

ered employee during the period of continuation coverage under this subchapter.

(B) Special rule for terminations and reduced employment

In the case of a qualifying event described in section 300bb-3(2) of this title, the term “qualified beneficiary” includes the covered employee.

(4) Plan administrator

The term “plan administrator” has the meaning given the term “administrator” by section 1002(16)(A) of title 29.

(July 1, 1944, ch. 373, title XXII, §2208, as added Pub. L. 99-272, title X, §10003(a), Apr. 7, 1986, 100 Stat. 236; amended Pub. L. 100-647, title III, §3011(b)(7), Nov. 10, 1988, 102 Stat. 3625; Pub. L. 101-239, title VI, §6801(c)(1), Dec. 19, 1989, 103 Stat. 2297; Pub. L. 104-191, title I, §102(d), title III, §321(d)(3), title IV, §421(a)(3), Aug. 21, 1996, 110 Stat. 1978, 2059, 2088.)

AMENDMENTS

1996—Par. (1). Pub. L. 104-191, §321(d)(3), inserted at end “Such term shall not include any plan substantially all of the coverage under which is for qualified long-term care services (as defined in section 7702B(c) of title 26).”

Pub. L. 104-191, §102(d), substituted “5000(b)” for “section 162(i)(2)”.

Par. (3)(A). Pub. L. 104-191, §421(a)(3), inserted at end “Such term shall also include a child who is born to or placed for adoption with the covered employee during the period of continuation coverage under this subchapter.”

1989—Par. (2). Pub. L. 101-239 substituted “the performance of services by the individual for 1 or more persons maintaining the plan (including as an employee defined in section 401(c)(1) of title 26)” for “the individual’s employment or previous employment with an employer”.

1988—Par. (1). Pub. L. 100-647 substituted “section 162(i)(2) of the Internal Revenue Code of 1986” for “section 162(i)(3) of the Internal Revenue Code of 1954”, which for purposes of codification was translated as “section 162(i)(2) of title 26”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 321(d)(3) of Pub. L. 104-191 applicable to contracts issued after Dec. 31, 1996, see section 321(f) of Pub. L. 104-191, set out as an Effective Date note under section 7702B of Title 26, Internal Revenue Code.

Amendment by section 421(a)(3) of Pub. L. 104-191 effective Jan. 1, 1997, regardless of whether the qualifying event occurred before, on, or after such date, see section 421(d) of Pub. L. 104-191, set out as a note under section 4980B of Title 26.

EFFECTIVE DATE OF 1989 AMENDMENT

Section 6801(c)(2) of Pub. L. 101-239 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to plan years beginning after December 31, 1989.”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to taxable years beginning after Dec. 31, 1988, but not applicable to any plan for any plan year to which section 162(k) of Title 26, Internal Revenue Code (as in effect on the day before Nov. 10, 1988), did not apply by reason of section 10001(e)(2) of Pub. L. 99-272, see section 3011(d) of Pub. L. 100-647, set out as a note under section 162 of Title 26.

SUBCHAPTER XXI—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

PRIOR PROVISIONS

A prior subchapter XXI (§300cc et seq.), comprised of title XXIII of the Public Health Service Act, act July 1, 1944, ch. 373, 2301-2316, was renumbered title XXV, §§2501-2514, of the Public Health Service Act, and transferred to subchapter XXV (§300aaa et seq.) of this chapter, renumbered title XXVI, §§2601-2614, of the Public Health Service Act, renumbered title XXVII, §§2701-2714, of the Public Health Service Act, and renumbered title II, part B, §§231-244, of the Public Health Service Act, and transferred to part B (§238 et seq.) of subchapter I of this chapter.

PART A—ADMINISTRATION OF RESEARCH PROGRAMS

§ 300cc. Repealed. Pub. L. 109-482, title I, § 104(b)(2)(C), Jan. 15, 2007, 120 Stat. 3693

Section, act July 1, 1944, ch. 373, title XXIII, §2301, as added Pub. L. 100-607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3063; amended Pub. L. 102-531, title III, §312(d)(16), Oct. 27, 1992, 106 Stat. 3505, required an annual comprehensive report on all expenditures by Secretary with respect to AIDS.

