

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 L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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 subsecs. (b) to (e) for former subsecs. (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

Social Security Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

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 L. 111-87 repealed Pub.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

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 L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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

Subsec. (a). Pub. L. 109-415, § 302(a), amended heading and text of subsec. (a) generally, substituting provisions listing eligible entities and directing that such entities serve underserved populations for provisions listing eligible entities.

2003—Subsec. (a)(2). Pub. L. 108-163 substituted “254b(h)” for “256”.

2002—Pub. L. 107-251, which directed the substitution of “254b(h)” for “256” in subsec. (2), could not be executed because section does not contain a subsec. (2).

1996—Subsec. (b)(1)(B). Pub. L. 104-146 inserted “, or a private for-profit entity if such entity is the only available provider of quality HIV care in the area,” after “nonprofit private entity”.

1990—Subsec. (a). Pub. L. 101-557 substituted “referred to in section 300ff-51(a) of this title” for “referred to in subsection (b) of this section”, redesignated pars. (A) to (F) as (1) to (6), respectively, and substituted “nonprofit private entities that provide” for “a nonprofit private entity that provides” in par. (6).

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 2003 AMENDMENT

Amendment by Pub. L. 108-163 deemed to have taken effect immediately after the enactment of Pub. L. 107-251, see section 3 of Pub. L. 108-163, set out as a note under section 233 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.

REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104-299, set out as a note under section 254b of this title.

§ 300ff-53. Preferences in making grants

(a) In general

In making grants under section 300ff-51 of this title, the Secretary shall give preference to any qualified applicant experiencing an increase in the burden of providing services regarding HIV/AIDS, as indicated by the factors specified in subsection (b).

(b) Specification of factors

(1) In general

In the case of the geographic area with respect to which the entity involved is applying

for a grant under section 300ff-51 of this title, the factors referred to in subsection (a), as determined for the period specified in paragraph (2), are—

(A) the number of cases of HIV/AIDS;

(B) the rate of increase in such cases;

(C) the lack of availability of early intervention services;

(D) the number of other cases of sexually transmitted diseases, and¹ the number of cases of tuberculosis and of drug abuse² and the number of cases of individuals co-infected with HIV/AIDS and hepatitis B or C;

(E) the rate of increase in each of the cases specified in subparagraph (D);

(F) the lack of availability of primary health services from providers other than such applicant; and

(G) the distance between such area and the nearest community that has an adequate level of availability of appropriate HIV-related services, and the length of time required to travel such distance.

(2) Relevant period of time

The period referred to in paragraph (1) is the 2-year period preceding the fiscal year for which the entity involved is applying to receive a grant under section 300ff-51 of this title.

(c) Equitable allocations

In providing preferences for purposes of subsection (b), the Secretary shall equitably allocate the preferences among urban and rural areas.

(d) Certain areas

Of the applicants who qualify for preference under this section—

(1) the Secretary shall give preference to applicants that will expend the grant under section 300ff-51 of this title to provide early intervention under such section in rural areas; and

(2) the Secretary shall give preference to areas that are underserved with respect to such services.

(July 1, 1944, ch. 373, title XXVI, § 2653, as added Pub. L. 101-381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 608; amended Pub. L. 106-345, title III, § 311, Oct. 20, 2000, 114 Stat. 1345; Pub. L. 109-415, title III, § 302(b), title VII, §§ 702(3), 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

AMENDMENTS

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

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

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

Subsec. (b)(1)(A). Pub. L. 109-415, § 302(b)(1)(A), substituted “HIV/AIDS” for “acquired immune deficiency syndrome”.

¹ So in original. The word “and” probably should not appear.

² So in original. A comma probably should appear.