

applying to receive a grant under section 300ff-21 of this title;

(4) a demonstration of the ability of the State to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

(5) a demonstration that the resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV/AIDS;

(6) a demonstration of the inclusiveness of the planning process, with particular emphasis on affected communities and individuals with HIV/AIDS; and

(7) a demonstration of the manner in which the proposed services are consistent with local needs assessments and the statewide coordinated statement of need.

(d) Definitions of emerging community

For purposes of this section, the term “emerging community” means a metropolitan area (as defined in section 300ff-17 of this title) for which there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of at least 500, but fewer than 1,000, cases of AIDS during the most recent period of 5 calendar years for which such data are available.

(e) Continued status as emerging community

Notwithstanding any other provision of this section, a metropolitan area that is an emerging community for a fiscal year continues to be an emerging community until the metropolitan area fails, for three consecutive fiscal years—

(1) to meet the requirements of subsection (d); and

(2) to have a cumulative total of 750 or more living cases of AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) as of December 31 of the most recent calendar year for which such data is available.

(f) Distribution

The amount of a grant under subsection (a) for a State for a fiscal year shall be an amount equal to the product of—

(1) the amount available under section 300ff-31b(b)(1) of this title for the fiscal year; and

(2) a percentage equal to the ratio constituted by the number of living cases of HIV/AIDS in emerging communities in the State to the sum of the respective numbers of such cases in such communities for all States.

(July 1, 1944, ch. 373, title XXVI, § 2621, formerly § 2620, as added Pub. L. 106-345, title II, § 207(2), Oct. 20, 2000, 114 Stat. 1337; renumbered § 2621 and amended Pub. L. 109-415, title II, §§ 204(a), 205(1), 206, title VII, §§ 702(3), 703, Dec. 19, 2006, 120 Stat. 2796, 2797, 2799, 2820; Pub. L. 111-87, § 2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

Editorial Notes

PRIOR PROVISIONS

A prior section 300ff-30, act July 1, 1944, ch. 373, title XXVI, § 2620, as added Aug. 18, 1990, Pub. L. 101-381, title II, § 201, 104 Stat. 597, authorized appropriations for fis-

cal years 1991 through 1995, prior to repeal by Pub. L. 104-146, §§ 6(b), 13, May 20, 1996, 110 Stat. 1367, 1374, effective Oct. 1, 1996.

A prior section 2621 of act July 1, 1944, was classified to section 300ff-31 of this title, prior to repeal by Pub. L. 106-345.

AMENDMENTS

2009—Pub. L. 111-87 repealed Pub. L. 109-415, § 703, and revived the provisions of this section as in effect on Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009 Amendment; Revival of Section note below.

2006—Pub. L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, § 2(a)(1), effective Sept. 30, 2009.

Pub. L. 109-415, § 206(1), substituted “Emerging communities” for “Supplemental grants” in section catchline.

Subsec. (b)(3), (4). Pub. L. 109-415, § 206(2), added par. (3) and redesignated former par. (3) as (4).

Subsec. (c)(3). Pub. L. 109-415, § 204(a), substituted “section 300ff-21 of this title” for “this part”.

Subsec. (c)(5), (6). Pub. L. 109-415, § 702(3), substituted “HIV/AIDS” for “HIV disease”.

Subsecs. (d) to (f). Pub. L. 109-415, § 206(3), added subsecs. (d) to (f) and struck out former subsecs. (d) and (e) defining “emerging community” and relating to funding, respectively.

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-31. Repealed. Pub. L. 106-345, title II, § 207(1), Oct. 20, 2000, 114 Stat. 1337

Section, act July 1, 1944, ch. 373, title XXVI, § 2621, as added Pub. L. 104-146, § 3(c)(7), May 20, 1996, 110 Stat. 1356, related to coordination of planning and implementation of Federal HIV programs to facilitate the local development of a complete continuum of HIV-related services for individuals with HIV disease and those at risk of such disease and required a biennial report to Congress on coordination efforts.

§ 300ff-31a. Timeframe for obligation and expenditure of grant funds

(a) Obligation by end of grant year

Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made to a State for a fiscal year pursuant to section 300ff-28(a)(1) or 300ff-28(a)(2)(F) of this title, or under section 300ff-29a or 300ff-30 of this title, are available for obligation by the State through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the State (referred to in this section as the “grant year for the award”), except as provided in subsection (c)(1).

