

information necessary to determine the allotments provided for in subsection (b) of this section.

(e) Reallotments

(1) In general

Any portion of the allotment under subsection (b) of this section to a State that the Secretary determines is not required to carry out a State plan approved under section 9858c(d) of this title, in the period for which the allotment is made available, shall be reallocated by the Secretary to other States in proportion to the original allotments to the other States.

(2) Limitations

(A) Reduction

The amount of any reallotment to which a State is entitled to under paragraph (1) shall be reduced to the extent that it exceeds the amount that the Secretary estimates will be used in the State to carry out a State plan approved under section 9858c(d) of this title.

(B) Reallotments

The amount of such reduction shall be similarly reallocated among States for which no reduction in an allotment or reallotment is required by this subsection.

(3) Amounts reallocated

For purposes of any other section of this subchapter, any amount reallocated to a State under this subsection shall be considered to be part of the allotment made under subsection (b) of this section to the State.

(4) Indian tribes or tribal organizations

Any portion of a grant or contract made to an Indian tribe or tribal organization under subsection (c) of this section that the Secretary determines is not being used in a manner consistent with the provision of this subchapter in the period for which the grant or contract is made available, shall be allotted by the Secretary to other tribes or organizations that have submitted applications under subsection (c) of this section in accordance with their respective needs.

(f) "State" defined

For the purposes of this section, the term "State" includes only the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

(Pub. L. 97-35, title VI, §658O, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-246; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 104-193, title VI, §613, Aug. 22, 1996, 110 Stat. 2286; Pub. L. 105-33, title V, §5602(4), Aug. 5, 1997, 111 Stat. 646; Pub. L. 106-78, title VII, §752(b)(17), Oct. 22, 1999, 113 Stat. 1170.)

REFERENCES IN TEXT

The Richard B. Russell National School Lunch Act, referred to in subsec. (b)(3), is act June 4, 1946, ch. 281, 60 Stat. 230, as amended, which is classified generally to chapter 13 (§1751 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1751 of this title and Tables.

AMENDMENTS

1999—Subsec. (b)(3). Pub. L. 106-78 substituted "Richard B. Russell National School Lunch Act" for "National School Lunch Act".

1997—Subsec. (c)(6)(C). Pub. L. 105-33 substituted "subparagraph (B)" for "subparagraph (A)".

1996—Subsec. (a)(1). Pub. L. 104-193, §613(1)(A), made technical amendment to heading, inserted "and" before "the Commonwealth of the Northern Mariana Islands", and struck out "and the Trust Territory of the Pacific Islands" before "to be allotted in accordance".

Subsec. (a)(2). Pub. L. 104-193, §613(1)(B), substituted "less than 1 percent, and not more than 2 percent," for "more than 3 percent".

Subsec. (c)(5). Pub. L. 104-193, §613(2)(A), substituted "activities carried out" for "activities carried out".

Subsec. (c)(6). Pub. L. 104-193, §613(2)(B), added par. (6).

Subsec. (e)(4). Pub. L. 104-193, §613(3), added par. (4).
1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

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

§ 9858n. Definitions

As used in this subchapter:

(1) Caregiver

The term "caregiver" means an individual who provides a service directly to an eligible child on a person-to-person basis.

(2) Child care certificate

The term "child care certificate" means a certificate (that may be a check or other disbursement) that is issued by a State or local government under this subchapter directly to a parent who may use such certificate only as payment for child care services or as a deposit for child care services if such a deposit is required of other children being cared for by the provider. Nothing in this subchapter shall preclude the use of such certificates for sectarian child care services if freely chosen by the parent. For purposes of this subchapter, child care certificates shall not be considered to be grants or contracts.

(3) Repealed. Pub. L. 104-193, title VI, § 614(2), Aug. 22, 1996, 110 Stat. 2287

(4) Eligible child

The term "eligible child" means an individual—

- (A) who is less than 13 years of age;
- (B) whose family income does not exceed 85 percent of the State median income for a family of the same size; and
- (C) who—
 - (i) resides with a parent or parents who are working or attending a job training or educational program; or
 - (ii) is receiving, or needs to receive, protective services and resides with a parent or parents not described in clause (i).

(5) Eligible child care provider

The term “eligible child care provider” means—

(A) a center-based child care provider, a group home child care provider, a family child care provider, or other provider of child care services for compensation that—

(i) is licensed, regulated, or registered under State law as described in section 9858c(c)(2)(E) of this title; and

(ii) satisfies the State and local requirements, including those referred to in section 9858c(c)(2)(F) of this title;

applicable to the child care services it provides; or

(B) a child care provider that is 18 years of age or older who provides child care services only to eligible children who are, by affinity or consanguinity, or by court decree, the grandchild, great grandchild, sibling (if such provider lives in a separate residence), niece, or nephew of such provider, if such provider complies with any applicable requirements that govern child care provided by the relative involved.

