

Pub. L. 105-285, §§304(b), 305(4), substituted “subsections (a) through (d) of this section” for “subsections (a) through (f) of this section” and “In determining whether to make such an allotment to a State, the Secretary shall take into account the extent to which the State was affected by the natural disaster or other emergency involved, the availability to the State of other resources under the program carried out under this subchapter or any other program, and such other factors as the Secretary may find to be relevant. Not later than 30 days after making the determination, but prior to releasing an allotted amount to a State, the Secretary shall notify Congress of the allotments made pursuant to this subsection.” for “In determining to which State or States additional funds may be allotted, the Secretary shall take into account the extent to which a State was affected by the emergency or disaster, the availability to an affected State of other resources under this or any other program, and such other factors as the Secretary determines relevant. The Secretary shall notify Congress of the allotment pursuant to this subsection prior to releasing the allotted funds.”

1994—Subsec. (b)(1). Pub. L. 103-252, §311(c)(3), inserted “of the United States” after “Virgin Islands”.

Subsec. (g). Pub. L. 103-252, §304(c), added subsec. (g).

1990—Subsec. (f). Pub. L. 101-501 designated existing provisions as par. (1), redesignated former pars. (1) to (3) as subpars. (A) to (C), respectively, substituted “in accordance with paragraph (2) a percentage” for “up to 10 percent”, “or a combination” for “or any combination”, and “subparagraphs (A), (B), and (C)” for “paragraphs (1), (2), and (3)”, and added par. (2).

1986—Subsec. (a)(1)(A). Pub. L. 99-425, §505(b)(1), inserted “after reserving any amount permitted to be reserved under section 8628a of this title and” after “remaining”.

Subsec. (a)(1)(B). Pub. L. 99-425, §505(b)(2), inserted “after reserving any amount permitted to be reserved under section 8628a of this title” after “therefor”.

Subsec. (c). Pub. L. 99-425, §502(a), substituted “the capacity” for “and the capacity”, inserted “, and the ability to carry out the program in local communities”, and inserted provisions relating to hourly time periods in which the program must respond, application for benefits, and nonapplicability of the program to areas affected by a natural disaster or major disaster.

Subsec. (d)(2). Pub. L. 99-425, §503, substituted “and residing within the State on the reservation of the tribes or on trust lands adjacent to such reservation” for “in such State with respect to which a determination under this subsection is made”, inserted “, or such greater amount as the Indian tribe and the State may agree upon”, and inserted “In cases where a tribe has no reservation, the Secretary, in consultation with the tribe and the State, shall define the number of Indian households for the determination under this paragraph.”

1984—Subsec. (a)(2). Pub. L. 98-558, §604(a), amended par. (2) generally, substituting provisions relating to State allotment computation for former provisions which also related to computation of State allotment formulas and adding subpars. (A) and (B).

Subsec. (a)(4). Pub. L. 98-558, §604(b), added par. (4).

Subsec. (c). Pub. L. 98-558, §603(a), inserted “until March 15 of each program year” after “reserved” and inserted “The program for which funds are reserved by this subsection shall be administered by public or non-profit entities which have experience in administering energy crisis programs under the Low-Income Energy Assistance Act of 1980, or under this subchapter, experience in assisting low-income individuals in the area to be served, and the capacity to undertake a timely and effective energy crisis intervention program.”

Subsec. (d)(1). Pub. L. 98-558, §603(b), substituted “otherwise be payable” for “otherwise be paid” in provisions following subpar. (B).

Subsec. (e). Pub. L. 98-558, §603(c), struck out subsec. (e) which related to direct payments to households and State options.

Subsec. (f). Pub. L. 98-558, §603(d), substituted “the funds payable to it” for “its allotment”.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective Oct. 1, 1994, see section 314 of Pub. L. 103-252, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 502(a) of Pub. L. 99-425 effective Dec. 1, 1986, and amendment by sections 503 and 505(b) of Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-558 effective Oct. 30, 1984, see section 609(a) of Pub. L. 98-558, set out as a note under section 8621 of this title.

