

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 L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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

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

Subsec. (d). Pub. L. 109-415, §210, substituted “there is authorized to be appropriated \$10,000,000 for each of the fiscal years 2007 through 2009.” for “there are authorized to be appropriated \$30,000,000 for fiscal year 2001, and such sums as may be necessary for each of the fiscal years 2002 through 2005.”

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.

PART C—EARLY INTERVENTION SERVICES

§§ 300ff-41 to 300ff-50. Repealed. Pub. L. 106-345, title III, §301(a), Oct. 20, 2000, 114 Stat. 1345

Section 300ff-41, act July 1, 1944, ch. 373, title XXVI, §2641, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 597; amended Pub. L. 102-531, title III, §312(d)(31), Oct. 27, 1992, 106 Stat. 3506, established program of formula grants to States.

Section 300ff-42, act July 1, 1944, ch. 373, title XXVI, §2642, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 599, related to provision of services through medicaid providers.

Section 300ff-43, act July 1, 1944, ch. 373, title XXVI, §2643, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 600; amended Pub. L. 102-531, title III, §312(d)(32), Oct. 27, 1992, 106 Stat. 3506, related to requirement of matching funds.

Section 300ff-44, act July 1, 1944, ch. 373, title XXVI, §2644, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 601, related to the offering and encouraging of early intervention services.

Section 300ff-45, act July 1, 1944, ch. 373, title XXVI, §2645, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 602, related to notification of certain individuals receiving blood transfusions.

Section 300ff-46, act July 1, 1944, ch. 373, title XXVI, §2646, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 602, related to reporting and partner notification.

Section 300ff-47, act July 1, 1944, ch. 373, title XXVI, §2647, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 603; amended Pub. L. 101-502, §6(c), Nov. 3, 1990, 104 Stat. 1291; Pub. L. 104-146, §12(c)(4), May 20, 1996, 110 Stat. 1373, related to requirement of State law protection against intentional transmission.

Section 300ff-48, act July 1, 1944, ch. 373, title XXVI, §2648, formerly Pub. L. 100-607, title IX, §902, Nov. 4, 1988, 102 Stat. 3171; amended Pub. L. 100-690, title II, §2605(a), Nov. 18, 1988, 102 Stat. 4234; renumbered §2648 and amended Pub. L. 101-381, title III, §301(b), Aug. 18, 1990, 104 Stat. 614; Pub. L. 104-146, §12(c)(5), May 20, 1996, 110 Stat. 1374, related to testing and other early intervention services for State prisoners.

Section 300ff-49, act July 1, 1944, ch. 373, title XXVI, §2649, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 604; amended Pub. L. 101-502, §6(b), Nov. 3, 1990, 104 Stat. 1290; Pub. L. 102-531, title III, §312(d)(33), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104-146, §12(c)(6), May 20, 1996, 110 Stat. 1374, related to determination of amount of allotments.

Section 300ff-49a, act July 1, 1944, ch. 373, title XXVI, §2649A, as added Pub. L. 101-381, title III, §301(a), Aug.

18, 1990, 104 Stat. 605, related to miscellaneous prerequisites for the Secretary to make a grant.

Section 300ff-50, act July 1, 1944, ch. 373, title XXVI, §2650, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 606, authorized appropriations.

SUBPART I—CATEGORICAL GRANTS

Editorial Notes

CODIFICATION

Pub. L. 106-345, title III, §301(b)(1), Oct. 20, 2000, 114 Stat. 1345, redesignated subpart II “Categorical Grants” as subpart I.

PRIOR PROVISIONS

A prior subpart I, consisting of sections 300ff-41 to 300ff-50, related to formula grants for States, prior to repeal by Pub. L. 106-345, title III, §301(a), Oct. 20, 2000, 114 Stat. 1345.

§ 300ff-51. Establishment of a program

(a) In general

For the purposes described in subsection (b), the Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to public and non-profit private entities specified in section 300ff-52(a) of this title.

(b) Requirements

(1) In general

The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees to expend the grant only for—

(A) core medical services described in subsection (c);

(B) support services described in subsection (d); and

(C) administrative expenses as described in section 300ff-64(g)(3) of this title.

