck out subpar. (H) which related to amount of grants in fiscal years 2001 to 2005.

Subsec. (a)(2)(I). Pub. L. 109-415, § 203(b)(4), redesignated subpar. (I) as (F).

Subsec. (a)(3). Pub. L. 109-415, § 203(g)(5), struck out par. (3), which defined "State" and "territory of the United States" as used in subsec. (a).

Subsec. (b)(1). Pub. L. 109-415, § 203(e)(1), redesignated par. (2) as (1).

Subsec. (b)(2). Pub. L. 109-415, § 204(a), substituted "section 300ff-21 of this title" for "this part".

Pub. L. 109-415, § 203(e)(2), substituted "paragraph (4)" for "paragraph (5)" and "paragraph (5)" for "paragraph (6)".

Pub. L. 109-415, § 203(e)(1), redesignated par. (3) as (2). Former par. (2) redesignated (1).

Subsec. (b)(3). Pub. L. 109-415, § 203(e)(3), added subpars. (B) and (E), redesignated former subpars. (B) and (C) as (C) and (D), respectively, inserted ", including a clinical quality management program under subparagraph (E)" before period at end of subpar. (C), and, in subpar. (A), reenacted heading without change and amended text generally. Prior to amendment, subpar. (A) text read as follows: "Subject to paragraph (5) and except as provided in paragraph (6), a State may not use more than 10 percent of amounts received under a grant awarded under this part for administration. In the case of entities and subcontractors to which the State allocates amounts received by the State under the grant (including consortia under section 300ff-23 of this title), the State 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)."

Pub. L. 109-415, § 203(e)(1), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (b)(4). Pub. L. 109-415, § 204(a), substituted "section 300ff-21 of this title" for "this part".

Pub. L. 109-415, § 203(e)(4), substituted "paragraph (5)" for "paragraph (6)" and "paragraphs (2) and (3)" for "paragraphs (3) and (4)".

Pub. L. 109-415, § 203(e)(1), redesignated par. (5) as (4). Former par. (4) redesignated (3).

Subsec. (b)(5). Pub. L. 109-415, § 204(a), substituted "section 300ff-21 of this title" for "this part".

Pub. L. 109-415, § 203(e)(5), substituted "paragraphs (2) and (3), may, notwithstanding paragraphs (2) through (4)," for "paragraphs (3) and (4), may, notwithstanding paragraphs (3), (4), and (5)."

Pub. L. 109-415, § 203(e)(1), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (b)(6). Pub. L. 109-415, § 204(a), substituted "section 300ff-21 of this title" for "this part".

Pub. L. 109-415, § 203(e)(1), redesignated par. (7) as (6). Former par. (6) redesignated (5).

Subsec. (b)(7). Pub. L. 109-415, § 203(e)(1), redesignated par. (7) as (6).

Subsec. (c)(1). Pub. L. 109-415, § 204(a), substituted "section 300ff-21 of this title" for "this part" in introductory provisions.

Subsec. (d). Pub. L. 109-415, § 203(f), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: "Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) of this section shall be repaid to the Secretary and reallocated to other States in proportion to the original grants made to such States."

2000—Subsec. (a). Pub. L. 106-345, § 206(a)(1), redesignated subsec. (b) as (a).

Subsec. (a)(1)(A)(i). Pub. L. 106-345, § 206(a)(2), substituted "\$200,000" for "\$100,000" in subcl. (I) and "\$500,000" for "\$250,000" in subcl. (II).

Subsec. (a)(1)(A)(ii). Pub. L. 106-345, § 206(c)(1), inserted "and then, as applicable, increased under paragraph (2)(H)" before semicolon.

Subsec. (a)(1)(B). Pub. L. 106-345, § 206(d), inserted "the greater of \$50,000 or" after "shall be".

Subsec. (a)(2)(A)(i). Pub. L. 106-345, § 206(c)(2)(A), substituted "subparagraphs (H) and (I)" for "subparagraph (H)".

Subsec. (a)(2)(D)(i). Pub. L. 106-345, § 206(b)(1), inserted before semicolon ", except that (subject to subparagraph (E)), for grants made pursuant to this paragraph or section 300ff-30 of this title for fiscal year 2005 and subsequent fiscal years, the cases counted for each 12-month period beginning on or after July 1, 2004, shall be cases of HIV disease (as reported to and confirmed by such Director) rather than cases of acquired immune deficiency syndrome".

Subsec. (a)(2)(E) to (G). Pub. L. 106-345, § 206(b)(2), (3), added subpar. (E) and redesignated former subpars. (E) and (F) as (F) and (G), respectively. Former subpar. (G) redesignated (H).

Subsec. (a)(2)(H). Pub. L. 106-345, § 206(c)(2)(B), amended heading and text of subpar. (H) generally. Prior to amendment, text related to limitations on the amount of a grant awarded for fiscal years 1996 to 2000 to a State or territory under this part in relation to the amount received by the State or territory for fiscal year 1995.

Pub. L. 106-345, § 206(b)(2), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Subsec. (a)(2)(I). Pub. L. 106-345, § 206(e), reenacted heading without change, designated existing provisions as cl. (i), inserted cl. (i) heading, redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, in subcl. (I) inserted ", less the percentage reserved under clause (ii)(V)" before semicolon, and added cl. (ii).