#### RULES FOR ENERGY CRISIS INTERVENTION

Pub. L. 99-425, title V, §502(b), Sept. 30, 1986, 100 Stat. 973, provided that: “Not later than 60 days after the date of the enactment of this Act [Sept. 30, 1986], the Secretary of Health and Human Services shall issue rules to carry out the amendments made by subsection (a) [amending this section].”

### § 8624. Applications and requirements

#### (a) Form; assurances; public hearings

(1) Each State desiring to receive an allotment for any fiscal year under this subchapter shall submit an application to the Secretary. Each such application shall be in such form as the Secretary shall require. Each such application shall contain assurances by the chief executive officer of the State that the State will meet the conditions enumerated in subsection (b) of this section.

(2) After the expiration of the first fiscal year for which a State receives funds under this subchapter, no funds shall be allotted to such State for any fiscal year under this subchapter unless such State conducts public hearings with respect to the proposed use and distribution of funds to be provided under this subchapter for such fiscal year.

#### (b) Certifications required for covered activities

As part of the annual application required by subsection (a) of this section, the chief executive officer of each State shall certify that the State agrees to—

(1) use the funds available under this subchapter to—

- (A) conduct outreach activities and provide assistance to low income households in meeting their home energy costs, particularly those with the lowest incomes that pay a high proportion of household income for home energy, consistent with paragraph (5);
- (B) intervene in energy crisis situations;
- (C) provide low-cost residential weatherization and other cost-effective energy-related home repair; and

(D) plan, develop, and administer the State's program under this subchapter including leveraging programs,

and the State agrees not to use such funds for any purposes other than those specified in this subchapter;

(2) make payments under this subchapter only with respect to—

(A) households in which 1 or more individuals are receiving—

(i) assistance under the State program funded under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.];

(ii) supplemental security income payments under title XVI of the Social Security Act [42 U.S.C. 1381 et seq.];

(iii) supplemental nutrition assistance program benefits under the Food and Nutrition Act of 2008 [7 U.S.C. 2011 et seq.]; or

(iv) payments under section 1315, 1521, 1541, or 1542 of title 38, or under section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978; or

(B) households with incomes which do not exceed the greater of—

(i) an amount equal to 150 percent of the poverty level for such State; or

(ii) an amount equal to 60 percent of the State median income;

except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;

(3) conduct outreach activities designed to assure that eligible households, especially households with elderly individuals or disabled individuals, or both, and households with high home energy burdens, are made aware of the assistance available under this subchapter, and any similar energy-related assistance available under subtitle B of title VI (relating to community services block grant program) [42 U.S.C. 9901 et seq.] or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] before August 13, 1981;

(4) coordinate its activities under this subchapter with similar and related programs administered by the Federal Government and such State, particularly low-income energy-related programs under subtitle B of title VI (relating to community services block grant program) [42 U.S.C. 9901 et seq.], under the supplemental security income program, under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], under title XX of the Social Security Act [42 U.S.C. 1397 et seq.], under the low-income weatherization assistance program under title IV of the Energy Conservation and Production Act [42 U.S.C. 6851 et seq.], or under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] before August 13, 1981;

(5) provide, in a timely manner, that the highest level of assistance will be furnished to those households which have the lowest incomes and the highest energy costs or needs in

relation to income, taking into account family size, except that the State may not differentiate in implementing this section between the households described in clause (2)(A) and (2)(B) of this subsection;

(6) to the extent it is necessary to designate local administrative agencies in order to carry out the purposes of this subchapter, give special consideration, in the designation of such agencies, to any local public or private non-profit agency which was receiving Federal funds under any low-income energy assistance program or weatherization program under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] or any other provision of law on August 12, 1981, except that—

(A) the State shall, before giving such special consideration, determine that the agency involved meets program and fiscal requirements established by the State; and

(B) if there is no such agency because of any change in the assistance furnished to programs for economically disadvantaged persons, then the State shall give special consideration in the designation of local administrative agencies to any successor agency which is operated in substantially the same manner as the predecessor agency which did receive funds for the fiscal year preceding the fiscal year for which the determination is made;

(7) if the State chooses to pay home energy suppliers directly, establish procedures to—

(A) notify each participating household of the amount of assistance paid on its behalf;

