

§ 3024. Allotment to States**(a) In general**

(1) From the sums appropriated under subsections (a) through (d) of section 3023 of this title for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of older individuals in such State bears to the population of older individuals in all States.

(2) In determining the amounts allotted to States from the sums appropriated under section 3023 of this title for a fiscal year, the Assistant Secretary shall first determine the amount allotted to each State under paragraph (1) and then proportionately adjust such amounts, if necessary, to meet the requirements of paragraph (3).

(3)(A) No State shall be allotted less than $\frac{1}{2}$ of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(B) Guam and the United States Virgin Islands shall each be allotted not less than $\frac{1}{4}$ of 1 percent of the sum appropriated for the fiscal year for which the determination is made.

(C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than $\frac{1}{16}$ of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of the exception contained in subparagraph (A) only, the term "State" does not include Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

(D)(i) No State shall be allotted less than the total amount allotted to the State for fiscal year 2006.

(ii) No State shall receive a percentage increase in an allotment, above the State's fiscal year 2006 allotment, that is less than—

(I) for fiscal year 2007, 20 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

(II) for fiscal year 2008, 15 percent of the percentage increase above the fiscal year 2006 allotments for all of the States;

(III) for fiscal year 2009, 10 percent of the percentage increase above the fiscal year 2006 allotments for all of the States; and

(IV) For¹ fiscal year 2010, 5 percent of the percentage increase above the fiscal year 2006 allotments for all of the States.

(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Assistant Secretary on the basis of the most recent data available from the Bureau of the Census, and other reliable demographic data satisfactory to the Assistant Secretary.

(5) State allotments for a fiscal year under this section shall be proportionally reduced to the extent that appropriations may be insufficient to provide the full allotments of the prior year.

(b) Unused funds

Whenever the Assistant Secretary determines that any amount allotted to a State under part B or C of this subchapter, or subpart I of part E

of this subchapter, for a fiscal year under this section will not be used by such State for carrying out the purpose for which the allotment was made, the Assistant Secretary shall make such allotment available for carrying out such purpose to one or more other States to the extent the Assistant Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this subchapter, be regarded as part of such State's allotment (as determined under subsection (a) of this section) for such year, but shall remain available until the end of the succeeding fiscal year.

(c) Withholding of funds; disbursement

If the Assistant Secretary finds that any State has failed to qualify under the State plan requirements of section 3027 of this title or the Assistant Secretary does not approve the funding formula required under section 3025(a)(2)(C) of this title, the Assistant Secretary shall withhold the allotment of funds to such State referred to in subsection (a) of this section. The Assistant Secretary shall disburse the funds so withheld directly to any public or private non-profit institution or organization, agency, or political subdivision of such State submitting an approved plan under section 3027 of this title, which includes an agreement that any such payment shall be matched in the proportion determined under subsection (d)(1)(D) of this section for such State, by funds or in-kind resources from non-Federal sources.

(d) Costs of administration, ombudsman program, demonstration projects, supportive services, senior centers and nutrition services; payment and determination of non-Federal share

(1) From any State's allotment, after the application of section 3028(b) of this title, under this section for any fiscal year—

(A) such amount as the State agency determines, but not more than 10 percent thereof, shall be available for paying such percentage as the agency determines, but not more than 75 percent, of the cost of administration of area plans;

(B) such amount (excluding any amount attributable to funds appropriated under section 3023(a)(3) of this title) as the State agency determines to be adequate for conducting an effective ombudsman program under section 3027(a)(9) of this title shall be available for conducting such program;

(C) not less than \$150,000 and not more than 4 percent of the amount allotted to the State for carrying out part B of this subchapter, shall be available for conducting outreach demonstration projects under section 3058e of this title; and

(D) the remainder of such allotment shall be available to such State only for paying such percentage as the State agency determines, but not more than 85 percent of the cost of supportive services, senior centers, and nutrition services under this subchapter provided in the State as part of a comprehensive and coor-

¹ So in original. Probably should be "for".

minated system in planning and service areas for which there is an area plan approved by the State agency.