(6) Family child care provider

The term “family child care provider” means one individual who provides child care services for fewer than 24 hours per day, as the sole caregiver, and in a private residence.

(7) Indian tribe

The term “Indian tribe” has the meaning given it in section 450b(e) of title 25.

(8) Lead agency

The term “lead agency” means the agency designated under section 9858(a)¹ of this title.

(9) Parent

The term “parent” includes a legal guardian or other person standing in loco parentis.

(10) Repealed. Pub. L. 104-193, title VI, § 614(5), Aug. 22, 1996, 110 Stat. 2287**(11) Secretary**

The term “Secretary” means the Secretary of Health and Human Services unless the context specifies otherwise.

(12) Sliding fee scale

The term “sliding fee scale” means a system of cost sharing by a family based on income and size of the family.

(13) State

The term “State” means any of the several States, the District of Columbia, the Virgin Islands of the United States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(14) Tribal organization**(A) In general**

The term “tribal organization” has the meaning given it in section 450b(l) of title 25.

(B) Other organizations

Such term includes a Native Hawaiian Organization, as defined in section 4909(4)¹ of

title 20 and a private nonprofit organization established for the purpose of serving youth who are Indians or Native Hawaiians.

(Pub. L. 97-35, title VI, § 658P, as added Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-248; amended Pub. L. 102-401, § 3, Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, § 8(c), Nov. 4, 1992, 106 Stat. 5036; Pub. L. 103-171, § 8, Dec. 2, 1993, 107 Stat. 1994; Pub. L. 104-193, title VI, § 614, Aug. 22, 1996, 110 Stat. 2287; Pub. L. 105-33, title V, § 5602(5), Aug. 5, 1997, 111 Stat. 646.)

REFERENCES IN TEXT

Section 9858 of this title, referred to in par. (8), does not contain a subsec. (a) and does not relate to designation of lead agencies. For provisions relating to designation of a State agency to act as a lead agency, see section 9858b(a) of this title.

Section 4909 of title 20, referred to in par. (14)(B), was repealed by Pub. L. 103-382, title III, § 363, Oct. 20, 1994, 108 Stat. 3975.

AMENDMENTS

1997—Par. (13). Pub. L. 105-33 substituted “and” for “or” after “American Samoa.”

1996—Par. (2). Pub. L. 104-193, § 614(1), in first sentence, inserted “or as a deposit for child care services if such a deposit is required of other children being cared for by the provider” after “payment for child care services”.

Par. (3). Pub. L. 104-193, § 614(2), struck out heading and text of par. (3). Text read as follows: “The term ‘elementary school’ means a day or residential school that provides elementary education, as determined under State law.”

Par. (4)(B). Pub. L. 104-193, § 614(3), substituted “85 percent” for “75 percent”.

Par. (5)(B). Pub. L. 104-193, § 614(4), inserted “great grandchild, sibling (if such provider lives in a separate residence),” after “grandchild,” struck out “is registered and” after “such provider”, and substituted “any applicable requirements” for “any State requirements”.

Par. (10). Pub. L. 104-193, § 614(5), struck out heading and text of par. (10). Text read as follows: “The term ‘secondary school’ means a day or residential school which provides secondary education, as determined under State law.”

Par. (13). Pub. L. 104-193, § 614(6), inserted “or” after “Samoa,” and struck out “, and the Trust Territory of the Pacific Islands” after “Northern Mariana Islands”.

Par. (14). Pub. L. 104-193, § 614(7), designated existing text as subpar. (A), inserted heading, and added subpar. (B).

1993—Pars. (7), (14). Pub. L. 103-171 made technical correction to directory language of Pub. L. 102-586, § 8(c)(2). See 1992 Amendment note below.

1992—Pub. L. 102-401, § 3(a), and Pub. L. 102-586, § 8(c)(1), made identical technical corrections to directory language of Pub. L. 101-508, § 5082(2), which added this section.

Par. (7). Pub. L. 102-586, § 8(c)(2)(A), as amended by Pub. L. 103-171, which directed the amendment of par. (7) by substituting “section 450b(e) of title 25” for “section 450b(b) of title 25”, could not be executed because the words “section 450b(b) of title 25” did not appear subsequent to execution of the amendment by Pub. L. 102-401, § 3(b)(1). See below.