(B) assure that the home energy supplier will charge the eligible household, in the normal billing process, the difference between the actual cost of the home energy and the amount of the payment made by the State under this subchapter;

(C) assure that the home energy supplier will provide assurances that any agreement entered into with a home energy supplier under this paragraph will contain provisions to assure that no household receiving assistance under this subchapter will be treated adversely because of such assistance under applicable provisions of State law or public regulatory requirements; and

(D) ensure that the provision of vendored payments remains at the option of the State in consultation with local grantees and may be contingent on unregulated vendors taking appropriate measures to alleviate the energy burdens of eligible households, including providing for agreements between suppliers and individuals eligible for benefits under this subchapter<sup>1</sup> that seek to reduce home energy costs, minimize the risks of home energy crisis, and encourage regular payments by individuals receiving financial assistance for home energy costs;

(8) provide assurances that (A) the State will not exclude households described in clause (2)(B) of this subsection from receiving home energy assistance benefits under clause (2), and (B) the State will treat owners and renters

<sup>1</sup> See References in Text note below.

equitably under the program assisted under this subchapter;

(9) provide that—

(A) the State may use for planning and administering the use of funds under this subchapter an amount not to exceed 10 percent of the funds payable to such State under this subchapter for a fiscal year; and

(B) the State will pay from non-Federal sources the remaining costs of planning and administering the program assisted under this subchapter and will not use Federal funds for such remaining costs (except for the costs of the activities described in paragraph (16));

(10) provide that such fiscal control and fund accounting procedures will be established as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under this subchapter, including procedures for monitoring the assistance provided under this subchapter, and provide that the State will comply with the provisions of chapter 75 of title 31 (commonly known as the "Single Audit Act");

(11) permit and cooperate with Federal investigations undertaken in accordance with section 8627 of this title;

(12) provide for timely and meaningful public participation in the development of the plan described in subsection (c) of this section;

(13) provide an opportunity for a fair administrative hearing to individuals whose claims for assistance under the plan described in subsection (c) of this section are denied or are not acted upon with reasonable promptness;

(14) cooperate with the Secretary with respect to data collecting and reporting under section 8629 of this title;

(15) beginning in fiscal year 1992, provide, in addition to such services as may be offered by State Departments of Public Welfare at the local level, outreach and intake functions for crisis situations and heating and cooling assistance that is administered by additional State and local governmental entities or community-based organizations (such as community action agencies, area agencies on aging, and not-for-profit neighborhood-based organizations), and in States where such organizations do not administer intake functions as of September 30, 1991, preference in awarding grants or contracts for intake services shall be provided to those agencies that administer the low-income weatherization or energy crisis intervention programs; and

(16) use up to 5 percent of such funds, at its option, to provide services that encourage and enable households to reduce their home energy needs and thereby the need for energy assistance, including needs assessments, counseling, and assistance with energy vendors, and report to the Secretary concerning the impact of such activities on the number of households served, the level of direct benefits provided to those households, and the number of households that remain unserved.

The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection. The Secretary shall

issue regulations to prevent waste, fraud, and abuse in the programs assisted by this subchapter.

Not later than 18 months after May 18, 1994, the Secretary shall develop model performance goals and measurements in consultation with State, territorial, tribal, and local grantees, that the States may use to assess the success of the States in achieving the purposes of this subchapter. The model performance goals and measurements shall be made available to States to be incorporated, at the option of the States, into the plans for fiscal year 1997. The Secretary may request data relevant to the development of model performance goals and measurements.

**(c) State plan; revision; public inspection**

(1) As part of the annual application required in subsection (a) of this section, the chief executive officer of each State shall prepare and furnish to the Secretary, in such format as the Secretary may require, a plan which—

(A) describes the eligibility requirements to be used by the State for each type of assistance to be provided under this subchapter, including criteria for designating an emergency under section 8623(c) of this title;

(B) describes the benefit levels to be used by the State for each type of assistance including assistance to be provided for emergency crisis intervention and for weatherization and other energy-related home repair;

(C) contains estimates of the amount of funds the State will use for each of the programs under such plan and describes the alternative use of funds reserved under section 8623(c) of this title in the event any portion of the amount so reserved is not expended for emergencies;