(2) The non-Federal share shall be in cash or in kind. In determining the amount of the non-Federal share, the Assistant Secretary may attribute fair market value to services and facilities contributed from non-Federal sources.

(Pub. L. 89-73, title III, §304, as added Pub. L. 95-478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1519; amended Pub. L. 97-115, §4, Dec. 29, 1981, 95 Stat. 1597; Pub. L. 98-459, title III, §304, Oct. 9, 1984, 98 Stat. 1772; Pub. L. 100-175, title I, §§123, 155(c), (d), 182(f), Nov. 29, 1987, 101 Stat. 933, 952, 965; Pub. L. 102-375, title III, §304, title IX, §904(a)(10), Sept. 30, 1992, 106 Stat. 1221, 1306; Pub. L. 103-171, §3(a)(13), Dec. 2, 1993, 107 Stat. 1990; Pub. L. 106-501, title III, §303, title VIII, §801(c)(2), Nov. 13, 2000, 114 Stat. 2239, 2292; Pub. L. 109-365, title III, §304, Oct. 17, 2006, 120 Stat. 2539.)

PRIOR PROVISIONS

A prior section 3024, Pub. L. 89-73, title III, §304, as added Pub. L. 93-29, title III, §301, May 3, 1973, 87 Stat. 38; Pub. L. 94-135, title I, §§105, 106(c), Nov. 28, 1975, 89 Stat. 715, 716, related to designation of state and area agencies, area plan provisions, and transportation services and funds, prior to the general amendment of this subchapter by Pub. L. 95-478. See sections 3025 and 3026 of this title.

Another prior section 3024, Pub. L. 89-73, title III, §304, July 14, 1965, 79 Stat. 223; Pub. L. 90-42, §3, July 1, 1967, 81 Stat. 107; Pub. L. 91-69, §4(b), Sept. 17, 1969, 83 Stat. 108, related to planning, coordination, and evaluation and administration of State plans, providing in: subsec. (a) authorization of appropriations, amount of payment, and availability of unexpended funds; subsec. (b) amount of allotment, determination of additional amount, adjustments, minimum amount, and availability of unexpended amount; subsec. (c) reallocation to other States; and subsec. (d) minimum State expenditure of funds, prior to repeal by Pub. L. 93-29, title III, §301, May 3, 1973, 87 Stat. 36.

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title III, §303, as added Pub. L. 93-29, title III, §301, May 3, 1973, 87 Stat. 37; Pub. L. 94-135, title I, §§104(a), (c), (d), 112(b), 114(d), Nov. 28, 1975, 89 Stat. 714, 715, 719, 725, which was classified to section 3023 of this title prior to repeal by Pub. L. 95-478.

A prior section 3024a, Pub. L. 89-73, title III, §305, as added Pub. L. 91-69, §5, Sept. 17, 1969, 83 Stat. 110, related to areawide model projects, grants to or contracts with State agencies, amount, purposes of projects, and authorization of appropriations, prior to repeal by Pub. L. 93-29, title III, §301, May 3, 1973, 87 Stat. 36.

AMENDMENTS

2006—Subsec. (a)(3)(D). Pub. L. 109-365 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “No State shall be allotted less than the total amount allotted to the State for fiscal year 2000 and no State shall receive a percentage increase above the fiscal year 2000 allotment that is less than 20 percent of the percentage increase above the fiscal year 2000 allotments for all of the States.”

2000—Subsec. (a). Pub. L. 106-501, §303(a), added subsec. (a) and struck out former subsec. (a) which read as follows:

“(a)(1) Subject to paragraphs (2) and (3), from the sums appropriated under section 3023 of this title for each fiscal year, each State shall be allotted an amount which bears the same ratio to such sums as the population of older individuals in such State bears to the population of older individuals in all States, except

that (A) no State shall be allotted less than one-half of 1 percent of the sum appropriated for the fiscal year for which the determination is made; (B) Guam, the United States Virgin Islands, and the Trust Territory of the Pacific Islands, shall each be allotted not less than one-fourth of 1 percent of the sum appropriated for the fiscal year for which the determination is made; and (C) American Samoa and the Commonwealth of the Northern Mariana Islands shall each be allotted not less than one-sixteenth of 1 percent of the sum appropriated for the fiscal year for which the determination is made. For the purposes of paragraph (3) and the exception contained in subparagraph (A) only, the term ‘State’ does not include Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

“(2) No State shall be allotted less than the total amount allotted to the State under paragraph (1) of this subsection and section 3028 of this title for fiscal year 1987.

