

**(B) Reports****(i) Report on initial implementation**

Not later than 2 years after March 23, 2010, the Secretary shall submit to Congress a report on the initial implementation of activities conducted under the demonstration project, including any available results of the evaluation conducted under subparagraph (A) with respect to such activities, together with such recommendations for legislation or administrative action as the Secretary determines appropriate.

**(ii) Final report**

Not later than 1 year after the completion of the demonstration project, the Secretary shall submit to Congress a report containing the results of the evaluation conducted under subparagraph (A), together with such recommendations for legislation or administrative action as the Secretary determines appropriate.

**(6) Definitions**

In this subsection:

**(A) Eligible health and long-term care provider**

The term “eligible health and long-term care provider” means a personal or home care agency (including personal or home care public authorities), a nursing home, a home health agency (as defined in section 1395x(o) of this title), or any other health care provider the Secretary determines appropriate which—

(i) is licensed or authorized to provide services in a participating State; and

(ii) receives payment for services under subchapter XIX.

**(B) Personal care services**

The term “personal care services” has the meaning given such term for purposes of subchapter XIX.

**(C) Personal or home care aide**

The term “personal or home care aide” means an individual who helps individuals who are elderly, disabled, ill, or mentally disabled (including an individual with Alzheimer’s disease or other dementia) to live in their own home or a residential care facility (such as a nursing home, assisted living facility, or any other facility the Secretary determines appropriate) by providing routine personal care services and other appropriate services to the individual.

**(D) State**

The term “State” has the meaning given that term for purposes of subchapter XIX.

**(c) Funding****(1) In general**

Subject to paragraph (2), out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out subsections (a) and (b), \$85,000,000 for each of fiscal years 2010 through 2014.

**(2) Training and certification programs for personal and home care aides**

With respect to the demonstration projects under subsection (b), the Secretary shall use

\$5,000,000 of the amount appropriated under paragraph (1) for each of fiscal years 2010 through 2012 to carry out such projects. No funds appropriated under paragraph (1) shall be used to carry out demonstration projects under subsection (b) after fiscal year 2012.

**(d) Nonapplication****(1) In general**

Except as provided in paragraph (2), the preceding sections of this division shall not apply to grant<sup>2</sup> awarded under this section.

**(2) Limitations on use of grants**

Section 1397d(a) of this title (other than paragraph (6)) shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this division.

(Aug. 14, 1935, ch. 531, title XX, § 2008, as added and amended Pub. L. 111–148, title V, § 5507(a), title VI, § 6703(d)(1)(B), Mar. 23, 2010, 124 Stat. 663, 803.)

## REFERENCES IN TEXT

The Act of August 16, 1937, referred to in subsec. (a)(2)(B), (4)(A), is act Aug. 16, 1937, ch. 663, 50 Stat. 664, popularly known as the National Apprenticeship Act, which is classified generally to chapter 4C (§ 50 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 50 of Title 29 and Tables.

Part A of subchapter IV, referred to in subsec. (a)(4)(F), is classified to § 601 et seq. of this title.

## AMENDMENTS

2010—Subsec. (d). Pub. L. 111–148, § 6703(d)(1)(B), which directed substitution of “this division” for “this subchapter” wherever appearing in subtitle 1 of title XX of act Aug. 14, 1935, was executed by making the substitution in two places in subsec. (d) of this section, which is in subtitle A of title XX act Aug. 14, 1935, to reflect the probable intent of Congress.

**§ 1397h. Program for early detection of certain medical conditions related to environmental health hazards****(a) Program establishment**

The Secretary shall establish a program in accordance with this section to make competitive grants to eligible entities specified in subsection (b) for the purpose of—

(1) screening at-risk individuals (as defined in subsection (c)(1)) for environmental health conditions (as defined in subsection (c)(3)); and

(2) developing and disseminating public information and education concerning—

(A) the availability of screening under the program under this section;

(B) the detection, prevention, and treatment of environmental health conditions; and

(C) the availability of Medicare benefits for certain individuals diagnosed with environmental health conditions under section 1395rr–1 of this title.

**(b) Eligible entities****(1) In general**

For purposes of this section, an eligible entity is an entity described in paragraph (2)

<sup>2</sup> So in original.

which submits an application to the Secretary in such form and manner, and containing such information and assurances, as the Secretary determines appropriate.

**(2) Types of eligible entities**

The entities described in this paragraph are the following:

- (A) A hospital or community health center.
- (B) A Federally qualified health center.
- (C) A facility of the Indian Health Service.
- (D) A National Cancer Institute-designated cancer center.
- (E) An agency of any State or local government.
- (F) A nonprofit organization.
- (G) Any other entity the Secretary determines appropriate.

**(c) Definitions**

In this section:

**(1) At-risk individual**

The term “at-risk individual” means an individual who—

(A)(i) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to an emergency declaration specified under paragraph (2), during a period ending—

(I) not less than 10 years prior to the date of such individual’s application under subparagraph (B); and

(II) prior to the implementation of all the remedial and removal actions specified in the Record of Decision for Operating Unit 4 and the Record of Decision for Operating Unit 7; or

(ii) meets such other criteria as the Secretary determines appropriate considering the type of environmental health condition at issue; and

(B) has submitted an application (or has an application submitted on the individual’s behalf), to an eligible entity receiving a grant under this section, for screening under the program under this section.

