

**Editorial Notes****PRIOR PROVISIONS**

A prior section 617, act Aug. 14, 1935, ch. 531, title IV, §417, formerly §418, as added Oct. 13, 1988, Pub. L. 100-485, title VI, §603(a), 102 Stat. 2408; renumbered §417, Nov. 10, 1988, Pub. L. 100-647, title VIII, §8105(7), 102 Stat. 3798, related to Assistant Secretary for Family Support, prior to repeal by Pub. L. 104-193, §103(a)(1), as amended by Pub. L. 105-33, title V, §5514(c), Aug. 5, 1997, 111 Stat. 620.

**AMENDMENTS**

1997—Pub. L. 105-33 made technical amendment to directory language of Pub. L. 104-193, §103(a)(1), which enacted this section.

**Statutory Notes and Related Subsidiaries****EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105-33 effective as if included in the provision of Pub. L. 104-193 amended at the time the provision became law, see section 5518(d) of Pub. L. 105-33, set out as a note under section 862a of Title 21, Food and Drugs.

**EFFECTIVE DATE**

Section effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as a note under section 601 of this title.

**§ 618. Funding for child care****(a) General child care entitlement****(1) General entitlement**

Subject to the amount appropriated under paragraph (3), each State shall, for the purpose of providing child care assistance, be entitled to payments under a grant under this subsection for a fiscal year in an amount equal to the greater of—

(A) the total amount required to be paid to the State under section 603 of this title for fiscal year 1994 or 1995 (whichever is greater) with respect to expenditures for child care under subsections (g) and (i) of section 602 of this title (as in effect before October 1, 1995); or

(B) the average of the total amounts required to be paid to the State for fiscal years 1992 through 1994 under the subsections referred to in subparagraph (A).

**(2) Remainder****(A) Grants**

The Secretary shall use any amounts appropriated for a fiscal year under paragraph (3)(A), after grants are awarded under paragraph (1), to make grants to States under this paragraph.

**(B) Allotments to States**

The total amount available for payments to States under this paragraph, as determined under subparagraph (A), shall be allotted among the States based on the formula used for determining the amount of

Federal payments to each State under section 603(n) of this title (as in effect before October 1, 1995).

**(C) Federal matching of State expenditures exceeding historical expenditures**

The Secretary shall pay to each eligible State for a fiscal year an amount equal to the lesser of the State's allotment under subparagraph (B) or the Federal medical assistance percentage for the State for the fiscal year (as defined in section 1396d(b) of this title, as such section was in effect on September 30, 1995) of so much of the State's expenditures for child care in that fiscal year as exceed the total amount of expenditures by the State (including expenditures from amounts made available from Federal funds) in fiscal year 1994 or 1995 (whichever is greater) for the programs described in paragraph (1)(A).

**(D) Redistribution****(i) In general**

With respect to any fiscal year, if the Secretary determines (in accordance with clause (ii)) that any amounts allotted to a State under this paragraph for such fiscal year will not be used by such State during such fiscal year for carrying out the purpose for which such amounts are allotted, the Secretary shall make such amounts available in the subsequent fiscal year for carrying out such purpose to one or more States which apply for such funds to the extent the Secretary determines that such States will be able to use such additional amounts for carrying out such purpose. Such available amounts shall be redistributed to a State pursuant to section 603(n) of this title (as such section was in effect before October 1, 1995) by substituting "the number of children residing in all States applying for such funds" for "the number of children residing in the United States in the second preceding fiscal year".

**(ii) Time of determination and distribution**

The determination of the Secretary under clause (i) for a fiscal year shall be made not later than the end of the first quarter of the subsequent fiscal year. The redistribution of amounts under clause (i) shall be made as close as practicable to the date on which such determination is made. Any amount made available to a State from an appropriation for a fiscal year in accordance with this subparagraph shall, for purposes of this part, be regarded as part of such State's payment (as determined under this subsection) for the fiscal year in which the redistribution is made.

**(3) Appropriation**

For grants under this section, there are appropriated \$3,550,000,000 for each fiscal year, of which—

(A) \$3,375,000,000 shall be available for grants to States;

(B) \$100,000,000 shall be available for grants to Indian tribes and tribal organizations; and

(C) \$75,000,000 shall be available for grants to territories.

**(4) Territories**

**(A) Grants**

The Secretary shall use the amounts made available by paragraph (3)(C) to make grants to the territories under this paragraph.

**(B) Allotments**

The amount described in subparagraph (A) shall be allotted among the territories in proportion to their respective needs.

**(C) Redistribution**

The 1st sentence of clause (i) and clause (ii) of paragraph (2)(D) shall apply with respect to the amounts allotted to the territories under this paragraph, except that the 2nd sentence of paragraph (2)(D) shall not apply and the amounts allotted to the territories that are available for redistribution for a fiscal year shall be redistributed to each territory that applies for the additional amounts, to the extent that the Secretary determines that the territory will be able to use the additional amounts to provide child care assistance, in an amount that bears the same ratio to the amount so available for redistribution as the amount allotted to the territory for the fiscal year bears to the total amount allotted to all the territories receiving redistributed funds under this paragraph for the fiscal year.

