

be appropriated, \$218,600,000 for fiscal year 2007, \$226,700,000 for fiscal year 2008, \$235,100,000 for fiscal year 2009, \$246,855,000 for fiscal year 2010, \$259,198,000 for fiscal year 2011, \$272,158,000 for fiscal year 2012, and \$285,766,000 for fiscal year 2013.

(July 1, 1944, ch. 373, title XXVI, § 2655, as added Pub. L. 101-381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 609; amended Pub. L. 104-146, § 3(d)(4), May 20, 1996, 110 Stat. 1358; Pub. L. 106-345, title III, § 313, Oct. 20, 2000, 114 Stat. 1346; Pub. L. 109-415, title III, § 303, title VII, § 703, Dec. 19, 2006, 120 Stat. 2807, 2820; Pub. L. 111-87, § 2(a)(1), (3)(A), (d), Oct. 30, 2009, 123 Stat. 2885, 2886.)

Editorial Notes

AMENDMENTS

2009—Pub. L. 111-87, § 2(d), substituted “\$235,100,000 for fiscal year 2009, \$246,855,000 for fiscal year 2010, \$259,198,000 for fiscal year 2011, \$272,158,000 for fiscal year 2012, and \$285,766,000 for fiscal year 2013” for “and \$235,100,000 for fiscal year 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 L. 111-87, § 2(a)(1), (3)(A), repealed Pub.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 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 L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub.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, § 303, substituted “, \$218,600,000 for fiscal year 2007, \$226,700,000 for fiscal year 2008, and \$235,100,000 for fiscal year 2009” for “such sums as may be necessary for each of the fiscal years 2001 through 2005”.

2000—Pub. L. 106-345 substituted “for each of the fiscal years 2001 through 2005” for “in each of the fiscal years 1996, 1997, 1998, 1999, and 2000”.

1996—Pub. L. 104-146 substituted “such sums as may be necessary in each of the fiscal years 1996, 1997, 1998, 1999, and 2000.” for “\$75,000,000 for fiscal years 1991, and such sums as may be necessary for each of the fiscal years 1992 through 1995.”

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 section 2(d) 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.

SUBPART II—GENERAL PROVISIONS

Editorial Notes

CODIFICATION

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

PRIOR PROVISIONS

A prior subpart II, consisting of sections 300ff-51 to 300ff-55, was redesignated subpart I of this part by Pub. L. 106-345, title III, § 301(b)(1), Oct. 20, 2000, 114 Stat. 1345.

§ 300ff-61. Confidentiality and informed consent

(a) Confidentiality

The Secretary may not make a grant under this part unless, in the case of any entity applying for a grant under section 300ff-51 of this title, the entity agrees to ensure that information regarding the receipt of early intervention services pursuant to the grant is maintained confidentially in a manner not inconsistent with applicable law.

(b) Informed consent

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in testing an individual for HIV/AIDS, the applicant will test an individual only after the individual confirms that the decision of the individual with respect to undergoing such testing is voluntarily made.

(July 1, 1944, ch. 373, title XXVI, § 2661, as added Pub. L. 101-381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 609; amended Pub. L. 106-345, title III, § 301(b)(2), Oct. 20, 2000, 114 Stat. 1345; Pub. L. 109-415, title III, § 304, title VII, § 703, Dec. 19, 2006, 120 Stat. 2807, 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, § 304, reenacted section catchline without change and amended text generally, substituting provisions relating to confidentiality and informed consent for provisions relating to confidentiality, informed written consent, and anonymous testing.

2000—Subsec. (a). Pub. L. 106-345 struck out par. (1) and par. (2) designation. Prior to amendment, par. (1) read as follows: “in the case of any State applying for a grant under section 300ff-41 of this title, the State agrees to ensure that information regarding the receipt of early intervention services is maintained confidentially pursuant to law or regulations in a manner not inconsistent with applicable law; and”.

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-62. Provision of certain counseling services

(a) Counseling of individuals with negative test results

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing conducted for HIV/AIDS indicate that an individual does not have such condition, the applicant will provide the individual information, including—

(1) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, hepatitis C, and other sexually transmitted diseases;

(2) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C;

(3) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

(4) the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases;

(5) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

(6) information regarding the availability of hepatitis B vaccine and information about hepatitis treatments.

(b) Counseling of individuals with positive test results

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, if the results of testing for HIV/AIDS indicate that the individual has such condition, the applicant will provide to the individual appropriate counseling regarding the condition, including—

(1) information regarding—

(A) measures for prevention of, exposure to, and transmission of HIV/AIDS, hepatitis B, and hepatitis C;

(B) the accuracy and reliability of results of testing for HIV/AIDS, hepatitis B, and hepatitis C; and

(C) the significance of the results of such testing, including the potential for developing AIDS, hepatitis B, or hepatitis C;

(2) reviewing the appropriateness of further counseling, testing, and education of the individual regarding HIV/AIDS and other sexually transmitted diseases; and

(3) providing counseling—

(A) on the availability, through the applicant, of early intervention services;

(B) on the availability in the geographic area of appropriate health care, mental health care, and social and support services, including providing referrals for such services, as appropriate;

(C)(i) that explains the benefits of locating and counseling any individual by whom the infected individual may have been exposed to HIV/AIDS, hepatitis B, or hepatitis C and any individual whom the infected individual may have exposed to HIV/AIDS, hepatitis B, or hepatitis C; and

(ii) that emphasizes it is the duty of infected individuals to disclose their infected status to their sexual partners and their partners in the sharing of hypodermic needles; that provides advice to infected individuals on the manner in which such disclosures can be made; and that emphasizes that it is the continuing duty of the individuals to avoid any behaviors that will expose others to HIV/AIDS, hepatitis B, or hepatitis C; and

(D) on the availability of the services of public health authorities with respect to locating and counseling any individual described in subparagraph (C);

(4) if diagnosed with chronic hepatitis B or hepatitis C co-infection, the potential of developing hepatitis-related liver disease and its impact on HIV/AIDS; and

(5) information regarding the availability of hepatitis B vaccine.