(D) describes weatherization and other energy-related home repair the State will provide under subsection (k) of this section, including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this subchapter by the State for such weatherization and energy-related home repairs and improvements;

(E) describes any steps that will be taken (in addition to those necessary to carry out the assurance contained in paragraph (5) of subsection (b) of this section) to target assistance to households with high home energy burdens;

(F) describes how the State will carry out assurances in clauses (3), (4), (5), (6), (7), (8), (10), (12), (13), and (15) of subsection (b) of this section;

(G) states, with respect to the 12-month period specified by the Secretary, the number and income levels of households which apply and the number which are assisted with funds provided under this subchapter, and the number of households so assisted with—

- (i) one or more members who had attained 60 years of age;
- (ii) one or more members who were disabled; and
- (iii) one or more young children; and

(H) contains any other information determined by the Secretary to be appropriate for purposes of this subchapter.

The chief executive officer may revise any plan prepared under this paragraph and shall furnish the revised plan to the Secretary.

(2) Each plan prepared under paragraph (1) and each substantial revision thereof shall be made available for public inspection within the State involved in such a manner as will facilitate timely and meaningful review of, and comment upon, such plan or substantial revision.

(3) Not later than April 1 of each fiscal year the Secretary shall make available to the States a model State plan format that may be used, at the option of each State, to prepare the plan required under paragraph (1) for the next fiscal year.

**(d) Expending of funds**

The State shall expend funds in accordance with the State plan under this subchapter or in accordance with revisions applicable to such plan.

**(e) Conduct of audits**

Each State shall, in carrying out the requirements of subsection (b)(10) of this section, obtain financial and compliance audits of any funds which the State receives under this subchapter. Such audits shall be made public within the State on a timely basis. The audits shall be conducted in accordance with chapter 75 of title 31.

**(f) Payments or assistance not to be deemed income or resources for any purpose under Federal or State law; determination of excess shelter expense deduction**

(1) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this subchapter shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, supplemental nutrition assistance program benefits, public assistance, or welfare programs.

(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food and Nutrition Act of 2008 (7 U.S.C. 2014(e))—

(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to,

or indirectly for the benefit of, any of such households.

**(g) Repayment of funds expended improperly; offset**

The State shall repay to the United States amounts found not to have been expended in accordance with this subchapter or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this subchapter.

**(h) Periodic evaluation of expenditures by Comptroller General**

The Comptroller General of the United States shall, from time to time<sup>2</sup> evaluate the expenditures by States of grants under this subchapter in order to assure that expenditures are consistent with the provisions of this subchapter and to determine the effectiveness of the State in accomplishing the purposes of this subchapter.

**(i) Certain recipients of supplemental security income ineligible for payments or assistance**

A household which is described in subsection (b)(2)(A) of this section solely by reason of clause (ii) thereof shall not be treated as a household described in subsection (b)(2) of this section if the eligibility of the household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act [42 U.S.C. 1382(e)(1)] by reason of being in an institution receiving payments under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] with respect to such individual;

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of the Social Security Act [42 U.S.C. 1382a(a)(2)(A)(i)] applies; or

(3) a child described in section 1614(f)(2) of the Social Security Act [42 U.S.C. 1382c(f)(2)] who is living together with a parent, or the spouse of a parent, of the child.

**(j) State verification of income eligibility; policies and procedures applicable**

In verifying income eligibility for purposes of subsection (b)(2)(B) of this section, the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act [42 U.S.C. 601 et seq.], under title XX of the Social Security Act [42 U.S.C. 1397 et seq.], under subtitle B of title VI of this Act (relating to community services block grant program) [42 U.S.C. 9901 et seq.], under any other provision of law which carries out programs which were administered under the Economic Opportunity Act of 1964 [42 U.S.C. 2701 et seq.] before August 13, 1981, or under other income assistance or service programs (as determined by the State).

**(k) Limitation on use of funds; waiver**

(1) Except as provided in paragraph (2), not more than 15 percent of the greater of—

(A) the funds allotted to a State under this subchapter for any fiscal year; or

(B) the funds available to such State under this subchapter for such fiscal year;

<sup>2</sup> So in original. Probably should be followed by a comma.

may be used by the State for low-cost residential weatherization or other energy-related home repair for low-income households, particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy.

