

§ 3030a. Nutrition services incentive program**(a) Purpose**

The purpose of this section is to provide incentives to encourage and reward effective performance by States and tribal organizations in the efficient delivery of nutritious meals to older individuals.

(b) Allotment and provision and payment

(1) The Secretary shall allot and provide, in accordance with this section, to or on behalf of each State agency with a plan approved under this subchapter for a fiscal year, and to or on behalf of each grantee with an application approved under subchapter X of this chapter for such fiscal year, an amount bearing the same ratio to the total amount appropriated for such fiscal year under subsection (e) of this section as the number of meals served in the State under such plan approved for the preceding fiscal year (or the number of meals served by the title VI [subchapter X] grantee, under such application approved for such preceding fiscal year), bears to the total number of such meals served in all States and by all title VI [subchapter X] grantees under all such plans and applications approved for such preceding fiscal year.

(2) For purposes of paragraph (1), in the case of a grantee that has an application approved under subchapter X of this chapter for a fiscal year but that did not receive assistance under this section for the preceding fiscal year, the number of meals served by the title VI [subchapter X] grantee for the preceding fiscal year shall be deemed to equal the number of meals that the Assistant Secretary estimates will be served by the title VI [subchapter X] grantee in the fiscal year for which the application was approved.

(c) Donation of products

(1) Agricultural commodities (including bonus commodities) and products purchased by the Secretary of Agriculture under section 612c of title 7, shall be donated to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this subchapter.

(2) The Commodity Credit Corporation shall dispose of food commodities (including bonus commodities) under section 1431 of title 7 by donating them to a recipient of a grant or contract to be used for providing nutrition services in accordance with the provisions of this subchapter.

(3) Dairy products (including bonus commodities) purchased by the Secretary of Agriculture under section 1446a-1 of title 7 shall be used to meet the requirements of programs providing nutrition services in accordance with the provisions of this subchapter.

(4) Among the commodities provided under this subsection, the Secretary of Agriculture shall give special emphasis to foods of high nutritional value to support the health of older individuals. The Secretary of Agriculture, in consultation with the Assistant Secretary, is authorized to prescribe the terms and conditions respecting the provision of commodities under this subsection.

(d) Option to obtain commodities from Secretary of Agriculture

(1) Each State agency and each title VI [subchapter X] grantee shall be entitled to use all or any part of amounts allotted under subsection (b) to obtain, subject to paragraphs (2) and (3), from the Secretary of Agriculture commodities available through any food program of the Department of Agriculture at the rates at which such commodities are valued for purposes of such program.

(2) The Secretary of Agriculture shall determine and report to the Secretary, by such date as the Secretary may require, the amount (if any) of its allotment under subsection (b) which each State agency and title VI [subchapter X] grantee has elected to receive in the form of commodities. Such amount shall include an amount bearing the same ratio to the costs to the Secretary of Agriculture of providing such commodities under this subsection as the value of commodities received by such State agency or title VI [subchapter X] grantee under this subsection bears to the total value of commodities so received.

(3) From the allotment under subsection (b) for each State agency and title VI [subchapter X] grantee, the Secretary shall transfer funds to the Secretary of Agriculture for the costs of commodities received by such State agency or grantee, and expenses related to the procurement of the commodities on behalf of such State agency or grantee, under this subsection, and shall then pay the balance (if any) to such State agency or grantee. The amount of funds transferred for the expenses related to the procurement of the commodities shall be mutually agreed on by the Secretary and the Secretary of Agriculture. The transfer of funds for the costs of the commodities and the related expenses shall occur in a timely manner after the Secretary of Agriculture submits the corresponding report described in paragraph (2), and shall be subject to the availability of appropriations. Amounts received by the Secretary of Agriculture pursuant to this section to make commodity purchases for a fiscal year for a State agency or title VI [subchapter X] grantee shall remain available, only for the next fiscal year, to make commodity purchases for that State agency or grantee pursuant to this section.

(4) Each State agency and title VI [subchapter X] grantee shall promptly and equitably disburse amounts received under this subsection to recipients of grants and contracts. Such disbursements shall only be used by such recipients of grants or contracts to purchase domestically produced foods for their nutrition projects.

(5) Nothing in this subsection shall be construed to require any State agency or title VI [subchapter X] grantee to elect to receive cash payments under this subsection.

(e) Authorization of appropriations

There are authorized to be appropriated to carry out this section (other than subsection (c)(1) of this section) such sums as may be necessary for fiscal year 2007 and such sums as may be necessary for each of the 4 succeeding fiscal years.

