

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

administers substance use disorder services and is responsible for complying with the requirements of the grant;

(ii) provides information on the need for substance use disorder prevention and treatment services in the State, including estimates on the number of individuals who need treatment, who are pregnant women, women with dependent children, individuals with a co-occurring mental health and substance use disorder, persons who inject drugs, and persons who are experiencing homelessness;

(iii) provides aggregate information on the number of individuals in treatment within the State, including the number of such individuals who are pregnant women, women with dependent children, individuals with a co-occurring mental health and substance use disorder, persons who inject drugs, and persons who are experiencing homelessness;

(iv) provides a description of the system that is available to provide services by modality, including the provision of recovery support services;

(v) provides a description of the State's comprehensive statewide prevention efforts, including the number of individuals being served in the system, target populations, and priority needs, and provides a description of the amount of funds from the prevention set-aside expended on primary prevention;

(vi) provides a description of—

(I) the State's comprehensive statewide recovery support services activities, including the number of individuals being served, target populations, workforce capacity (consistent with clause (viii)), and priority needs; and

(II) the amount of funds received under this subpart expended on recovery support services, disaggregated by the amount expended for type of service activity;

(vii) provides a description of the financial resources available;

(viii) describes the existing substance use disorders workforce, including with respect to prevention, treatment, and recovery, and workforce trained in treating co-occurring substance use and mental disorders;

(ix) includes a description of how the State promotes evidence-based practices; and

(x) describes how the State integrates substance use disorder services and primary health care, which in the case of those individuals with co-occurring mental health and substance use disorders may include providing both mental health and substance use disorder services in primary care settings or providing primary and specialty care services in community-based mental health and substance use disorder service settings.

(B) The establishment of goals and objectives for the period of the plan, including

targets and milestones that are intended to be met, and the activities that will be undertaken to achieve those targets.

(C) A description of how the State will comply with each funding agreement for a grant under section 300x-21 of this title that is applicable to the State, including a description of the manner in which the State intends to expend grant funds.

(2) Modifications

(A) Authority of Secretary

As a condition;¹ of making a grant under section 300x-21 of this title to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

(B) State request for modification

If the State determines that a modification to such plan is necessary, the State may request the Secretary to approve the modification. Any such modification shall be in accordance with paragraph (1) and section 300x-51 of this title.

(3) Authority of Center for Substance Abuse Prevention

With respect to plans submitted by the States under subsection (a)(6), including any modification under paragraph (2), the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

(c) Waivers regarding certain territories

In the case of any territory of the United States except Puerto Rico, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 300x-31 of this title.

(d) Issuance of regulations; precondition to making grants

(1) Regulations

Not later than August 25, 1992, the Secretary, acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 300x-21 of this title to be in accordance with this section.

(2) Issuance as precondition to making grants

The Secretary may not make payments under any grant under section 300x-21 of this title for fiscal year 1993 on or after January 1, 1993, unless the Secretary has issued standards under paragraph (1).

¹ So in original. The semicolon probably should not appear.

(e) Waiver authority for certain requirements**(1) In general**

Upon the request of a State, the Secretary may waive the requirements of all or part of the sections described in paragraph (2) using objective criteria established by the Secretary by regulation after consultation with the States and other interested parties including consumers and providers.

(2) Sections

The sections described in paragraph (1) are sections 300x-22(b), 300x-23, 300x-24 and 300x-28 of this title.

(3) Date certain for acting upon request

The Secretary shall approve or deny a request for a waiver under paragraph (1) and inform the State of that decision not later than 120 days after the date on which the request and all the information needed to support the request are submitted.

(4) Annual reporting requirement

The Secretary shall annually report to the general public on the States that receive a waiver under this subsection.

(July 1, 1944, ch. 373, title XIX, §1932, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 399; amended Pub. L. 106-310, div. B, title XXXIII, §3303(d)-(f)(1), Oct. 17, 2000, 114 Stat. 1211; Pub. L. 114-255, div. B, title VIII, §8002(i), Dec. 13, 2016, 130 Stat. 1231; Pub. L. 117-328, div. FF, title I, §1243, Dec. 29, 2022, 136 Stat. 5678.)