A prior section 300cc, act July 1, 1944, §2301, was successively renumbered by subsequent acts and transferred, see section 238 of this title.

EFFECTIVE DATE OF REPEAL

Repeal applicable only with respect to amounts appropriated for fiscal year 2007 or subsequent fiscal years, see section 109 of Pub. L. 109-482, set out as an Effective Date of 2007 Amendment note under section 281 of this title.

§ 300cc-1. Requirement of expediting awards of grants and contracts for research

(a) In general

The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

(b) Time limitations with respect to certain applications

(1) With respect to programs of grants, contracts, and cooperative agreements described in subsection (a) of this section, any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period beginning on the expiration of the period described in subparagraph (A).

(2) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (1) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

(c) Requirements with respect to adjustments in time limitations

With respect to any program for which a determination described in subsection (b)(2) of this section is made, the Secretary shall—

(1) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

(2) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

(d) Annual reports to Congress

Except as provided in subsection (e) of this section, the Secretary shall annually prepare, for inclusion in the comprehensive report required in section 300cc¹ of this title, a report—

(A) summarizing programs for which the Secretary has made a determination described in subsection (b)(2) of this section, including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

(B) summarizing applications that—

(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (1) of subsection (b) of this section for which a determination described in paragraph (2) of such subsection has not been made; and

(ii) were not processed in accordance with the time limitations described in such paragraph (1).

(e) Quarterly reports for fiscal year 1989

For fiscal year 1989, the report required in subsection (d) of this section shall, not less than quarterly, be prepared and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

(July 1, 1944, ch. 373, title XXIII, §2302, as added Pub. L. 100-607, title II, §201(4), Nov. 4, 1988, 102 Stat. 3063.)

REFERENCES IN TEXT

Section 300cc of this title, referred to in subsec. (d), was repealed by Pub. L. 109-482, title I, §104(b)(2)(C), Jan. 15, 2007, 120 Stat. 3693.

PRIOR PROVISIONS

A prior section 300cc-1, act July 1, 1944, §2302, was successively renumbered by subsequent acts and transferred, see section 238a of this title.

CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

¹ See References in Text note below.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

DEVELOPMENT OF RAPID HIV TEST

Pub. L. 106-345, title V, §502, Oct. 20, 2000, 114 Stat. 1353, provided that:

“(a) EXPANSION, INTENSIFICATION, AND COORDINATION OF RESEARCH AND OTHER ACTIVITIES.—

“(1) IN GENERAL.—The Director of NIH shall expand, intensify, and coordinate research and other activities of the National Institutes of Health with respect to the development of reliable and affordable tests for HIV disease that can rapidly be administered and whose results can rapidly be obtained (in this section referred to as ‘rapid HIV test’).

“(2) REPORT TO CONGRESS.—The Director of NIH shall periodically submit to the appropriate committees of Congress a report describing the research and other activities conducted or supported under paragraph (1).

“(3) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

“(b) PREMARKET REVIEW OF RAPID HIV TESTS.—

“(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act [Oct. 20, 2000], the Secretary, in consultation with the Director of the Centers for Disease Control and Prevention and the Commissioner of Food and Drugs, shall submit to the appropriate committees of the Congress a report describing the progress made towards, and barriers to, the premarket review and commercial distribution of rapid HIV tests. The report shall—

“(A) assess the public health need for and public health benefits of rapid HIV tests, including the minimization of false positive results through the availability of multiple rapid HIV tests;

“(B) make recommendations regarding the need for the expedited review of rapid HIV test applications submitted to the Center for Biologics Evaluation and Research and, if such recommendations are favorable, specify criteria and procedures for such expedited review; and

“(C) specify whether the barriers to the premarket review of rapid HIV tests include the unnecessary application of requirements—

“(i) necessary to ensure the efficacy of devices for donor screening to rapid HIV tests intended for use in other screening situations; or

“(ii) for identifying antibodies to HIV subtypes of rare incidence in the United States to rapid HIV tests intended for use in screening situations other than donor screening.