(f) Dissemination of information

In each fiscal year, the Secretary and the Secretary of Agriculture shall jointly disseminate to State agencies, title VI [subchapter X] grantees, area agencies on aging, and providers of nutrition services assisted under this subchapter, information concerning the foods available to such State agencies, title VI [subchapter X] grantees, area agencies on aging, and providers under subsection (c).

(Pub. L. 89-73, title III, §311, as added Pub. L. 95-478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1533; amended Pub. L. 97-115, §9, Dec. 29, 1981, 95 Stat. 1600; Pub. L. 98-459, title III, §310, Oct. 9, 1984, 98 Stat. 1779; Pub. L. 99-269, §2, 3(b), 4, Apr. 1, 1986, 100 Stat. 78; Pub. L. 100-175, title I, §122(c), Nov. 29, 1987, 101 Stat. 933; Pub. L. 102-375, title I, §102(b)(10)(A), title III, §310, Sept. 30, 1992, 106 Stat. 1202, 1236; Pub. L. 103-171, §3(a)(6), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106-501, title III, §309, Nov. 13, 2000, 114 Stat. 2246; Pub. L. 108-7, div. G, title II, §217(a), Feb. 20, 2003, 117 Stat. 325; Pub. L. 109-365, title III, §309, Oct. 17, 2006, 120 Stat. 2545; Pub. L. 110-19, §2, Apr. 23, 2007, 121 Stat. 84.)

AMENDMENTS

2007—Subsec. (b)(3). Pub. L. 110-19, §2(1), struck out par. (3) which read as follows: “State agencies that elect to make grants and enter into contracts for purposes of this section shall promptly and equitably disburse amounts received under this subsection to the recipients of the grants and contracts.”

Subsec. (d). Pub. L. 110-19, §2(2), amended subsec. (d) generally. Prior to amendment, subsec. (d) related to purchase of commodities and payments to school food authorities.

Subsec. (f). Pub. L. 110-19, §2(3), added subsec. (f) and struck out former subsec. (f). Prior to amendment, text read as follows: “In each fiscal year, the Assistant Secretary and the Secretary of Agriculture shall jointly disseminate to State agencies, area agencies on aging, and providers of nutrition services assisted under this subchapter, information concerning—

“(1) school food authorities participating in programs authorized under the Richard B. Russell National School Lunch Act within the geographic area served by each such State agency, area agency on aging, and provider; and

“(2) the foods available to such State agencies, area agencies on aging, and providers under subsection (c).”

2006—Subsec. (b)(3). Pub. L. 109-365, §309(1), added par. (3).

Subsec. (c)(1), (2). Pub. L. 109-365, §309(2)(A), (B), inserted “(including bonus commodities)” after “commodities”.

Subsec. (c)(3). Pub. L. 109-365, §309(2)(C), inserted “(including bonus commodities)” after “products”.

Subsec. (c)(4). Pub. L. 109-365, §309(2)(D), added par. (4).

Subsec. (d). Pub. L. 109-365, §309(3), amended subsec. (d) generally, substituting provisions relating to purchase of agricultural commodities and payments to a school food authority to obtain commodities for provisions relating to entitlement to obtain commodities, report on amounts elected to be received, reimbursement for costs, disbursement of amounts, and emphasis on high protein foods.

Subsec. (e). Pub. L. 109-365, §309(4), substituted “2007” for “2001”.

Subsec. (f). Pub. L. 109-365, §309(5), substituted “the Assistant Secretary and the Secretary of Agriculture” for “the Secretary of Agriculture and the Secretary of Health and Human Services” in introductory provisions, added pars. (1) and (2), and struck out former pars. (1) and (2) which read as follows:

“(1) the existence of any Federal commodity processing program in which such State agencies, area agencies on aging, and providers may be eligible to participate; and

“(2) the procedures to be followed to participate in the program.”

2003—Subsec. (b). Pub. L. 108-7, §217(a)(1)(A), substituted “and payment” for “of cash or commodities” in heading that had been supplied editorially.

Subsec. (b)(1). Pub. L. 108-7, §217(a)(1)(B), substituted “The Secretary shall allot and provide, in accordance with this section, to or on behalf of each State agency” for “The Secretary of Agriculture shall allot and provide in the form of cash or commodities or a combination thereof (at the discretion of the State) to each State agency” and “to or on behalf of each grantee” for “to each grantee”.

Subsec. (d). Pub. L. 108-7, §217(a)(2)(A), inserted heading.

Subsec. (d)(1). Pub. L. 108-7, §217(a)(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “In any case in which a State elects to receive cash payments, the Secretary of Agriculture shall make cash payments to such State in an amount equivalent in value to the donated foods which the State otherwise would have received if such State had retained its commodity distribution.”