**(2) Emergency declaration**

The term “emergency declaration” means a declaration of a public health emergency under section 9604(a) of this title.

**(3) Environmental health condition**

The term “environmental health condition” means—

(A) asbestosis, pleural thickening, or pleural plaques, as established by—

(i) interpretation by a “B Reader” qualified physician of a plain chest x-ray or interpretation of a computed tomographic radiograph of the chest by a qualified physician, as determined by the Secretary; or

(ii) such other diagnostic standards as the Secretary specifies;

(B) mesothelioma, or malignancies of the lung, colon, rectum, larynx, stomach, esophagus, pharynx, or ovary, as established by—

(i) pathologic examination of biopsy tissue;

(ii) cytology from bronchioalveolar lavage; or

(iii) such other diagnostic standards as the Secretary specifies; and

(C) any other medical condition which the Secretary determines is caused by exposure to a hazardous substance or pollutant or contaminant at a Superfund site to which an emergency declaration applies, based on such criteria and as established by such diagnostic standards as the Secretary specifies.

**(4) Hazardous substance; pollutant; contaminant**

The terms “hazardous substance”, “pollutant”, and “contaminant” have the meanings given those terms in section 9601 of this title.

**(5) Superfund site**

The term “Superfund site” means a site included on the National Priorities List developed by the President in accordance with section 9605(a)(8)(B) of this title.

**(d) Health coverage unaffected**

Nothing in this section shall be construed to affect any coverage obligation of a governmental or private health plan or program relating to an at-risk individual.

**(e) Funding**

**(1) In general**

Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary, to carry out the program under this section—

(A) \$23,000,000 for the period of fiscal years 2010 through 2014; and

(B) \$20,000,000 for each 5-fiscal year period thereafter.

**(2) Availability**

Funds appropriated under paragraph (1) shall remain available until expended.

**(f) Nonapplication**

**(1) In general**

Except as provided in paragraph (2), the preceding sections of this subchapter shall not apply to grants awarded under this section.

**(2) Limitations on use of grants**

Section 1397d(a) of this title shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this subchapter, except that paragraph (4) of such section shall not be construed to prohibit grantees from conducting screening for environmental health conditions as authorized under this section.

(Aug. 14, 1935, ch. 531, title XX, § 2009, as added Pub. L. 111-148, title X, § 10323(b), Mar. 23, 2010, 124 Stat. 957.)

CODIFICATION

Pub. L. 111-148, title X, § 10323(b), Mar. 23, 2010, 124 Stat. 957, which directed amendment of title XX of act Aug. 14, 1935, by adding this section at the end, was executed by adding this section at the end of subtitle A of title XX of that Act, which is this division, to reflect the probable intent of Congress.

## Division B—Elder Justice

**§ 1397j. Definitions**

In this division:

**(1) Abuse**

The term “abuse” means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.

**(2) Adult protective services**

The term “adult protective services” means such services provided to adults as the Secretary may specify and includes services such as—

(A) receiving reports of adult abuse, neglect, or exploitation;

(B) investigating the reports described in subparagraph (A);

(C) case planning, monitoring, evaluation, and other case work and services; and

(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.

**(3) Caregiver**

The term “caregiver” means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder who needs supportive services in any setting.

**(4) Direct care**

The term “direct care” means care by an employee or contractor who provides assistance or long-term care services to a recipient.

**(5) Elder**

The term “elder” means an individual age 60 or older.

**(6) Elder justice**

The term “elder justice” means—

(A) from a societal perspective, efforts to—

(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and

(ii) protect elders with diminished capacity while maximizing their autonomy; and

(B) from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.

**(7) Eligible entity**

The term “eligible entity” means a State or local government agency, Indian tribe or tribal organization, or any other public or private entity that is engaged in and has expertise in issues relating to elder justice or in a field necessary to promote elder justice efforts.

**(8) Exploitation**

The term “exploitation” means the fraudulent or otherwise illegal, unauthorized, or im-

proper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

**(9) Fiduciary**

The term “fiduciary”—

(A) means a person or entity with the legal responsibility—

(i) to make decisions on behalf of and for the benefit of another person; and

(ii) to act in good faith and with fairness; and

(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

**(10) Grant**

The term “grant” includes a contract, cooperative agreement, or other mechanism for providing financial assistance.

**(11) Guardianship**

The term “guardianship” means—

(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care or property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

**(12) Indian tribe****(A) In general**

The term “Indian tribe” has the meaning given such term in section 450b of title 25.

**(B) Inclusion of Pueblo and Rancheria**

The term “Indian tribe” includes any Pueblo or Rancheria.

**(13) Law enforcement**

The term “law enforcement” means the full range of potential responders to elder abuse, neglect, and exploitation including—

(A) police, sheriffs, detectives, public safety officers, and corrections personnel;

(B) prosecutors;

(C) medical examiners;

(D) investigators; and

(E) coroners.

**(14) Long-term care****(A) In general**

The term “long-term care” means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

**(B) Loss of capacity for self-care**

For purposes of subparagraph (A), the term “loss of capacity for self-care” means an in-