(c) Additional requirements regarding appropriate counseling

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, in counseling individuals with respect to HIV/AIDS, the applicant will ensure that the counseling is provided under conditions appropriate to the needs of the individuals.

(d) Counseling of emergency response employees

The Secretary may not make a grant under this part to a State unless the State agrees that, in counseling individuals with respect to HIV/AIDS, the State will ensure that, in the case of emergency response employees, the counseling is provided to such employees under conditions appropriate to the needs of the employees regarding the counseling.

(e) Rule of construction regarding counseling without testing

Agreements made pursuant to this section may not be construed to prohibit any grantee under this part from expending the grant for the purpose of providing counseling services described in this section to an individual who does not undergo testing for HIV/AIDS as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

(July 1, 1944, ch. 373, title XXVI, § 2662, as added Pub. L. 101-381, title III, § 301(a), Aug. 18, 1990, 104 Stat. 610; amended Pub. L. 106-345, title III, § 321, Oct. 20, 2000, 114 Stat. 1346; Pub. L. 109-415, title III, § 305, title VII, § 703, Dec. 19, 2006, 120 Stat. 2807, 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, § 305, reenacted heading without change and amended text generally, substituting provisions relating to counseling of individuals after testing for HIV/AIDS, appropriateness of conditions, counseling of emergency response employees, and counseling without testing, for provisions relating to counseling of individuals before and after testing, appropriateness of conditions, counseling of emergency response employees, and counseling without testing.

2000—Subsec. (c)(3). Pub. L. 106-345, § 321(1), in introductory provisions struck out “on” after “counseling”. Subsec. (c)(3)(A), (B). Pub. L. 106-345, § 321(2), inserted “on” before “the availability”.

Subsec. (c)(3)(C). Pub. L. 106-345, § 321(3), designated existing provisions as cl. (i), inserted “that explains” before “the benefits”, and added cl. (ii).

Subsec. (c)(3)(D). Pub. L. 106-345, §321(2), inserted “on” before “the availability”.

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-63. Applicability of requirements regarding confidentiality, informed consent, and counseling

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to testing for HIV/AIDS, any such testing carried out by the applicant with funds appropriated through this chapter will be carried out in accordance with conditions described in sections 300ff-61 and 300ff-62 of this title.

(July 1, 1944, ch. 373, title XXVI, §2663, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 611; amended Pub. L. 109-415, title III, §306(a), title VII, §§702(3), 703, Dec. 19, 2006, 120 Stat. 2809, 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”.

Pub. L. 109-415, §306(a), substituted “with funds appropriated through this chapter will be carried” for “will, without regard to whether such testing is carried out with Federal funds, be carried”.

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-64. Additional required agreements

(a) Reports to Secretary

The Secretary may not make a grant under this part unless—

- (1) the applicant submits to the Secretary—
 - (A) a specification of the expenditures made by the applicant for early intervention services for the fiscal year preceding the fiscal year for which the applicant is applying to receive the grant;
 - (B) an estimate of the number of individuals to whom the applicant has provided such services for such fiscal year;

- (C) information regarding how the expected expenditures of the grant are related to the planning process for localities funded under part A (including the planning process described in section 300ff-12 of this title) and for States funded under part B (including the planning process described in section 300ff-27(b) of this title); and

- (D) a specification of the expected expenditures and how those expenditures will improve overall client outcomes, as described in the State plan under section 300ff-27(b) of this title;

- (2) the applicant agrees to submit to the Secretary a report providing—

- (A) the number of individuals to whom the applicant provides early intervention services pursuant to the grant;

- (B) epidemiological and demographic data on the population of such individuals;

- (C) the extent to which the costs of HIV-related health care for such individuals are paid by third-party payors;

- (D) the average costs of providing each category of early intervention service; and

- (E) the aggregate amounts expended for each such category;

- (3) the applicant agrees to provide additional documentation to the Secretary regarding the process used to obtain community input into the design and implementation of activities related to such grant; and

- (4) the applicant agrees to submit, every 2 years, to the lead State agency under section 300ff-27(b)(4) of this title audits, consistent with Office of Management and Budget circular A133, regarding funds expended in accordance with this subchapter and shall include necessary client level data to complete unmet need calculations and Statewide coordinated statements of need process.

(b) Provision of opportunities for anonymous counseling and testing

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, to the extent permitted under State law, regulation or rule, the applicant will offer substantial opportunities for an individual—

- (1) to undergo counseling and testing regarding HIV/AIDS without being required to provide any information relating to the identity of the individual; and

- (2) to undergo such counseling and testing through the use of a pseudonym.

(c) Prohibition against requiring testing as condition of receiving other health services

The Secretary may not make a grant under this part unless the applicant for the grant agrees that, with respect to an individual seeking health services from the applicant, the applicant will not require the individual to undergo testing for HIV as a condition of receiving any health services unless such testing is medically indicated in the provision of the health services sought by the individual.

(d) Maintenance of support

The Secretary may not make a grant under this part unless the applicant for the grant