(2)(A) If a State receives a waiver granted under subparagraph (B) for a fiscal year, the State may use not more than the greater of 25 percent of—

(i) the funds allotted to a State under this subchapter for such fiscal year; or

(ii) the funds available to such State under this subchapter for such fiscal year;

for residential weatherization or other energy-related home repair for low-income households, particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy.

(B) For purposes of subparagraph (A), the Secretary may grant a waiver to a State for a fiscal year if the State submits a written request to the Secretary after March 31 of such fiscal year and if the Secretary determines, after reviewing such request and any public comments, that—

(i)(I) the number of households in the State that will receive benefits, other than weatherization and energy-related home repair, under this subchapter in such fiscal year will not be fewer than the number of households in the State that received benefits, other than weatherization and energy-related home repair, under this subchapter in the preceding fiscal year;

(II) the aggregate amounts of benefits that will be received under this subchapter by all households in the State in such fiscal year will not be less than the aggregate amount of such benefits that were received under this subchapter by all households in the State in the preceding fiscal year; and

(III) such weatherization activities have been demonstrated to produce measurable savings in energy expenditures by low-income households; or

(ii) in accordance with rules issued by the Secretary, the State demonstrates good cause for failing to satisfy the requirements specified in clause (i).

**(I) State tax credits to energy suppliers who supply home energy at reduced rates to low-income households**

(1) Any State may use amounts provided under this subchapter for the purpose of providing credits against State tax to energy suppliers who supply home energy at reduced rates to low-income households.

(2) Any such credit provided by a State shall not exceed the amount of the loss of revenue to such supplier on account of such reduced rate.

(3) Any certification for such tax credits shall be made by the State, but such State may use Federal data available to such State with respect to recipients of supplemental security income benefits if timely delivery of benefits to households described in subsection (b) of this section and suppliers will not be impeded by the use of such data.

(Pub. L. 97-35, title XXVI, § 2605, Aug. 13, 1981, 95 Stat. 896; Pub. L. 98-558, title VI, § 605, Oct. 30,

1984, 98 Stat. 2891; Pub. L. 99-425, title V, § 504, Sept. 30, 1986, 100 Stat. 974; Pub. L. 101-501, title VII, §§ 704, 705, Nov. 3, 1990, 104 Stat. 1259; Pub. L. 102-83, § 5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-252, title III, §§ 305-309, 311(a)(1), (b), (c)(4), (5), May 18, 1994, 108 Stat. 659-662; Pub. L. 104-66, title I, § 1072(c), Dec. 21, 1995, 109 Stat. 721; Pub. L. 104-193, title I, § 110(p), Aug. 22, 1996, 110 Stat. 2175; Pub. L. 105-285, title III, § 306, Oct. 27, 1998, 112 Stat. 2758; Pub. L. 110-234, title IV, § 4002(b)(1)(B), (E), (2)(EE), May 22, 2008, 122 Stat. 1096, 1097; Pub. L. 110-246, § 4(a), title IV, § 4002(b)(1)(B), (E), (2)(EE), June 18, 2008, 122 Stat. 1664, 1857, 1859.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b)(2)(A)(i), (ii), (4), (i)(1), and (j), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Part A of title IV of the Social Security Act is classified generally to part A (§ 601 et seq.) of subchapter IV of chapter 7 of this title. Titles XVI, XIX, and XX of the Social Security Act are classified generally to subchapters XVI (§ 1381 et seq.), XIX (§ 1396 et seq.), and XX (§ 1397 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

The Food and Nutrition Act of 2008, referred to in subsec. (b)(2)(A)(iii), is Pub. L. 88-525, Aug. 31, 1964, 78 Stat. 703, which is classified generally to chapter 51 (§ 2011 et seq.) of Title 7, Agriculture. For complete classification of this Act to the Code, see Short Title note set out under section 2011 of Title 7 and Tables.