Pub. L. 106-345, § 206(b)(2), redesignated subpar. (H) as (I).

Subsec. (a)(3)(B). Pub. L. 106-345, § 206(f), substituted "the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau, and only for purposes of paragraph (1) the Commonwealth of Puerto Rico" for "and the Republic of the Marshall Islands".

Subsecs. (b) to (e). Pub. L. 106-345, § 206(a)(1), redesignated subsecs. (c) to (e) as (b) to (d), respectively.

1998—Subsec. (b)(3)(A). Pub. L. 105-392, § 417(1), substituted ", the Commonwealth of Puerto Rico, the Virgin Islands, and Guam" for "and the Commonwealth of Puerto Rico".

Subsec. (b)(3)(B). Pub. L. 105-392, § 417(2), struck out "the Virgin Islands, Guam" after "means".

1996—Subsec. (a). Pub. L. 104-146, § 3(g)(2), struck out subsec. (a) which related to special projects of national significance.

Subsec. (a)(1). Pub. L. 104-146, § 6(c)(3)(A), which directed amendment of subsec. (a)(1) by substituting "section 300ff-77" for "section 300ff-30", could not be executed because of the repeal of subsec. (a) by Pub. L. 104-146, § 3(g)(2). See above.

Subsec. (b)(1). Pub. L. 104-146, § 6(c)(3)(B), which directed amendment of subsec. (b)(1) by substituting "section 300ff-77 of this title" for "section 300ff-30 of this title", could not be executed because the words "section 300ff-30 of this title" did not appear subsequent to the general amendment of subsec. (b)(1) by Pub. L. 104-146, § 5. See below.

Pub. L. 104-146, § 5, amended heading and text of par. (1) generally. Prior to amendment, text read as follows: "Subject to the extent of amounts made available under section 300ff-30 of this title, the amount of a grant to be made under this part for—

"(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of—

"(i) \$100,000, and

"(ii) an amount determined under paragraph (2);

and

“(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).”

Subsec. (b)(2). Pub. L. 104-146, §5, amended par. (2) generally, substituting subpars. (A) to (H) for former subpars. (A) and (B) relating to determination of amount of allotments.

Subsec. (c)(1). Pub. L. 104-146, §3(c)(5)(A), struck out heading and text of par. (1). Text read as follows: “In a State that has reported 1 percent or more of all AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention in all States, not less than 50 percent of the amount received by the State under a grant awarded under this part shall be utilized for the creation and operation of community-based comprehensive care consortia under section 300ff-23 of this title, in those areas within the State in which the largest number of individuals with HIV disease reside.”

Subsec. (c)(3), (4). Pub. L. 104-146, §3(c)(5)(B), amended pars. (3) and (4) generally. Prior to amendment, pars. (3) and (4) read as follows:

“(3) PLANNING AND EVALUATIONS.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

“(4) ADMINISTRATION.—A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.”

Subsec. (c)(5) to (7). Pub. L. 104-146, §3(c)(5)(C), (D), added pars. (5) and (6) and redesignated former par. (5) as (7).

1992—Subsec. (c)(1). 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 sections 3(b), 5(b), (c)(1), 7(b), and 10(b) 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(c)(5), (g)(2) and 6(c)(3)(A) of Pub. L. 104-146 effective Oct. 1, 1996, and amendment by sections 5 and 6(c)(3)(B) 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-29. Technical assistance

The Secretary shall provide technical assistance in administering and coordinating the activities authorized under section 300ff-22 of this title, including technical assistance for the development and implementation of statewide coordinated statements of need.

(July 1, 1944, ch. 373, title XXVI, §2619, as added Pub. L. 101-381, title II, §201, Aug. 18, 1990, 104 Stat. 597; amended Pub. L. 104-146, §3(c)(6), May 20, 1996, 110 Stat. 1356; Pub. L. 109-415, title VII, §703, Dec. 19, 2006, 120 Stat. 2820; Pub. L. 111-87, §2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

Editorial Notes

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.

1996—Pub. L. 104-146 substituted “shall” for “may” and inserted “, including technical assistance for the development and implementation of statewide coordinated statements of need” before period at end.

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, 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-29a. Supplemental grants

(a) In general

For the purpose of providing services described in section 300ff-22(a) of this title, the Secretary shall make grants to States—

(1) whose applications under section 300ff-27 of this title have demonstrated the need in the State, on an objective and quantified basis, for supplemental financial assistance to provide such services; and

(2) that did not, for the most recent grant year pursuant to section 300ff-28(a)(1) or 300ff-28(a)(2)(F)(i) of this title for which data is available, have more than 5 percent of grant funds under such sections canceled, offset under section 300ff-31a(e) of this title, or covered by any waivers under section 300ff-31a(c) of this title.

(b) Demonstrated need

The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of subsection (a)(1) may include any or all of the following:

(1) The unmet need for such services, as determined under section 300ff-27(b) of this title.

(2) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

(3) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

(4) The current prevalence of HIV/AIDS.

(5) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

(6) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

(7) The prevalence of homelessness.

(8) The prevalence of individuals described under section 300ff-12(b)(2)(M) of this title.

(9) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.