“(c) GUIDELINES OF CENTERS FOR DISEASE CONTROL AND PREVENTION.—Promptly after commercial distribution of a rapid HIV test begins, the Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish or update guidelines that include recommendations for States, hospitals, and other appropriate entities regarding the ready availability of such tests for administration to pregnant women who are in labor or in the late stage of pregnancy and whose HIV status is not known to the attending obstetrician.”

LIMITATION ON EXPENDITURES FOR AIDS AND HIV ACTIVITIES

Pub. L. 104-146, §11, May 20, 1996, 110 Stat. 1373, provided that: “Notwithstanding any other provision of

law, the total amounts of Federal funds expended in any fiscal year for AIDS and HIV activities may not exceed the total amounts expended in such fiscal year for activities related to cancer.”

VACCINES FOR HUMAN IMMUNODEFICIENCY VIRUS

Pub. L. 103-43, title XIX, §1901(b), June 10, 1993, 107 Stat. 200, provided that:

“(1) IN GENERAL.—The Secretary of Health and Human Services, acting through the National Institutes of Health, shall develop a plan for the appropriate inclusion of HIV-infected women, including pregnant women, HIV-infected infants, and HIV-infected children in studies conducted by or through the National Institutes of Health concerning the safety and efficacy of HIV vaccines for the treatment and prevention of HIV infection. Such plan shall ensure the full participation of other Federal agencies currently conducting HIV vaccine studies and require that such studies conform fully to the requirements of part 46 of title 45, Code of Federal Regulations.

“(2) REPORT.—Not later than 180 days after the date of the enactment of this Act [June 10, 1993], the Secretary of Health and Human Services shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives, and the Committee on Labor and Human Resources [now Committee on Health, Education, Labor, and Pensions] of the Senate, a report concerning the plan developed under paragraph (1).

“(3) IMPLEMENTATION.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall implement the plan developed under paragraph (1), including measures for the full participation of other Federal agencies currently conducting HIV vaccine studies.

“(4) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1994 through 1996.”

EX. ORD. NO. 12963. PRESIDENTIAL ADVISORY COUNCIL ON HIV/AIDS

Ex. Ord. No. 12963, June 14, 1995, 60 F.R. 31905, as amended by Ex. Ord. No. 13009, June 14, 1996, 61 F.R. 39799 [30799], provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, I hereby direct the Secretary of Health and Human Services to exercise her discretion as follows:

SECTION 1. *Establishment.* (a) The Secretary of Health and Human Services (the “Secretary”) shall establish an HIV/AIDS Advisory Council (the “Advisory Council” or the “Council”), to be known as the Presidential Advisory Council on HIV/AIDS. The Advisory Council shall be composed of not more than 35 members to be appointed or designated by the Secretary. The Advisory Council shall comply with the Federal Advisory Committee Act, as amended (5 U.S.C. App.).

(b) The Secretary shall designate a Chairperson from among the members of the Advisory Council.

SEC. 2. *Functions.* The Advisory Council shall provide advice, information, and recommendations to the Secretary regarding programs and policies intended to (a) promote effective prevention of HIV disease, (b) advance research on HIV and AIDS, and (c) promote quality services to persons living with HIV disease and AIDS. The functions of the Advisory Council shall be solely advisory in nature. The Secretary shall provide the President with copies of all written reports provided to the Secretary by the Advisory Council.

SEC. 3. *Administration.* (a) The heads of executive departments and agencies shall, to the extent permitted by law, provide the Advisory Council with such information as it may require for purposes of carrying out its functions.

(b) Any members of the Advisory Council that receive compensation shall be compensated in accordance with Federal law. Committee members may be allowed trav-

el expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. section 5701-5707).

(c) To the extent permitted by law, and subject to the availability of appropriations, the Department of Health and Human Services shall provide the Advisory Council with such funds and support as may be necessary for the performance of its functions.