Section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978, referred to in subsec. (b)(2)(A)(iv), is section 306 of Pub. L. 95-588, title III, Nov. 4, 1978, 92 Stat. 2508, which is set out as a note under section 521 of Title 38, Veterans' Benefits.

Subtitle B of title VI, referred to in subsecs. (b)(3), (4), and (j), is subtitle B of title VI of Pub. L. 97-35, § 671 et seq., Aug. 13, 1981, 95 Stat. 511, as amended, known as the Community Services Block Grant Act, which is classified generally to chapter 106 (§ 9901 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9901 of this title and Tables.

The Economic Opportunity Act of 1964, referred to in subsecs. (b)(3), (4), (6), and (j), is Pub. L. 88-452, Aug. 20, 1964, 78 Stat. 508, as amended, which was classified generally to chapter 34 (§ 2701 et seq.) of this title prior to repeal, except for titles VIII and X, by Pub. L. 97-35, title VI, § 683(a), Aug. 13, 1981, 95 Stat. 519. Titles VIII and X of the Act are classified generally to subchapters VIII (§ 2991 et seq.) and X (§ 2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Tables.

The Energy Conservation and Production Act, referred to in subsec. (b)(4), is Pub. L. 94-385, Aug. 14, 1976, 90 Stat. 1142, as amended. Title IV of the Energy Conservation and Production Act is classified principally to subchapter III (§ 6851 et seq.) of chapter 81 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6801 of this title and Tables.

This subchapter, referred to in subsec. (b)(7)(D), was in the original "this Act" and was translated as reading "this title", meaning title XXVI of Pub. L. 97-35, known as the Low-Income Home Energy Assistance Act of 1981, to reflect the probable intent of Congress.

CODIFICATION

In subsec. (b)(6), "August 12, 1981" substituted for "the day before the date of the enactment of this Act", which date of enactment is Aug. 13, 1981.

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

## AMENDMENTS

2008—Subsec. (b)(2)(A)(iii). Pub. L. 110-246, § 4002(b)(1)(B), (E), (2)(EE), substituted “supplemental nutrition assistance program benefits” for “food stamps” and “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977”.

Subsec. (f)(1). Pub. L. 110-246, § 4002(b)(1)(E), (2)(EE), substituted “supplemental nutrition assistance program benefits” for “food stamps”.

Subsec. (f)(2). Pub. L. 110-246, § 4002(b)(1)(B), (2)(EE), substituted “Food and Nutrition Act of 2008” for “Food Stamp Act of 1977” in introductory provisions.

1998—Subsec. (b). Pub. L. 105-285, § 306(1)(C), (D), struck out “The Secretary may not prescribe the manner in which the States will comply with the provisions of this subsection.” in provisions after par. (14) and inserted identical language before “The Secretary shall issue” in concluding provisions after par. (16).

Subsec. (b)(9)(A). Pub. L. 105-285, § 306(1)(A), struck out “and not transferred pursuant to section 8623(f) of this title for use under another block grant” before the semicolon.

Subsec. (b)(14). Pub. L. 105-285, § 306(1)(B), struck out “and” at end.

Subsec. (c)(1)(B). Pub. L. 105-285, § 306(2)(A), substituted “State” for “States”.

Subsec. (c)(1)(G)(i). Pub. L. 105-285, § 306(2)(B), substituted “had” for “has”.

Subsec. (k)(1), (2)(A). Pub. L. 105-285, § 306(3), inserted before period at end “, particularly those low-income households with the lowest incomes that pay a high proportion of household income for home energy”.

1996—Subsec. (b)(2)(A)(i). Pub. L. 104-193 amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: “aid to families with dependent children under the State’s plan approved under part A of title IV of the Social Security Act (other than such aid in the form of foster care in accordance with section 408 of such Act);”.

1995—Subsec. (h). Pub. L. 104-66 struck out “(but not less frequently than every three years),” after “from time to time”.

1994—Subsec. (b). Pub. L. 103-252, § 311(c)(4), transferred the sentence immediately preceding par. (15) to appear as a flush sentence immediately after par. (16).