Pub. L. 102-401, § 3(b)(1), substituted “section 450b(e) of title 25” for “section 450b(b) of title 25”.

Par. (14). Pub. L. 102-586, § 8(c)(2)(B), as amended by Pub. L. 103-171, which directed the amendment of par. (14) by substituting “section 450b(l) of title 25” for “section 450b(c) of title 25”, could not be executed because the words “section 450b(c) of title 25” did not appear subsequent to execution of the amendment by Pub. L. 102-401, § 3(b)(2). See below.

¹ See References in Text note below.

Pub. L. 102-401, §3(b)(2), substituted “section 450b(l) of title 25” for “section 450b(c) of title 25”.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 effective as if included in the enactment of title VI of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104-193, see section 5603 of Pub. L. 105-33, set out as a note under section 618 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

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

EFFECTIVE DATE OF 1992 AMENDMENTS

Amendment by Pub. L. 102-586 effective Nov. 4, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 8(d) of Pub. L. 102-586, set out as a note under section 9858h of this title.

Amendment by Pub. L. 102-401 effective Oct. 7, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 4 of Pub. L. 102-401, set out as a note under section 9835 of this title.

§ 9858o. Parental rights and responsibilities

Nothing in this subchapter shall be construed or applied in any manner to infringe on or usurp the moral and legal rights and responsibilities of parents or legal guardians.

(Pub. L. 97-35, title VI, §658Q, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-249; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

§ 9858p. Severability

If any provision of this subchapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions of applications of this subchapter which can be given effect without regard to the invalid provision or application, and to this end the provisions of this subchapter shall be severable.

(Pub. L. 97-35, title VI, §658R, as added Pub. L. 101-508, title V, §5082(2), Nov. 5, 1990, 104 Stat. 1388-249; amended Pub. L. 102-401, §3(a), Oct. 7, 1992, 106 Stat. 1959; Pub. L. 102-586, §8(c)(1), Nov. 4, 1992, 106 Stat. 5036.)

AMENDMENTS

1992—Pub. L. 102-401 and Pub. L. 102-586 made identical technical corrections to directory language of Pub. L. 101-508, §5082(2), which added this section.

§ 9858q. Miscellaneous provisions

Notwithstanding any other law, the value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under this subchapter shall not be treated as income for purposes of any other Federal or Federally-assisted program that bases eligibility, or the amount of benefits, on need.

(Pub. L. 97-35, title VI, §658S, as added Pub. L. 102-586, §8(b), Nov. 4, 1992, 106 Stat. 5035; amended Pub. L. 103-171, §8, Dec. 2, 1993, 107 Stat. 1994.)

AMENDMENTS

1993—Pub. L. 103-171 made technical correction to directory language of Pub. L. 102-586, §8(b), which added this section.

EFFECTIVE DATE

Section effective Nov. 4, 1992, but not applicable with respect to fiscal years beginning before Oct. 1, 1992, see section 8(d) of Pub. L. 102-586, set out as an Effective Date of 1992 Amendment note under section 9858h of this title.

SUBCHAPTER II-C—CHILD CARE SAFETY AND HEALTH GRANTS

CODIFICATION

This subchapter was enacted as part of title XIV of div. A of the Children’s Health Act of 2000, and not as part of chapter 8 of subtitle A of title VI of Pub. L. 97-35 which comprises this chapter.

§ 9859. Definitions

In this subchapter:

(1) Child with a disability; infant or toddler with a disability

The terms “child with a disability” and “infant or toddler with a disability” have the meanings given the terms in sections 1401 and 1431 of title 20.

(2) Eligible child care provider

The term “eligible child care provider” means a provider of child care services for compensation, including a provider of care for a school-age child during non-school hours, that—

(A) is licensed, regulated, registered, or otherwise legally operating, under State and local law; and

(B) satisfies the State and local requirements,

applicable to the child care services the provider provides.

(3) Secretary

The term “Secretary” means the Secretary of Health and Human Services.

(4) State

The term “State” means any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 106-310, div. A, title XIV, §1401, Oct. 17, 2000, 114 Stat. 1143.)

§ 9859a. Authorization of appropriations

There are authorized to be appropriated to carry out this subchapter \$200,000,000 for fiscal year 2001, and such sums as may be necessary for each subsequent fiscal year.

(Pub. L. 106-310, div. A, title XIV, §1402, Oct. 17, 2000, 114 Stat. 1143.)

§ 9859b. Programs

The Secretary shall make allotments to eligible States under section 9859c of this title. The Secretary shall make the allotments to enable