“(3) No State shall be allotted, from the amount appropriated under section 3023(g) of this title, less than \$50,000 for any fiscal year.

“(4) The number of individuals aged 60 or older in any State and in all States shall be determined by the Assistant Secretary on the basis of the most recent data available from the Bureau of the Census, and other reliable demographic data satisfactory to the Assistant Secretary.”

Subsec. (b). Pub. L. 106-501, §303(b), substituted “part B or C of this subchapter, or subpart I of part E of this subchapter,” for “part B or C of this subchapter” in first sentence.

Subsec. (d)(1)(B). Pub. L. 106-501, §801(c)(2)(A), substituted “3027(a)(9)” for “3027(a)(12)”.

Subsec. (e). Pub. L. 106-501, §801(c)(2)(B), struck out subsec. (e) which read as follows: “Grants made from allotments received under this subchapter may be used for paying for the costs of providing for an area volunteer services coordinator (as described in section 3026(a)(12) of this title) or a State volunteer services coordinator (as described in section 3027(a)(31) of this title).”

1993—Subsecs. (a)(4), (b), (c), (d)(2). Pub. L. 103-171 substituted “Assistant Secretary” for “Commissioner” wherever appearing.

1992—Subsec. (a)(1). Pub. L. 102-375, §904(a)(10), substituted “of older individuals” for “aged 60 or older” in two places, “United States Virgin Islands” for “Virgin Islands” in two places, and “contained in subparagraph (A)” for “contained in clause (A)”.

Subsec. (a)(2). Pub. L. 102-375, §304(a)(1), substituted “1987” for “1984”.

Subsec. (a)(3). Pub. L. 102-375, §304(a)(2), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “No State shall be allotted, from the amount appropriated pursuant to section 3023(a)(3) of this title, less than \$50,000 for any fiscal year.”

Subsec. (a)(4). Pub. L. 102-375, §304(a)(3), substituted “data available from the Bureau of the Census, and other reliable demographic data satisfactory” for “satisfactory data available”.

Subsec. (c). Pub. L. 102-375, §304(b), inserted “or the Commissioner does not approve the funding formula required under section 3025(a)(2)(C) of this title” after “requirements of section 3027 of this title”.

Subsec. (d)(1)(C). Pub. L. 102-375, §304(c), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “after September 30, 1986, such amount (excluding any amount attributable to funds appropriated under section 3023(a)(3) of this title) as the State agency determines to be adequate, but not more than 1 percent, for conducting effective demonstration projects in health and nutrition education under section 3027(f) of this title shall be available for conducting such projects; and”.

Subsec. (e). Pub. L. 102-375, §304(d), added subsec. (e). 1987—Subsec. (a)(1). Pub. L. 100-175, §155(c)(1), substituted “paragraphs (2) and (3)” for “paragraph (2)” and “purposes of paragraph (3) and” for “purpose of”.

Subsec. (a)(3), (4). Pub. L. 100-175, § 155(c)(2), added par. (3) and redesignated former par. (3) as (4).

Subsec. (d)(1). Pub. L. 100-175, § 182(f), inserted a comma after "section 3028(b) of this title".

Subsec. (d)(1)(A). Pub. L. 100-175, § 123, substituted "10 percent" for "8.5 percent".

Subsec. (d)(1)(B), (C). Pub. L. 100-175, § 155(d), inserted "(excluding any amount attributable to funds appropriated under section 3023(a)(3) of this title)" after "amount".