(b) Supplemental grants; cancellation of unobligated balance of grant award

Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 300ff-28(a)(2)(F)(ii) of this title, or under section 300ff-29a or 300ff-30 of this title, has an unobli-

gated balance as of the end of the grant year for the award—

(1) the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State; and

(2) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to section 300ff-29a of this title for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under paragraph (1) to be canceled, except that the availability of the funds for such grants is subject to section 300ff-28(a)(2)(H) of this title as applied for such year.

(c) Formula grants; cancellation of unobligated balance of grant award; waiver permitting carryover

(1) In general

Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made to a State for a fiscal year pursuant to section 300ff-28(a)(1) or 300ff-28(a)(2)(F)(i) of this title has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State, unless—

(A) before the end of the grant year, the State submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the State intends to expend the funds involved; and

(B) the Secretary approves the waiver.

(2) Expenditure by end of carryover year

With respect to a waiver under paragraph (1) that is approved for a balance that is unobligated as of the end of a grant year for an award:

(A) The unobligated funds are available for expenditure by the State involved for the one-year period beginning upon the expiration of the grant year (referred to in this section as the “carryover year”).

(B) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the State to return any amounts from such balance that have been disbursed to the State.

(3) Use of cancelled balances

In the case of any balance of a grant award that is cancelled under paragraph (1) or (2)(B), the grant funds involved shall be made available by the Secretary as additional amounts for grants under section 300ff-29a of this title for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such paragraph to be canceled, except that the availability of the funds for such grants is subject to section 300ff-28(a)(2)(H) of this title as applied for such year.

(4) Corresponding reduction in future grant

(A) In general

In the case of a State for which a balance from a grant award made pursuant to section 300ff-28(a)(1) or 300ff-28(a)(2)(F)(i) of this title is unobligated as of the end of the grant year for the award—

(i) the Secretary shall reduce, by the same amount as such unobligated balance (less any amount of such balance that is the subject of a waiver of cancellation under paragraph (1)), the amount of the grant under such section for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under paragraph (1) has been approved with respect to such balance); and

(ii) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants under section 300ff-29a of this title for such first fiscal year, subject to section 300ff-28(a)(2)(H) of this title;

except that this subparagraph does not apply to the State if the amount of the unobligated balance was 5 percent or less.

(B) Relation to increases in grant

A reduction under subparagraph (A) for a State for a fiscal year may not be taken into account in applying section 300ff-28(a)(2)(H) of this title with respect to the State for the subsequent fiscal year.

(d) Treatment of drug rebates

For purposes of this section, funds that are drug rebates referred to in section 300ff-26(g) of this title may not be considered part of any grant award referred to in subsection (a). If an expenditure of ADAP rebate funds would trigger a penalty under this section or a higher penalty than would otherwise have applied, the State may request that for purposes of this section, the Secretary deem the State’s unobligated balance to be reduced by the amount of rebate funds in the proposed expenditure. Notwithstanding 300ff-28(a)(2)(F)¹ of this title, any unobligated amount under section 300ff-28(a)(2)(F)(ii)(V) of this title that is returned to the Secretary for reallocation shall be used by the Secretary for—

(1) the ADAP supplemental program if the Secretary determines appropriate; or

(2) for additional amounts for grants pursuant to section 300ff-29a of this title.

(e) Authority regarding administration of provisions

In administering subsections (b) and (c) with respect to the unobligated balance of a State, the Secretary may elect to reduce the amount of future grants to the State under section 300ff-28, 300ff-29a, or 300ff-30 of this title, as applicable, by the amount of any such unobligated balance

¹ So in original. Probably should be preceded by “section”.

in lieu of cancelling such amount as provided for in subsection (b) or (c)(1). In such case, the Secretary may permit the State to use such unobligated balance for purposes of any such future grant. An amount equal to such reduction shall be available for use as additional amounts for grants pursuant to section 300ff-29a of this title, subject to section 300ff-28(a)(2)(H) of this title. Nothing in this paragraph shall be construed to affect the authority of the Secretary under subsections (b) and (c), including the authority to grant waivers under subsection (c)(1). The reduction in future grants authorized under this subsection shall be notwithstanding the penalty required under subsection (c)(4) with respect to unobligated funds.

(July 1, 1944, ch. 373, title XXVI, § 2622, as added and amended Pub. L. 109-415, title II, § 207, title VII, § 703, Dec. 19, 2006, 120 Stat. 2799, 2820; Pub. L. 111-87, §§ 2(a)(1), (3)(A), 5(c)(2)-(4), 8(b)(1)(B), (2)(B), (c)(2), 10(a), Oct. 30, 2009, 123 Stat. 2885, 2891, 2894, 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). Pub. L. 111-87, § 5(c)(3), substituted “300ff-28(a)(2)(F)” for “300ff-28(a)(2)(G)”.

