

Subsec. (b)(2)(A). Pub. L. 111-87, § 5(c)(3), substituted “300ff-28(a)(2)(F)” for “300ff-28(a)(2)(G)”.

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 L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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 2(c) and 5(c)(3) 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.

SUBPART II—PROVISIONS CONCERNING PREGNANCY AND PERINATAL TRANSMISSION OF HIV

§ 300ff-33. Early diagnosis grant program

(a) In general

In the case of States whose laws or regulations are in accordance with subsection (b), the Secretary, acting through the Centers for Disease Control and Prevention, shall make grants to such States for the purposes described in subsection (c).

(b) Description of compliant States

For purposes of subsection (a), the laws or regulations of a State are in accordance with this subsection if, under such laws or regulations (including programs carried out pursuant to the discretion of State officials), both of the policies described in paragraph (1) are in effect, or both of the policies described in paragraph (2) are in effect, as follows:

(1)(A) Voluntary opt-out testing of pregnant women.

(B) Universal testing of newborns.

(2)(A) Voluntary opt-out testing of clients at sexually transmitted disease clinics.

(B) Voluntary opt-out testing of clients at substance abuse treatment centers.

The Secretary shall periodically ensure that the applicable policies are being carried out and recertify compliance.

(c) Use of funds

A State may use funds provided under subsection (a) for HIV/AIDS testing (including rapid testing), prevention counseling, treatment of newborns exposed to HIV/AIDS, treatment of mothers infected with HIV/AIDS, and costs associated with linking those diagnosed with HIV/AIDS to care and treatment for HIV/AIDS.

(d) Application

A State that is eligible for the grant under subsection (a) shall submit an application to the Secretary, in such form, in such manner, and containing such information as the Secretary may require.

(e) Limitation on amount of grant

A grant under subsection (a) to a State for a fiscal year may not be made in an amount exceeding \$10,000,000.

(f) Rule of construction

Nothing in this section shall be construed to pre-empt State laws regarding HIV/AIDS counseling and testing.

(g) Definitions

In this section:

(1) The term “voluntary opt-out testing” means HIV/AIDS testing—

(A) that is administered to an individual seeking other health care services; and

(B) in which—

(i) pre-test counseling is not required but the individual is informed that the individual will receive an HIV/AIDS test and the individual may opt out of such testing; and

(ii) for those individuals with a positive test result, post-test counseling (including referrals for care) is provided and confidentiality is protected.

(2) The term “universal testing of newborns” means HIV/AIDS testing that is administered within 48 hours of delivery to—

(A) all infants born in the State; or

(B) all infants born in the State whose mother’s HIV/AIDS status is unknown at the time of delivery.

(h) Authorization of appropriations

Of the funds appropriated annually to the Centers for Disease Control and Prevention for HIV/AIDS prevention activities, \$30,000,000 shall be made available for each of the fiscal years 2007 through 2009 for grants under subsection (a), of which \$20,000,000 shall be made available for grants to States with the policies described in subsection (b)(1), and \$10,000,000 shall be made available for grants to States with the policies described in subsection (b)(2). Funds provided under this section are available until expended.

(July 1, 1944, ch. 373, title XXVI, § 2625, as added Pub. L. 104-146, § 7(b)(3), May 20, 1996, 110 Stat. 1369; amended Pub. L. 106-345, title II, § 212(a), Oct. 20, 2000, 114 Stat. 1339; Pub. L. 109-415, title II, § 209, title VII, § 703, Dec. 19, 2006, 120 Stat. 2802, 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.

Pub. L. 109-415, § 209, amended section catchline and text generally, substituting provisions relating to early diagnosis grant program for provisions requiring State certification of measures to adopt CDC guidelines for pregnant women not later than 120 days after May 20, 1996, and authorizing additional funds if such certification was provided.

2000—Subsec. (c)(1)(F). Pub. L. 106-345, § 212(a)(1), added subpar. (F).

Subsec. (c)(2). Pub. L. 106-345, § 212(a)(2), amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “For purposes of carrying out this subsection, there are authorized to be appro-

priated \$10,000,000 for each of the fiscal years 1996 through 2000. Amounts made available under section 300ff-77 of this title for carrying out this part are not available for carrying out this section unless otherwise authorized.”