Subsec. (d)(2). Pub. L. 108-7, §217(a)(2)(E), added par. (2). Former par. (2) redesignated (4).

Subsec. (d)(3). Pub. L. 108-7, §217(a)(2)(D), (E), added par. (3) and struck out former par. (3) which read as follows: “Nothing in this subsection shall be construed to authorize the Secretary of Agriculture to require any State to elect to receive cash payments under this subsection.”

Subsec. (d)(4). Pub. L. 108-7, §217(a)(2)(F), amended first sentence generally. Prior to amendment, first sentence read as follows: “When such payments are made, the State agency shall promptly and equitably disburse any cash it receives in lieu of commodities to recipients of grants or contracts.”

Pub. L. 108-7, §217(a)(2)(C), redesignated par. (2) as par. (4). Former par. (4) redesignated (5).

Subsec. (d)(5). Pub. L. 108-7, §217(a)(2)(G), which directed the substitution of “provision” for “donation”, was executed by substituting “provision” for “donating”, to reflect the probable intent of Congress.

Pub. L. 108-7, §217(a)(2)(C), redesignated par. (4) as (5).

2000—Pub. L. 106-501, §309(1), in section catchline substituted “Nutrition services incentive program” for “Availability of surplus commodities”.

Subsecs. (a), (b). Pub. L. 106-501, §309(3), added subsecs. (a) and (b). Former subsecs. (a) and (b) redesignated (c) and (d), respectively.

Subsec. (c). Pub. L. 106-501, §309(2), (4), redesignated subsec. (a) as (c) and struck out par. (4) which related to the level of assistance the Secretary of Agriculture was to maintain in donating commodities under this subsection for fiscal years 1992 and 1993 and required the Secretary to give emphasis to high protein foods, meat, and meat alternates. Former subsec. (c) redesignated (e).

Subsec. (d). Pub. L. 106-501, §309(2), redesignated subsec. (b) as (d). Former subsec. (d) redesignated (f).

Subsec. (d)(1). Pub. L. 106-501, §309(5), substituted “In any case in which a State elects to receive cash payments,” for “Notwithstanding any other provision of law, a State may, for purposes of the programs authorized by this chapter, elect to receive cash payments in lieu of donated foods for all or any portion of its project. In any case in which a State makes such an election”.

Subsec. (d)(4). Pub. L. 106-501, §309(6), added par. (4).

Subsec. (e). Pub. L. 106-501, §309(7), added subsec. (e) and struck out former subsec. (e) which authorized appropriations for fiscal years 1992 to 1995 to carry out this section, set a deadline for final reimbursement claims for meals, provided for a reduction of the cents-per-meal level in any fiscal year in which costs exceed amounts authorized, and required adjustment of final

reimbursement claims to use the full amount appropriated for a fiscal year.

Pub. L. 106-501, §309(2), redesignated subsec. (c) as (e).
Subsec. (f). Pub. L. 106-501, §309(2), redesignated subsec. (d) as (f).

1993—Subsec. (a)(4)(B). Pub. L. 103-171 substituted “Assistant Secretary for Aging” for “Commissioner”.

1992—Subsec. (a)(4). Pub. L. 102-375, §310(1), designated existing provisions as subpars. (A) and (B) and, in subpar. (A), substituted “shall maintain—” for “shall maintain an annually programmed level of assistance of not less than 56.76 cents per meal during fiscal years 1986 through 1991.” and added cls. (i) and (ii).

Subsec. (c)(1)(A). Pub. L. 102-375, §310(2)(A), substituted “\$250,000,000 for fiscal year 1992, \$310,000,000 for fiscal year 1993, \$380,000,000 for fiscal year 1994, and \$460,000,000 for fiscal year 1995” for “\$151,000,000 for the fiscal year 1988, \$166,000,000 for the fiscal year 1989, \$183,000,000 for the fiscal year 1990, and \$201,000,000 for the fiscal year 1991”.

Subsec. (c)(2). Pub. L. 102-375, §310(2)(B), designated existing provisions as subpar. (A), substituted “Except as provided in subparagraph (B), in” for “In”, and added subpar. (B).

Subsec. (d)(1). Pub. L. 102-375, §102(b)(10)(A), substituted “area agencies on aging” for “area agencies”.

1987—Subsec. (a)(4). Pub. L. 100-175, §122(c)(1), substituted “fiscal years 1986 through 1991” for “fiscal year 1986 and during each fiscal year thereafter” and struck out after first sentence “The amount specified in this paragraph shall be adjusted on an annual basis for each fiscal year after September 30, 1986, to reflect changes in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Such adjustment shall be computed to the nearest one-fourth cent.”