**(D) Inapplicability of payment limitation**

Section 1308(a) of this title shall not apply with respect to any amount paid under this paragraph.

**(E) Territory**

In this paragraph, the term “territory” means the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

**(5) Data used to determine State and Federal shares of expenditures**

In making the determinations concerning expenditures required under paragraphs (1) and (2)(C), the Secretary shall use information that was reported by the State on ACF Form 231 and available as of the applicable dates specified in clauses (i)(I), (ii), and (iii)(III) of section 603(a)(1)(D)<sup>1</sup> of this title.

**(b) Use of funds**

**(1) In general**

Amounts received by a State under this section shall only be used to provide child care assistance. Amounts received by a State under a grant under subsection (a)(1) shall be available for use by the State without fiscal year limitation.

**(2) Use for certain populations**

A State shall ensure that not less than 70 percent of the total amount of funds received by the State in a fiscal year under this section are used to provide child care assistance to

families who are receiving assistance under a State program under this part, families who are attempting through work activities to transition off of such assistance program, and families who are at risk of becoming dependent on such assistance program.

**(c) Application of Child Care and Development Block Grant Act of 1990**

Notwithstanding any other provision of law, amounts provided to a State under this section shall be transferred to the lead agency under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.], integrated by the State into the programs established by the State under such Act, and be subject to requirements and limitations of such Act.

**(d) “State” defined**

As used in this section, the term “State” means each of the 50 States and the District of Columbia.

(Aug. 14, 1935, ch. 531, title IV, §418, as added Pub. L. 104-193, title VI, §603(b), Aug. 22, 1996, 110 Stat. 2279; amended Pub. L. 105-33, title V, §5601, Aug. 5, 1997, 111 Stat. 644; Pub. L. 108-40, §4, June 30, 2003, 117 Stat. 837; Pub. L. 109-171, title VII, §7201, Feb. 8, 2006, 120 Stat. 141; Pub. L. 112-96, title IV, §4002(g), Feb. 22, 2012, 126 Stat. 195; Pub. L. 115-31, div. M, title I, §102(a)(4), May 5, 2017, 131 Stat. 800; Pub. L. 117-2, title IX, §9801(a), (c), Mar. 11, 2021, 135 Stat. 207.)

**Editorial Notes**

REFERENCES IN TEXT

Section 603(a)(1)(D) of this title, referred to in subsec. (a)(5), was repealed by Pub. L. 108-40, §3(a)(2), June 30, 2003, 117 Stat. 836.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (c), is subchapter C (§658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-236, which is classified generally to subchapter II-B (§9857 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see section 9857(a) of this title and Tables.

AMENDMENTS

2021—Subsec. (a)(2)(A). Pub. L. 117-2, §9801(a)(2), substituted “paragraph (3)(A),” for “paragraph (3), and remaining after the reservation described in paragraph (4) and”.

Subsec. (a)(3). Pub. L. 117-2, §9801(a)(1), amended par. (3) generally. Prior to amendment, text read as follows: “For grants under this section, there are appropriated \$2,917,000,000 for each of fiscal years 2017 and 2018.”

Subsec. (a)(4). Pub. L. 117-2, §9801(c), amended par. (4) generally. Prior to amendment, text read as follows: “The Secretary shall reserve not less than 1 percent, and not more than 2 percent, of the aggregate amount appropriated to carry out this section in each fiscal year for payments to Indian tribes and tribal organizations.”

2017—Subsec. (a)(3). Pub. L. 115-31 substituted “each of fiscal years 2017 and 2018” for “fiscal year 2012”.

2012—Subsec. (a)(3). Pub. L. 112-96 substituted “appropriated \$2,917,000,000 for fiscal year 2012.” for “appropriated—” and struck out subpars. (A) to (G) which appropriated amounts for fiscal years 1997 to 2010.

2006—Subsec. (a)(3)(G). Pub. L. 109-171 added subpar. (G).

2003—Subsec. (a)(3)(F). Pub. L. 108-40 substituted “each of fiscal years 2002 and 2003” for “fiscal year 2002”.

<sup>1</sup> See References in Text note below.

1997—Subsec. (a)(1). Pub. L. 105-33, § 5601(a)(1)(A), (D), inserted “the greater of” after “equal to” in introductory provisions and struck out concluding provisions which read “whichever is greater.”

Subsec. (a)(1)(A). Pub. L. 105-33, § 5601(a)(1)(B), struck out “the sum of” before “the total amount”, substituted “expenditures” for “amounts expended” and “subsections (g) and (i) of section 602 of this title (as in effect before October 1, 1995); or” for “section—”, and struck out cls. (i) and (ii) which read as follows:

“(i) 602(g) of this title (as such section was in effect before October 1, 1995); and

“(ii) 602(i) of this title (as so in effect); or”.

