

funds appropriated to the principle agency for authorized activities which are of a non-recurring nature and for a specific purpose.

(c) Waiver

(1) In general

Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) if the Secretary determines that extraordinary economic conditions exist in the State, or any part of the State, to justify the waiver.

(2) Date certain for acting upon request

The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(3) Applicability of waiver

Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

(d) Noncompliance by State

(1) In general

In making a grant under section 300x-21 of this title to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with any agreement made under subsection (a). If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 300x-21 of this title for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

(2) Submission of information to Secretary

The Secretary may make a grant under section 300x-21 of this title for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1).

(3) Alternative

A State that has failed to comply with this section and would otherwise be subject to a reduction in the State's allotment under section 300x-21 of this title, may, upon request by the State, in lieu of having the State's allotment under section 300x-21 of this title reduced, agree to comply with a negotiated agreement that is approved by the Secretary and carried out in accordance with guidelines issued by the Secretary. If a State fails to enter into or comply with a negotiated agreement, the Secretary may take action under this paragraph or the terms of the negotiated agreement.

(July 1, 1944, ch. 373, title XIX, §1930, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 397; amended Pub. L. 106-310, div. B, title XXXIII, §3303(c), Oct. 17, 2000, 114 Stat. 1210; Pub. L. 114-255, div. B, title VIII, §8002(g), Dec. 13, 2016, 130 Stat. 1230.)

Editorial Notes

PRIOR PROVISIONS

A prior section 1930 of act July 1, 1944, was classified to section 300y-9 of this title prior to repeal by Pub. L. 99-280.

AMENDMENTS

2016—Subsec. (c)(1). Pub. L. 114-255, §8002(g)(1), substituted “exist in the State, or any part of the State, to justify the waiver” for “in the State justify the waiver”.

Subsec. (d)(3). Pub. L. 114-255, §8002(g)(2), added par. (3).

2000—Subsecs. (b) to (d). Pub. L. 106-310 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

§ 300x-31. Restrictions on expenditure of grant

(a) In general

(1) Certain restrictions

A funding agreement for a grant under section 300x-21 of this title is that the State involved will not expend the grant—

(A) to provide inpatient hospital services, except as provided in subsection (b);

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(E) to provide financial assistance to any entity other than a public or nonprofit private entity; or

(F) to carry out any program prohibited by section 300ee-5 of this title.

(2) Limitation on administrative expenses

A funding agreement for a grant under section 300x-21 of this title is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant.

(3) Limitation regarding penal and correctional institutions

A funding agreement for a State for a grant under section 300x-21 of this title is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 300x-1a¹ of this title to the State for fiscal year 1991 (as section 300x-1a¹ of this title was in effect for such fiscal year).

(b) Exception regarding inpatient hospital services

(1) Medical necessity as precondition

With respect to compliance with the agreement made under subsection (a), a State may expend a grant under section 300x-21 of this title to provide inpatient hospital services as treatment for substance use disorders only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-

¹ See References in Text note below.

based, nonhospital, residential program of treatment.

(2) Rate of payment

In the case of an individual for whom a grant under section 300x-21 of this title is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance use disorders.

(c) Waiver regarding construction of facilities

(1) In general

The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) for the purpose of authorizing the State to expend a grant under section 300x-21 of this title for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

(2) Standard regarding need for waiver

The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

(3) Amount

In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

(4) Matching funds

The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than \$1 for each \$1 of Federal funds provided under section 300x-21 of this title.

(5) Date certain for acting upon request

The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(July 1, 1944, ch. 373, title XIX, §1931, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 397; amended Pub. L. 114-255, div. B, title VIII, §8002(h), Dec. 13, 2016, 130 Stat. 1230; Pub. L. 117-328, div. FF, title I, §1241(a)(7), Dec. 29, 2022, 136 Stat. 5677.)

Editorial Notes

REFERENCES IN TEXT

Section 300x-1a of this title, referred to in subsec. (a)(3), was repealed by Pub. L. 102-321, title II, §201(2), July 10, 1992, 106 Stat. 378.

PRIOR PROVISIONS

A prior section 1931 of act July 1, 1944, was classified to section 300y-21 of this title and subsequently omitted from the Code.

Another prior section 1931 of act July 1, 1944, was classified to section 300y-10 of this title prior to repeal by Pub. L. 99-280.

AMENDMENTS

2022—Subsec. (b)(2). Pub. L. 117-328 substituted “substance use disorders” for “substance abuse”.

2016—Subsec. (b)(1). Pub. L. 114-255 substituted “substance use disorders” for “substance abuse”.

§ 300x-32. Application for grant; approval of State plan

(a) In general

For purposes of section 300x-21 of this title, an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsection (c)—

(1) the application is received by the Secretary not later than October 1 of the fiscal year for which the State is seeking funds;

(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

(3) the agreements are made through certification from the chief executive officer of the State;

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(5) the application contains the report required in section 300x-52(a) of this title;

(6)(A) the application contains a plan in accordance with subsection (b) and the plan is approved by the Secretary; and

(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 300x-21 of this title; and

(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

(b) State plan

(1) In general

In order for a State to be in compliance with subsection (a)(6), the State shall submit to the Secretary a plan that, at a minimum, includes the following:

(A) A description of the State’s system of care that—

(i) identifies the single State agency responsible for the administration of the program, including any third party who