SEC. 4. *General Provisions.* (a) Notwithstanding the provisions of any other Executive order, any functions of the President under the Federal Advisory Committee Act that are applicable to the Advisory Council, except that of reporting annually to the Congress, shall be performed by the Department of Health and Human Services, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) This order is intended only to improve the internal management of the executive branch, and it is not intended to create any right, benefit, or trust responsibility, substantive or procedural, enforceable at law or equity by a party against the United States, its agencies, its officers, or any person.

WILLIAM J. CLINTON.

IMPLEMENTATION OF THE NATIONAL HIV/AIDS STRATEGY

Memorandum of President of the United States, July 13, 2010, 75 F.R. 41687, provided:

Memorandum for the Heads of Executive Departments and Agencies

As we approach 30 years from the onset of the HIV/AIDS epidemic in the United States, new actions are needed to prevent HIV infection and better serve people living with HIV. The actions we take now will build upon a legacy of global leadership, national commitment, and sustained efforts on the part of Americans from all parts of the country and all walks of life to end the HIV epidemic in the United States and around the world. I am committed to renewing national leadership to fight HIV/AIDS here at home, as we continue our efforts to fight HIV/AIDS around the world. My Administration has engaged in an extensive process to engage Americans and listen to their ideas for improving our national response to HIV/AIDS.

Today I am releasing a National HIV/AIDS Strategy for the United States (Strategy) and a National HIV/AIDS Strategy Federal Implementation Plan (Federal Implementation Plan), which identifies specific actions to be taken by Federal agencies to implement the Strategy’s goals. While agencies already undertake many actions to address HIV/AIDS, successful implementation of the Strategy will require new levels of coordination, collaboration, and accountability. This will require the Federal Government to work in new ways across agency lines, as well as in enhanced and innovative partnerships with State, tribal, and local governments. Government cooperation at all levels, moreover, is not enough. Success will require the commitment of all parts of society, including businesses, faith communities, philanthropic organizations, scientific and medical communities, educational institutions, people living with HIV, and others. It is also necessary to sustain public commitment to ending the epidemic, and this calls for regular communications between governments at all levels to identify the challenges we face and report the progress we are making. To these ends, I hereby direct the following:

SECTION 1. *Role of the White House Office of National AIDS Policy (ONAP).*

(a) The Director of the ONAP, in consultation with the Office of Management and Budget (OMB), shall be responsible for setting the Administration’s domestic HIV/AIDS priorities and monitoring the implementation of the Strategy. The Director of the ONAP shall convene regular meetings with representatives of executive departments and agencies (agencies) to coordinate HIV/AIDS-related policies, programs, and activities.

(b) The Director of the ONAP shall annually report to the President on the implementation of the Strategy, including progress in meeting key targets and taking key actions identified in the Strategy and the Federal Implementation Plan.

SEC. 2. *Lead Responsible Agencies.* While the Strategy requires a Government-wide effort in order to succeed fully, certain agencies have primary responsibilities and competencies in implementing the Strategy.

(a) *Designation of Lead Agencies.* Lead agencies for implementing the Strategy shall be:

- (i) the Department of Health and Human Services;
- (ii) the Department of Justice;
- (iii) the Department of Labor;
- (iv) the Department of Housing and Urban Development;
- (v) the Department of Veterans Affairs; and
- (vi) the Social Security Administration.

(b) *Lead Agency Implementation Plans.* Within 150 days of the date of this memorandum, the head of each lead agency shall submit a report to the ONAP and the OMB on the agency's operational plans for implementing the Strategy. The plans shall assign responsibilities to agency officials, designate reporting structures for actions identified in the Federal Implementation Plan, and identify other appropriate actions to advance the Strategy. The plans shall also include steps to strengthen coordination in planning, budgeting for, and evaluating domestic HIV/AIDS programs within and across agencies. Lead agencies are encouraged to consider, and reflect in their plans, steps to streamline grantee reporting requirements and funding announcements related to HIV/AIDS programs and activities.