Pub. L. 103-252, § 311(b), inserted at end “Not later than 18 months after May 18, 1994, the Secretary shall develop model performance goals and measurements in consultation with State, territorial, tribal, and local grantees, that the States may use to assess the success of the States in achieving the purposes of this subchapter. The model performance goals and measurements shall be made available to States to be incorporated, at the option of the States, into the plans for fiscal year 1997. The Secretary may request data relevant to the development of model performance goals and measurements.”

Subsec. (b)(1). Pub. L. 103-252, § 305(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “use the funds available under this subchapter for the purposes described in section 8621(a) of this title and otherwise in accordance with the requirements of this subchapter, and agrees not to use such funds for any payments other than payments specified in this section;”.

Subsec. (b)(2)(B). Pub. L. 103-252, § 306(a), in concluding provisions substituted “except that a State may not exclude a household from eligibility in a fiscal year solely on the basis of household income if such income is less than 110 percent of the poverty level for such State, but the State may give priority to those households with the highest home energy costs or needs in relation to household income;” for “except that no household may be excluded from eligibility under this subclause for payments under this subchapter for fiscal year 1986 and thereafter if the household has an income which is less than 110 percent of the poverty level for such State for such fiscal year”.

Subsec. (b)(3). Pub. L. 103-252, §§ 306(b), 311(c)(3), substituted “disabled” for “handicapped” and “and house-

holds with high home energy burdens, are made aware” for “are made aware”.

Subsec. (b)(5). Pub. L. 103-252, § 306(c), inserted “or needs” after “highest energy costs”.

Subsec. (b)(7)(D). Pub. L. 103-252, § 311(a)(1), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “assure that any home energy supplier receiving direct payments agrees not to discriminate, either in the cost of the goods supplied or the services provided, against the eligible household on whose behalf payments are made;”.

Subsec. (b)(9)(B). Pub. L. 103-252, § 305(b)(1), inserted before semicolon at end “(except for the costs of the activities described in paragraph (16))”.

Subsec. (b)(10). Pub. L. 103-252, § 307(1), substituted “and provide that the State will comply with the provisions of chapter 75 of title 31 (commonly known as the ‘Single Audit Act’)” for “and provide that at least every two years the State shall prepare an audit of its expenditures of amounts received under this subchapter and amounts transferred to carry out the purposes of this subchapter”.

Subsec. (b)(16). Pub. L. 103-252, § 305(b)(2), (3), added par. (16).

Subsec. (c)(1)(D). Pub. L. 103-252, § 308, inserted before semicolon at end “, including any steps the State will take to address the weatherization and energy-related home repair needs of households that have high home energy burdens, and describes any rules promulgated by the Department of Energy for administration of its Low Income Weatherization Assistance Program which the State, to the extent permitted by the Secretary to increase consistency between federally assisted programs, will follow regarding the use of funds provided under this subchapter by the State for such weatherization and energy-related home repairs and improvements”.

Subsec. (c)(1)(E). Pub. L. 103-252, § 306(d)(2), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (c)(1)(F). Pub. L. 103-252, §§ 306(d)(1), 309(1), redesignated subpar. (E) as (F), substituted “(13), and (15)” for “and (13)”, and struck out “and” at end. Former subpar. (F) redesignated (H).

Subsec. (c)(1)(G). Pub. L. 103-252, § 309(2), added subpar. (G).

Subsec. (c)(1)(H). Pub. L. 103-252, § 306(d)(1), redesignated subpar. (F) as (H).

Subsec. (e). Pub. L. 103-252, § 307(2), substituted “in accordance with chapter 75 of title 31” for “at least every two years by an organization or person independent of any agency administering activities under this subchapter. The audits shall be conducted in accordance with the Comptroller General’s standards for audit of governmental organizations, programs, activities, and functions. Within 30 days after completion of each audit, the chief executive officer of the State shall submit a copy of the audit to the legislature of the State and to the Secretary”.

1991—Subsec. (b)(2)(A)(iv). Pub. L. 102-83 substituted “section 1315, 1521, 1541, or 1542 of title 38” for “section 415, 521, 541, or 542 of title 38”.

1990—Subsec. (b)(12). Pub. L. 101-501, § 704(a)(1), inserted “timely and meaningful” after “provide for”.