Subsec. (c)(1)(A). Pub. L. 100-175, §122(c)(2), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows:

“(i) There are authorized to be appropriated \$144,000,000 for fiscal year 1986 and \$144,000,000 for fiscal year 1987 to carry out this section (other than subsection (a)(1) of this section).

“(ii) The provisions of the second and third sentences of subsection (a)(4) of this section shall not apply for fiscal years 1986 and 1987.”

1986—Subsec. (a)(4). Pub. L. 99-269, §2, substituted “56.76 cents per meal during fiscal year 1986 and during” for “15 cents per meal during fiscal year 1976, 25 cents per meal during fiscal year 1977 and fiscal year 1978, and 30 cents per meal for” and “September 30, 1986” for “June 30, 1975”.

Subsec. (c)(1)(A). Pub. L. 99-269, §3(b), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: “There are authorized to be appropriated \$105,000,000 for fiscal year 1984, \$120,800,000 for fiscal year 1985, \$125,900,000 for fiscal year 1986, and \$132,000,000 for fiscal year 1987, to carry out the provisions of this section (other than the provisions of subsection (a)(1) of this section) and such additional sums as may be necessary for each such fiscal year to maintain the level of reimbursement for the number of meals served under such provisions in fiscal year 1983.”

Subsec. (d). Pub. L. 99-269, §4, added subsec. (d).

1984—Subsec. (a)(4). Pub. L. 98-459, §310(a)(1), (2), substituted “subsection (c) of this section” for “subsection (d) of this section” and “Consumer Price Index for All Urban Consumers” for “Consumer Price Index”.

Subsec. (c). Pub. L. 98-459, §310(b)(1), which directed the amendment of this section by redesignating subsec. (d)(1) as (c)(1), was executed by redesignating subsec. (d) as (c) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 98-459, §310(b)(2), (3), inserted “(A)” after paragraph designation, struck out therein provisions authorizing appropriations of \$93,200,000 for fiscal year 1982 and \$100,000,000 for fiscal year 1983, inserted provisions authorizing appropriations of \$120,800,000 for fiscal year 1985, \$125,900,000 for fiscal year 1986, and \$132,000,000 for fiscal year 1987, sub-

stituted “fiscal year 1983” for “fiscal year 1981” at the end, and added subpar. (B).

Subsec. (c)(2). Pub. L. 98-459, §310(b)(4), substituted “appropriations” for “appropriation”.

Subsec. (d). Pub. L. 98-459, §310(b)(1), redesignated subsec. (d) as (c). See 1984 Amendment note for subsec. (c) above.

1981—Subsec. (a)(4). Pub. L. 97-115, §9(a), substituted “Subject to the authorization of appropriations specified in subsection (d) of this section, in donating” and “30 cents per meal for each fiscal year thereafter” for “In donating” and “30 cents per meal during the three succeeding fiscal years”, respectively.

Subsecs. (b), (c). Pub. L. 97-115, §9(b), redesignated subsec. (c) as (b). Former subsec. (b), providing for the purchase, during fiscal years ending before Oct. 1, 1981, of high protein foods, meats, and meat alternatives by the Secretary of Agriculture for distribution to recipients of grants or contracts to be used for providing nutrition services in accordance with the provisions of this subchapter, was struck out.

Subsec. (d). Pub. L. 97-115, §9(c), added subsec. (d).

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-19, §3, Apr. 23, 2007, 121 Stat. 85, provided that:

“(a) IN GENERAL.—The amendments made by section 2 [amending this section] shall take effect beginning with fiscal year 2008.

“(b) APPLICATION PROCESS.—Effective on the date of enactment of this Act [Apr. 23, 2007], the Secretary of Agriculture shall take such actions as will enable State agencies and title VI [subchapter X of this chapter] grantees described in section 311 of the Older Americans Act of 1965 (42 U.S.C. 3030a) to apply during fiscal year 2007 for allotments under such section for fiscal year 2008.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100-175, set out as a note under section 3001 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Section 5 of Pub. L. 99-269 provided that: “This Act and the amendments made by this Act [amending this section and enacting provisions set out as notes under this section and section 3001 of this title] shall take effect on October 1, 1985.”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

ESTABLISHMENT OF MAXIMUM RATE OF REIMBURSEMENT TO STATES FOR MEALS; AVAILABILITY OF FUNDS

Pub. L. 104-37, title IV, Oct. 21, 1995, 109 Stat. 324, provided in part: “That hereafter notwithstanding any other provision of law, for meals provided pursuant to the Older Americans Act of 1965 [42 U.S.C. 3001 et seq.], a maximum rate of reimbursement to States will be established by the Secretary, subject to reduction if obligations would exceed the amount of available funds, with any unobligated funds to remain available only for obligation in the fiscal year beginning October 1, 1996.”