(2) Early intervention services

An applicant for a grant under subsection (a) shall expend not less than 50 percent of the amount received under the grant for the services described in subparagraphs (B) through (E) of subsection (e)(1) for individuals with HIV/AIDS.

(c) Required funding for core medical services

(1) In general

With respect to a grant under subsection (a) to an applicant for a fiscal year, the applicant shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (3) and (5) of section 300ff-64(g) of this title, use not less than 75 percent to provide core medical services that are needed in the area involved for individuals with HIV/AIDS who are identified and eligible under this subchapter (including services regarding the co-occurring conditions of the individuals).

(2) Waiver

(A) The Secretary shall waive the application of paragraph (1) with respect to an applicant for a grant if the Secretary determines that, within the service area of the applicant—

(i) there are no waiting lists for AIDS Drug Assistance Program services under section 300ff-26 of this title; and

(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this subchapter.

(B) NOTIFICATION OF WAIVER STATUS.—When informing an applicant that a grant under subsection (a) is being made for a fiscal year, the Secretary shall inform the applicant whether a waiver under subparagraph (A) is in effect for the fiscal year.

(3) Core medical services

For purposes of this subsection, the term “core medical services”, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual) means the following services:

- (A) Outpatient and ambulatory health services.
- (B) AIDS Drug Assistance Program treatments under section 300ff-26 of this title.
- (C) AIDS pharmaceutical assistance.
- (D) Oral health care.
- (E) Early intervention services described in subsection (e).
- (F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 300ff-25 of this title.
- (G) Home health care.
- (H) Medical nutrition therapy.
- (I) Hospice services.
- (J) Home and community-based health services as defined under section 300ff-24(c) of this title.
- (K) Mental health services.
- (L) Substance abuse outpatient care.
- (M) Medical case management, including treatment adherence services.

(d) Support services

(1) In general

For purposes of this section, the term “support services” means services, subject to the approval of the Secretary, that are needed for individuals with HIV/AIDS to achieve their medical outcomes (such as respite care for persons caring for individuals with HIV/AIDS, outreach services, medical transportation, linguistic services, and referrals for health care and support services).

(2) Definition of medical outcomes

In this section, the term “medical outcomes” means those outcomes affecting the HIV-related clinical status of an individual with HIV/AIDS.

(e) Specification of early intervention services

(1) In general

The early intervention services referred to in this section are—

- (A) counseling individuals with respect to HIV/AIDS in accordance with section 300ff-62 of this title;
- (B) testing individuals with respect to HIV/AIDS, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from HIV/AIDS;
- (C) referrals described in paragraph (2);
- (D) other clinical and diagnostic services regarding HIV/AIDS, and periodic medical

evaluations of individuals with HIV/AIDS; and

(E) providing the therapeutic measures described in subparagraph (B).

(2) Referrals

The services referred to in paragraph (1)(C) are referrals of individuals with HIV/AIDS to appropriate providers of health and support services, including, as appropriate—

- (A) to entities receiving amounts under part A or B for the provision of such services;
- (B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or
- (C) to grantees under section 300ff-71 of this title, in the case of a pregnant woman.

(3) Requirement of availability of all early intervention services through each grantee

(A) In general

The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that each of the early intervention services specified in paragraph (2) will be available through the grantee. With respect to compliance with such agreement, such a grantee may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area, under which the entities provide the services.

(B) Other requirements

Grantees described in—

- (i) subparagraphs (A), (D), (E), and (F) of section 300ff-52(a)(1) of this title shall use not less than 50 percent of the amount of such a grant to provide the services described in subparagraphs (A), (B), (D), and (E) of paragraph (1) directly and on-site or at sites where other primary care services are rendered; and
- (ii) subparagraphs (B) and (C) of section 300ff-52(a)(1) of this title shall ensure the availability of early intervention services through a system of linkages to community-based primary care providers, and to establish mechanisms for the referrals described in paragraph (1)(C), and for follow-up concerning such referrals.