Subsec. (b). Pub. L. 111-87, § 5(c)(4), substituted “300ff-28(a)(2)(F)(ii)” for “300ff-28(a)(2)(G)(ii)” in introductory provisions.

Subsec. (c)(1). Pub. L. 111-87, § 5(c)(2), substituted “300ff-28(a)(2)(F)(i)” for “300ff-28(a)(2)(G)(i)” in introductory provisions.

Subsec. (c)(4)(A). Pub. L. 111-87, §§ 5(c)(2), 8(b)(1)(B), substituted “300ff-28(a)(2)(F)(i)” for “300ff-28(a)(2)(G)(i)” in introductory provisions and “5 percent” for “2 percent” in concluding provisions.

Subsec. (c)(4)(A)(i). Pub. L. 111-87, § 8(c)(2), inserted “(less any amount of such balance that is the subject of a waiver of cancellation under paragraph (1))” after “unobligated balance”.

Subsec. (d). Pub. L. 111-87, § 10(a), inserted at end “If an expenditure of ADAP rebate funds would trigger a penalty under this section or a higher penalty than would otherwise have applied, the State may request that for purposes of this section, the Secretary deem the State’s unobligated balance to be reduced by the amount of rebate funds in the proposed expenditure. Notwithstanding 300ff-28(a)(2)(F) of this title, any unobligated amount under section 300ff-28(a)(2)(F)(ii)(V) of this title that is returned to the Secretary for reallocation shall be used by the Secretary for—

“(1) the ADAP supplemental program if the Secretary determines appropriate; or

“(2) for additional amounts for grants pursuant to section 300ff-29a of this title.”

Subsec. (e). Pub. L. 111-87, § 8(b)(2)(B), added subsec. (e).

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.

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 5(c)(2)-(4), 8(b)(1)(B), (2)(B), (c)(2), and 10(a) 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-1 of this title.

§ 300ff-31b. Authorization of appropriations

(a) In general

For the purpose of carrying out this subpart, there are authorized to be appropriated \$1,195,500,000 for fiscal year 2007, \$1,239,500,000 for fiscal year 2008, \$1,285,200,000 for fiscal year 2009, \$1,349,460,000 for fiscal year 2010, \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for fiscal year 2012, and \$1,562,169,000 for fiscal year 2013. Amounts appropriated under the preceding sentence for a fiscal year are available for obligation by the Secretary until the end of the second succeeding fiscal year.

(b) Reservation of amounts

(1) Emerging communities

Of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall reserve \$5,000,000 for grants under section 300ff-30 of this title.

(2) Supplemental grants

(A) In general

Of the amount appropriated under subsection (a) for a fiscal year in excess of the 2006 adjusted amount, the Secretary shall reserve $\frac{1}{3}$ for grants under section 300ff-29a of this title, except that the availability of the reserved funds for such grants is subject to section 300ff-28(a)(2)(H) of this title as applied for such year, and except that any amount appropriated exclusively for carrying out section 300ff-26 of this title (and, accordingly, distributed under section 300ff-28(a)(2)(F) of this title) is not subject to this subparagraph.

(B) 2006 adjusted amount

For purposes of subparagraph (A), the term “2006 adjusted amount” means the amount appropriated for fiscal year 2006 under section 300ff-77(b) of this title (as such section was in effect for such fiscal year), excluding any amount appropriated for such year exclusively for carrying out section 300ff-26 of this title (and, accordingly, distributed under section 300ff-28(a)(2)(I) of this title, as so in effect).

(July 1, 1944, ch. 373, title XXVI, § 2623, as added and amended Pub. L. 109-415, title II, § 208, title VII, § 703, Dec. 19, 2006, 120 Stat. 2801, 2820; Pub. L. 111-87, §§ 2(a)(1), (3)(A), (c), 5(c)(3), Oct. 30, 2009, 123 Stat. 2885, 2891.)

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). Pub. L. 111-87, § 2(c), substituted “\$1,285,200,000 for fiscal year 2009, \$1,349,460,000 for fiscal year 2010, \$1,416,933,000 for fiscal year 2011, \$1,487,780,000 for fiscal year 2012, and \$1,562,169,000 for fiscal year 2013” for “and \$1,285,200,000 for fiscal year 2009”.