AUTHORIZATION OF APPROPRIATIONS

Pub. L. 99-269, §3(a), Apr. 1, 1986, 100 Stat. 78, authorized appropriations for fiscal year 1985 in order to pro-

vide reimbursement at the level of 56.76 cents per meal during fiscal year 1985 determined under subsec. (a)(4) of this section.

§ 3030b. Recapture of payments made for multi-purpose senior centers

If, within 10 years after acquisition, or within 20 years after the completion of construction, of any facility for which funds have been paid under this subchapter—

- (1) the owner of the facility ceases to be a public or nonprofit private agency or organization; or
- (2) the facility ceases to be used for the purposes for which it was acquired (unless the Assistant Secretary determines, in accordance with regulations, that there is good cause for releasing the applicant or other owner from the obligation to do so);

the United States shall be entitled to recover from the applicant or other owner of the facility an amount which bears to the then value of the facility (or so much thereof as constituted an approved project or projects) the same ratio as the amount of such Federal funds bore to the cost of the facility financed with the aid of such funds. Such value shall be determined by agreement of the parties or by action brought in the United States district court for the district in which such facility is situated.

(Pub. L. 89-73, title III, §312, as added Pub. L. 95-478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1534; amended Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

AMENDMENTS

1993—Par. (2). Pub. L. 103-171 substituted “Assistant Secretary” for “Commissioner”.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§ 3030c. Audit; request for information

(a) The Assistant Secretary and the Comptroller General of the United States or any of their duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to a grant or contract received under this subchapter.

(b) State agencies and area agencies on aging shall not request information or data from providers which is not pertinent to services furnished pursuant to this chapter or a payment made for such services.

(Pub. L. 89-73, title III, §313, as added Pub. L. 95-478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1535; amended Pub. L. 98-459, title III, §311, Oct. 9, 1984, 98 Stat. 1779; Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990.)

AMENDMENTS

1993—Subsec. (a). Pub. L. 103-171 substituted “Assistant Secretary” for “Commissioner”.

1984—Pub. L. 98-459 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

EFFECTIVE DATE

Section effective at close of Sept. 30, 1978, see section 504 of Pub. L. 95-478, set out as an Effective Date of 1978 Amendment note under section 3001 of this title.

§ 3030c-1. Rights relating to in-home services for frail older individuals

The Assistant Secretary shall require entities that provide in-home services under this subchapter to promote the rights of each older individual who receives such services. Such rights include the following:

(1) The right—

(A) to be fully informed in advance about each in-home service provided by such entity under this subchapter and about any change in such service that may affect the well-being of such individual; and

(B) to participate in planning and changing an in-home service provided under this subchapter by such entity unless such individual is judicially adjudged incompetent.

(2) The right to voice a grievance with respect to such service that is or fails to be so provided, without discrimination or reprisal as a result of voicing such grievance.

(3) The right to confidentiality of records relating to such individual.

(4) The right to have the property of such individual treated with respect.

(5) The right to be fully informed (orally and in writing), in advance of receiving an in-home service under this subchapter, of such individual's rights and obligations under this subchapter.

(Pub. L. 89-73, title III, §314, as added Pub. L. 102-375, title III, §311, Sept. 30, 1992, 106 Stat. 1237; amended Pub. L. 103-171, §§2(11), 3(a)(13), Dec. 2, 1993, 107 Stat. 1989, 1990.)

AMENDMENTS

1993—Pub. L. 103-171 struck out “(a) PROMOTION.—” before “The Assistant” and substituted “Assistant Secretary” for “Commissioner”.

§ 3030c-2. Consumer contributions

(a) Cost sharing

(1) In general

Except as provided in paragraphs (2) and (3), a State is permitted to implement cost sharing for all services funded by this chapter by recipients of the services.

(2) Exception

The State is not permitted to implement the cost sharing described in paragraph (1) for the following services:

(A) Information and assistance, outreach, benefits counseling, or case management services.

(B) Ombudsman, elder abuse prevention, legal assistance, or other consumer protection services.

(C) Congregate and home delivered meals.

(D) Any services delivered through tribal organizations.

(3) Prohibitions

A State or tribal organization shall not permit the cost sharing described in paragraph (1)