Editorial Notes**PRIOR PROVISIONS**

A prior section 1932 of act July 1, 1944, was classified to section 300y-22 of this title and subsequently omitted from the Code.

Another prior section 1932 of act July 1, 1944, was classified to section 300y-11 of this title prior to repeal by Pub. L. 99-280.

AMENDMENTS

2022—Subsec. (b)(1)(A)(vi), (vii). Pub. L. 117-328, §1243(1), (2), added cl. (vi) and redesignated former cl. (vi) as (vii). Former cl. (vii) redesignated (viii).

Subsec. (b)(1)(A)(viii). Pub. L. 117-328, §1243(1), (3), redesignated cl. (vii) as (viii) and substituted “disorders workforce, including with respect to prevention, treatment, and recovery,” for “disorders workforce”. Former cl. (viii) redesignated (ix).

Subsec. (b)(1)(A)(ix), (x). Pub. L. 117-328, §1243(1), redesignated cls. (viii) and (ix) as (ix) and (x), respectively.

2016—Subsec. (a). Pub. L. 114-255, §8002(i)(1)(A), substituted “subsection (c)” for “subsections (c) and (d)(2)” in introductory provisions.

Subsec. (a)(5). Pub. L. 114-255, §8002(i)(1)(B), struck out “the information required in section 300x-29 of this title, the information required in section 300x-30(c)(2) of this title, and” after “the application contains”.

Subsec. (b)(1). Pub. L. 114-255, §8002(i)(2)(A), added par. (1) and struck out former par. (1). Prior to amendment, text read as follows: “A plan submitted by a State under subsection (a)(6) is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement for a grant under section 300x-21 of this title that is applicable to the State, including a description of the manner in which the State intends to expend the grant.”

Subsec. (b)(2). Pub. L. 114-255, §8002(i)(2)(B), substituted “Modifications” for “Authority of Secretary

regarding modifications” in heading, designated existing provisions as subpar. (A), substituted “As a condition;” for “As a condition” and inserted heading in subpar. (A), and added subpar. (B).

Subsec. (b)(3). Pub. L. 114-255, §8002(i)(2)(C), inserted “, including any modification under paragraph (2)” after “subsection (a)(6)”.

Subsec. (e)(2). Pub. L. 114-255, §8002(i)(3), which directed substitution of “section 300x-22(b)” for “section 300x-22(c)”, was executed by substituting “sections 300x-22(b)” for “sections 300x-22(c)” to reflect the probable intent of Congress.

2000—Subsec. (a)(1). Pub. L. 106-310, §3303(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the State involved submits the application not later than the date specified by the Secretary;”.

Subsec. (c). Pub. L. 106-310, §3303(e), substituted “except Puerto Rico” for “whose allotment under section 300x-21 of this title for the fiscal year is the amount specified in section 300x-33(c)(2)(B) of this title”.

Subsec. (e). Pub. L. 106-310, §3303(f)(1), added subsec. (e).

§ 300x-33. Determination of amount of allotment**(a) States****(1) In general**

Subject to subsection (b), the Secretary shall determine the amount of the allotment required in section 300x-21 of this title for a State for a fiscal year as follows:

(A) The formula established in paragraph (1) of section 300x-7(a) of this title shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 300x-7(a) of this title, except that, in the application of such formula for purposes of this subsection, the modifications described in subparagraph (B) shall apply.

(B) For purposes of subparagraph (A), the modifications described in this subparagraph are as follows:

(i) The amount specified in paragraph (2)(A) of section 300x-7(a) of this title is deemed to be the amount appropriated under section 300x-35(a) of this title for allotments under section 300x-21 of this title for the fiscal year involved.

(ii) The term “P” is deemed to have the meaning given in paragraph (2) of this subsection. Section 300x-7(a)(5)(B) of this title applies to the data used in determining such term for the States.

(iii) The factor determined under paragraph (8) of section 300x-7(a) of this title is deemed to have the purpose of reflecting the differences that exist between the State involved and other States in the costs of providing authorized services.

(2) Determination of term “P”

For purposes of this subsection, the term “P” means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows:

(A) The percentage constituted by the ratio of—

(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in