Subsec. (a)(1)(B). Pub. L. 105-33, § 5601(a)(1)(C), substituted “subsections” for “sections” and a period for the semicolon at end.

Subsec. (a)(2)(B). Pub. L. 105-33, § 5601(a)(2)(A), added subpar. (B) and struck out heading and text of former subpar. (B). Text read as follows: “Subject to subparagraph (C), the amount of a grant awarded to a State for a fiscal year under this paragraph shall be based on the formula used for determining the amount of Federal payments to the State under section 603(n) of this title (as such section was in effect before October 1, 1995).”

Subsec. (a)(2)(C). Pub. L. 105-33, § 5601(a)(2)(B), added subpar. (C) and struck out heading and text of former subpar. (C). Text read as follows: “The Secretary shall pay to each eligible State in a fiscal year an amount, under a grant under subparagraph (A), equal to the Federal medical assistance percentage for such State for fiscal year 1995 (as defined in section 1396d(b) of this title) of so much of the expenditures by the State for child care in such year as exceed the State set-aside for such State under paragraph (1)(A) for such year and the amount of State expenditures in fiscal year 1994 or 1995 (whichever is greater) that equal the non-Federal share for the programs described in subparagraph (A) of paragraph (1).”

Subsec. (a)(2)(D)(i). Pub. L. 105-33, § 5601(a)(2)(C), substituted “any amounts allotted” for “amounts under any grant awarded” and “such amounts are allotted” for “the grant is made”.

Subsec. (a)(5). Pub. L. 105-33, § 5601(b), added par. (5).

Subsec. (d). Pub. L. 105-33, § 5601(c), substituted “and” for “or” before “the District”.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-171 effective as if enacted on Oct. 1, 2005, except as otherwise provided, see section 7701 of Pub. L. 109-171, set out as a note under section 603 of this title.

##### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-40 effective July 1, 2003, see section 8 of Pub. L. 108-40, set out as a note under section 603 of this title.

##### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title V, § 5603, Aug. 5, 1997, 111 Stat. 646, provided that:

“(a) IN GENERAL.—Except as provided in subsection (b), this chapter [chapter 6 (§§ 5601-5603) of subtitle F of title V of Pub. L. 105-33, amending this section and sections 9858c, 9858i, 9858j, 9858m, and 9858n of this title] and the amendments made by this chapter shall take effect as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (Public Law 104-193; 110 Stat. 2278).

“(b) EXCEPTIONS.—The amendment made by section 5601(a)(2)(B) [amending this section] shall take effect on October 1, 1997.”

##### EFFECTIVE DATE

Section effective Oct. 1, 1996, see section 615 of Pub. L. 104-193, set out as an Effective Date of 1996 Amendment note under section 9858 of this title.

##### MODIFICATION OF STATE MATCH REQUIREMENT FOR FUNDING INCREASES IN FISCAL YEARS 2021 AND 2022

Pub. L. 117-2, title IX, § 9801(b), Mar. 11, 2021, 135 Stat. 207, provided that: “With respect to the amounts made available by section 418(a)(3) of the Social Security Act [42 U.S.C. 618(a)(3)] for each of fiscal years 2021 and 2022, section 418(a)(2)(C) of such Act [42 U.S.C. 618(a)(2)(C)] shall be applied and administered with respect to any State that is entitled to receive the entire amount that would be allotted to the State under section 418(a)(2)(B) of such Act [42 U.S.C. 618(a)(2)(B)] for the fiscal year in the manner authorized for fiscal year 2020, as if the Federal medical assistance percentage for the State for the fiscal year were 100 percent.”

#### § 619. Definitions

As used in this part:

##### (1) Adult

The term “adult” means an individual who is not a minor child.

##### (2) Minor child

The term “minor child” means an individual who—

(A) has not attained 18 years of age; or

(B) has not attained 19 years of age and is a full-time student in a secondary school (or in the equivalent level of vocational or technical training).

##### (3) Fiscal year

The term “fiscal year” means any 12-month period ending on September 30 of a calendar year.

##### (4) Indian, Indian tribe, and tribal organization

###### (A) In general

Except as provided in subparagraph (B), the terms “Indian”, “Indian tribe”, and “tribal organization” have the meaning given such terms by section 5304 of title 25.

###### (B) Special rule for Indian tribes in Alaska

The term “Indian tribe” means, with respect to the State of Alaska, only the Metlakatla Indian Community of the Annette Islands Reserve and the following Alaska Native regional nonprofit corporations:

- (i) Arctic Slope Native Association.
- (ii) Kawerak, Inc.
- (iii) Manillaq Association.
- (iv) Association of Village Council Presidents.
- (v) Tanana Chiefs Conference.
- (vi) Cook Inlet Tribal Council.
- (vii) Bristol Bay Native Association.
- (viii) Aleutian and Pribilof Island Association.
- (ix) Chugachmuit.
- (x) Tlingit Haida Central Council.
- (xi) Kodiak Area Native Association.
- (xii) Copper River Native Association.

##### (5) State

Except as otherwise specifically provided, the term “State” means the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.