(c) *Ongoing Responsibilities of Lead Agencies.* The head of each lead agency shall:

- (i) designate an official responsible for coordinating the agency's ongoing efforts to implement the Strategy;
- (ii) develop a process for sharing progress reports, including status updates on achieving specific quantitative targets established by the Strategy, with relevant agencies and the ONAP on an annual basis, or at such other times as the ONAP requests; and
- (iii) in consultation with the OMB, use the budget development process to prioritize programs and activities most critical to meeting the goals of the Strategy.

SEC. 3. *Role of the Secretary of Health and Human Services.* The Secretary of Health and Human Services (Secretary), or the Secretary's designee, shall be responsible for improving coordination of domestic HIV/AIDS programs and activities across the Federal Government.

(a) *Coordination within the Department of Health and Human Services.* The Secretary, or the Secretary's designee, shall develop and implement specific plans and procedures for improving intra-departmental coordination and collaboration on HIV/AIDS care, research, and prevention services.

(b) *Coordination with Other Agencies.* The Secretary, or the Secretary's designee, shall be responsible for convening interagency efforts to improve coordination of HIV/AIDS programs and activities. This may include collaboration with governmental and nongovernmental entities to achieve the Federal Government's implementation and research priorities in the areas of highest impact.

(c) *Presidential Advisory Council on HIV/AIDS (PACHA).* PACHA, which was established by Executive Order 12963 of June 14, 1995 (Presidential Advisory Council on HIV/AIDS), as amended, shall monitor the implementation of the Strategy and make recommendations to the Secretary and to the Director of the ONAP, as appropriate, concerning implementation.

SEC. 4. *Responsibilities of Other Agencies.* All agencies that support HIV/AIDS programs and activities shall ensure that, to the extent permitted by law, they are meeting the goals of the Strategy.

(a) *Department of Defense.* Within 150 days of the date of this memorandum, the Secretary of Defense shall submit to the ONAP and the OMB a plan for aligning

the health-care services provided by the Department of Defense with the Strategy, to the extent feasible and permitted by law. The plan shall address, in particular, HIV/AIDS prevention, care, and treatment.

(b) *Department of State.* Within 150 days of the date of this memorandum, the Secretary of State shall submit to the ONAP and the OMB recommendations for improving the Government-wide response to the domestic HIV/AIDS epidemic, based on lessons learned in implementing the President's Emergency Plan for AIDS Relief (PEPFAR) program.

(c) *Equal Employment Opportunity Commission (Commission).* Within 150 days of the date of this memorandum, the Chair of the Commission shall submit to the ONAP and the OMB recommendations for increasing employment opportunities for people living with HIV and a plan for addressing employment-related discrimination against people living with HIV, consistent with the Commission's authorities and other applicable law.

SEC. 5. *General Provisions.*

(a) The heads of executive departments and agencies shall assist and provide information to the Director of the ONAP, consistent with applicable law, as may be necessary to implement the Strategy. Each agency shall bear its own expense for carrying out activities to implement the Strategy.

(b) Nothing in this memorandum shall be construed to impair or otherwise affect:

- (i) authority granted by law to a department or agency or the head thereof, or to other executive branch officials; or
- (ii) functions of the Director of the OMB relating to budgetary, administrative, or legislative proposals.

(c) This memorandum shall be implemented consistent with applicable law and subject to the availability of appropriations.

(d) This memorandum is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

SEC. 6. *Publication.* The Secretary is authorized and directed to publish this memorandum in the Federal Register.

BARACK OBAMA.

§ 300cc-2. Requirements with respect to processing of requests for personnel and administrative support

(a) In general

The Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, not later than 21 days after the date on which such request is made. If the Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, does not disapprove a priority request during the 21-day period, the request shall be deemed to be approved.

(b) Notice to Secretary and to Assistant Secretary for Health

The Administrator of the Substance Abuse and Mental Health Services Administration, the Director of the Centers for Disease Control and Prevention, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall, respectively, transmit to the Secretary and the Assistant Secretary for