Subsec. (c)(4). Pub. L. 106-345, §212(a)(3), added par. (4).

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

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.

PERINATAL TRANSMISSION OF HIV DISEASE; CONGRESSIONAL FINDINGS

Pub. L. 104-146, §7(a), May 20, 1996, 110 Stat. 1368, provided that: “The Congress finds as follows:

“(1) Research studies and statewide clinical experiences have demonstrated that administration of anti-retroviral medication during pregnancy can significantly reduce the transmission of the human immunodeficiency virus (commonly known as HIV) from an infected mother to her baby.

“(2) The Centers for Disease Control and Prevention have recommended that all pregnant women receive HIV counseling; voluntary, confidential HIV testing; and appropriate medical treatment (including anti-retroviral therapy) and support services.

“(3) The provision of such testing without access to such counseling, treatment, and services will not improve the health of the woman or the child.

“(4) The provision of such counseling, testing, treatment, and services can reduce the number of pediatric cases of acquired immune deficiency syndrome, can improve access to and provision of medical care for the woman, and can provide opportunities for counseling to reduce transmission among adults, and from mother to child.

“(5) The provision of such counseling, testing, treatment, and services can reduce the overall cost of pediatric cases of acquired immune deficiency syndrome.

“(6) The cancellation or limitation of health insurance or other health coverage on the basis of HIV status should be impermissible under applicable law. Such cancellation or limitation could result in disincentives for appropriate counseling, testing, treatment, and services.

“(7) For the reasons specified in paragraphs (1) through (6)—

“(A) routine HIV counseling and voluntary testing of pregnant women should become the standard of care; and

“(B) the relevant medical organizations as well as public health officials should issue guidelines making such counseling and testing the standard of care.”

§ 300ff-34. Perinatal transmission of HIV/AIDS; contingent requirement regarding State grants under this part

(a) Annual determination of reported cases

A State shall annually determine the rate of reported cases of AIDS as a result of perinatal transmission among residents of the State.

(b) Causes of perinatal transmission

In determining the rate under subsection (a), a State shall also determine the possible causes of

perinatal transmission. Such causes may include—

(1) the inadequate provision within the State of prenatal counseling and testing in accordance with the guidelines issued by the Centers for Disease Control and Prevention;

(2) the inadequate provision or utilization within the State of appropriate therapy or failure of such therapy to reduce perinatal transmission of HIV, including—

(A) that therapy is not available, accessible or offered to mothers; or

(B) that available therapy is offered but not accepted by mothers; or

(3) other factors (which may include the lack of prenatal care) determined relevant by the State.

(c) CDC reporting system

Not later than 4 months after May 20, 1996, the Director of the Centers for Disease Control and Prevention shall develop and implement a system to be used by States to comply with the requirements of subsections (a) and (b). The Director shall issue guidelines to ensure that the data collected is statistically valid.

(July 1, 1944, ch. 373, title XXVI, §2626, as added Pub. L. 104-146, §7(b)(3), May 20, 1996, 110 Stat. 1369; amended Pub. L. 104-166, §5(1), July 29, 1996, 110 Stat. 1449; Pub. L. 106-345, title II, §211(1), Oct. 20, 2000, 114 Stat. 1339; Pub. L. 109-415, title VII, §§702(3), 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.

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

2000—Subsecs. (d) to (f). Pub. L. 106-345 struck out subsecs. (d) to (f), which related, respectively, to determination by Secretary, contingent applicability, and limitation regarding availability of funds.

1996—Subsec. (d). Pub. L. 104-166, §5(1)(A), substituted “(1) through (4)” for “(1) through (5)”.

Subsec. (f). Pub. L. 104-166, §5(1)(B), substituted “(1) through (4)” for “(1) through (5)” in introductory provisions.

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

Section effective May 20, 1996, see section 13(b) of Pub. L. 104-146, set out as an Effective Date of 1996 Amendment note under section 300ff-11 of this title.