(July 1, 1944, ch. 373, title XXVI, § 2651, as added Pub. L. 101-381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 606; amended Pub. L. 101-557, title IV, § 401(b)(2), Nov. 15, 1990, 104 Stat. 2771; Pub. L. 104-146, §§ 3(d)(1), 12(c)(7), May 20, 1996, 110 Stat. 1357, 1374; Pub. L. 109-415, title III, § 301(a), title VII, § 703, Dec. 19, 2006, 120 Stat. 2803, 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, §301(a), amended section catchline and text generally, reenacting subsec. (a) without change and substituting subssecs. (b) to (e) for former subssecs. (b) and (c), which related to purposes of grants and participation in a consortium, respectively.

1996—Subsec. (b)(1), Pub. L. 104-146, §3(d)(1)(A), inserted before period “, and unless the applicant agrees to expend not less than 50 percent of the grant for such services that are specified in subparagraphs (B) through (E) of such paragraph for individuals with HIV disease”.

Subsec. (b)(3)(B), Pub. L. 104-146, §12(c)(7)(A), substituted “facilities” for “facility”.

Subsec. (b)(4), Pub. L. 104-146, §3(d)(1)(B), designated existing provisions as subpar. (A) and inserted heading, inserted “, or private for-profit entities if such entities are the only available provider of quality HIV care in the area,” after “nonprofit private entities”, realigned margin, and added subpar. (B).

Subsec. (c), Pub. L. 104-146, §12(c)(7)(B), substituted “exists” for “exist”.

1990—Subsec. (a), Pub. L. 101-557 substituted “section 300ff-52(a)” for “section 300ff-52(a)(1)”.

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-52. Minimum qualifications of grantees

(a) Eligible entities

(1) In general

The entities referred to in section 300ff-51(a) of this title are public entities and nonprofit private entities that are—

(A) federally-qualified health centers under section 1905(l)(2)(B) of the Social Security Act [42 U.S.C. 1396d(l)(2)(B)];

(B) grantees under section 300 of this title (regarding family planning) other than States;

(C) comprehensive hemophilia diagnostic and treatment centers;

(D) rural health clinics;

(E) health facilities operated by or pursuant to a contract with the Indian Health Service;

(F) community-based organizations, clinics, hospitals and other health facilities that provide early intervention services to those persons infected with HIV/AIDS through intravenous drug use; or

(G) nonprofit private entities that provide comprehensive primary care services to populations at risk of HIV/AIDS, including faith-based and community-based organizations.

(2) Underserved populations

Entities described in paragraph (1) shall serve underserved populations which may include minority populations and Native American populations, ex-offenders, individuals with comorbidities including hepatitis B or C, mental illness, or substance abuse, low-income populations, inner city populations, and rural populations.

(b) Status as medicaid provider

(1) In general

Subject to paragraph (2), the Secretary may not make a grant under section 300ff-51 of this title for the provision of services described in subsection (b) of such section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State—

(A) the applicant for the grant will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the applicant for the grant will enter into an agreement with a public or nonprofit private entity, or a private for-profit entity if such entity is the only available provider of quality HIV care in the area, under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver regarding certain secondary agreements

(A) In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph regarding a participation agreement shall be waived by the Secretary if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) A determination by the Secretary 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.

(July 1, 1944, ch. 373, title XXVI, §2652, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 607; amended Pub. L. 101-557, title IV, §401(b)(3), Nov. 15, 1990, 104 Stat. 2771; Pub. L. 104-146, §3(d)(2), May 20, 1996, 110 Stat. 1357; Pub. L. 107-251, title VI, §601(a), Oct. 26, 2002, 116 Stat. 1664; Pub. L. 108-163, §2(m)(3), Dec. 6, 2003, 117 Stat. 2023; Pub. L. 109-415, title III, §302(a), title VII, §703, Dec. 19, 2006, 120 Stat. 2806, 2820; Pub. L. 111-87, §2(a)(1), (3)(A), Oct. 30, 2009, 123 Stat. 2885.)

Editorial Notes

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b)(1), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XIX of the