1984—Subsec. (a)(1). Pub. L. 98-459, § 304(a)(1)–(5), substituted "Subject to paragraph (2), from" for "From", substituted "under section 3023 of this title" for "under parts B and C", substituted "Commonwealth of the Northern Mariana Islands" for "Northern Mariana Islands" in two places, substituted "and (C)" for "(C)", and struck out "; and (D) no State shall be allotted an amount less than the State received for fiscal year 1978".

Subsec. (a)(2), (3). Pub. L. 98-459, § 304(a)(6)–(8), added par. (2), redesignated former par. (2) as (3), and substituted "available to the Commissioner" for "available to him".

Subsec. (b). Pub. L. 98-459, § 304(b), substituted "the Commissioner shall make" for "he shall make" and "to the extent the Commissioner determines" for "to the extent he determines".

Subsec. (c). Pub. L. 98-459, § 304(c), substituted "subsection (d)(1)(D) of this section" for "subsection (d)(1)(B) of this section" and "or in-kind resources" for "for in-kind resources".

Subsec. (d)(1). Pub. L. 98-459, § 304(d), inserted "after the application of section 3028(b) of this title" in provisions before par. (1), added subpar. (C), and redesignated former subpar. (C) as (D).

1981—Subsec. (a)(1). Pub. L. 97-115, § 4(a), substituted "under parts B and C for each fiscal year" for "under parts B and C for fiscal years 1979, 1980, and 1981".

Subsec. (d)(1)(B). Pub. L. 97-115, § 4(c)(3), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (d)(1)(C). Pub. L. 97-115, § 4(b), (c)(2), redesignated subpar. (B) as (C) and substituted "85 percent of the cost of supportive services, senior centers, and nutrition services under this subchapter" for "90 percent in fiscal years 1979 and 1980, and 85 percent in fiscal year 1981, of the cost of social services and nutrition services authorized under parts B and C".

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 304 (excluding pars. (1) and (2) of subsec. (a)) of Pub. L. 102-375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103-171, set out as a note under section 3001 of this title.

Amendment by section 304 of Pub. L. 102-375 inapplicable with respect to fiscal year 1992, see section 905(b)(2) of Pub. L. 102-375, set out as a note under section 3001 of this title.

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 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.

§ 3025. Designation of State agencies

(a) Duties of designated agency

In order for a State to be eligible to participate in programs of grants to States from allotments under this subchapter—

- (1) the State shall, in accordance with regulations of the Assistant Secretary, designate a State agency as the sole State agency to—

- (A) develop a State plan to be submitted to the Assistant Secretary for approval under section 3027 of this title;

- (B) administer the State plan within such State;

- (C) be primarily responsible for the planning, policy development, administration, coordination, priority setting, and evaluation of all State activities related to the objectives of this chapter;

- (D) serve as an effective and visible advocate for older individuals by reviewing and commenting upon all State plans, budgets, and policies which affect older individuals and providing technical assistance to any agency, organization, association, or individual representing the needs of older individuals; and

- (E) divide the State into distinct planning and service areas (or in the case of a State specified in subsection (b)(5)(A) of this section, designate the entire State as a single planning and service area), in accordance with guidelines issued by the Assistant Secretary, after considering the geographical distribution of older individuals in the State, the incidence of the need for supportive services, nutrition services, multipurpose senior centers, and legal assistance, the distribution of older individuals who have greatest economic need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas, the distribution of older individuals who have greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas) residing in such areas, the distribution of older individuals who are Indians residing in such areas, the distribution of resources available to provide such services or centers, the boundaries of existing areas within the State which were drawn for the planning or administration of supportive services programs, the location of units of general purpose local government within the State, and any other relevant factors;

- (2) the State agency shall—

- (A) except as provided in subsection (b)(5) of this section, designate for each such area after consideration of the views offered by the unit or units of general purpose local government in such area, a public or private nonprofit agency or organization as the area agency on aging for such area;

- (B) provide assurances, satisfactory to the Assistant Secretary, that the State agency will take into account, in connection with matters of general policy arising in the development and administration of the State plan for any fiscal year, the views of recipients of supportive services or nutrition services, or individuals using multipurpose senior centers provided under such plan;

- (C) in consultation with area agencies, in accordance with guidelines issued by the As-