Subsec. (b)(15). Pub. L. 101-501, § 704(a)(2)-(4), added par. (15) at end.

Subsec. (c)(2). Pub. L. 101-501, § 704(b), inserted “timely and meaningful” after “will facilitate”.

Subsec. (k). Pub. L. 101-501, § 705, designated existing provisions as par. (1), redesignated former pars. (1) and (2) as subpars. (A) and (B), respectively, substituted “Except as provided in paragraph (2), not” for “Not”, and added par. (2).

1986—Subsec. (b)(5). Pub. L. 99-425, § 504(a), substituted “in a timely manner” for “in a manner consistent with the efficient and timely payment of benefits”.

Subsec. (b)(14) to (17). Pub. L. 99-425, § 504(b), redesignated cl. (17) as (14), and struck out former cls. (14) to (16) which read as follows:

“(14) describe the procedures by which households in the State are identified as eligible to participate under

this subchapter and the manner in which the State determines benefit levels;

“(15) describe the amount that the State will reserve in accordance with section 8623(c) of this title in each fiscal year for energy crisis intervention activities together with the administrative procedures (A) for designating an emergency, (B) for determining the assistance to be provided in any such emergency, and (C) for the use of funds reserved under such section for the purposes under this subchapter in the event any portion of the amount so reserved is not expended for emergencies.

“(16) describe energy usage and the average cost of home energy in the State, identified by type of fuel and by region of the State;”.

Subsec. (c)(1). Pub. L. 99-425, §504(c), revised provisions relating to requirements for State plans, restating as subpars. (A) to (F), provisions of former subpars. (A) to (E).

Subsec. (c)(3). Pub. L. 99-425, §504(d), added par. (3).

Subsec. (f). Pub. L. 99-425, §504(e), designated existing provisions as par. (1), substituted “provided directly to, or indirectly for the benefit of” for “provided to”, and added par. (2).

1984—Subsec. (b). Pub. L. 98-558, §605(a)(9), inserted at end “The Secretary shall issue regulations to prevent waste, fraud, and abuse in the programs assisted by this subchapter.”.

Subsec. (b)(1). Pub. L. 98-558, §605(a)(1), substituted “section” for “subsection”.

Subsec. (b)(2)(B). Pub. L. 98-558, §605(a)(2), inserted “except that no household may be excluded from eligibility under this subclause for payments under this subchapter for fiscal year 1986 and thereafter if the household has an income which is less than 110 percent of the poverty level for such State for such fiscal year”.

Subsec. (b)(5). Pub. L. 98-558, §605(a)(3), inserted “, except that the State may not differentiate in implementing this section between the households described in clause (2)(A) and (2)(B) of this subsection”.

Subsec. (b)(7)(C). Pub. L. 98-558, §605(a)(4), substituted “adversely” for “any differently”.

Subsec. (b)(8). Pub. L. 98-558, §605(a)(5), designated existing provisions as subpar. (B) and added subpar. (A).

Subsec. (b)(9)(A). Pub. L. 98-558, §605(a)(6), in amending subpar. (A) generally, struck out “in each fiscal year” before “the State may” and substituted “for a fiscal year and not transferred pursuant to section 8623(f) of this title for use under another block grant” for “for such fiscal year”.

Subsec. (b)(10). Pub. L. 98-558, §605(a)(7), substituted “every two years” for “every year”.

Subsec. (b)(14) to (17). Pub. L. 98-558, §605(a)(8), which directed amendment of subsec. (b) by adding pars. (14) to (17) at the end thereof, was executed by adding those pars. after par. (13) to reflect the probable intent of Congress.

Subsec. (c)(1). Pub. L. 98-558, §605(b)(1), in amending par. (1) generally, designated existing provisions as subpar. (A) and added subpars. (B) to (E).

Subsec. (c)(2). Pub. L. 98-558, §605(b)(2), inserted “and each substantial revision thereof” and “or substantial revision” at the end.

Subsec. (d). Pub. L. 98-558, §605(c), in amending subsec. (d) generally, substituted provisions that the State shall expend funds in accordance with the State plan or revisions thereto for former provisions which related to waiver of requirements.

Subsec. (e). Pub. L. 98-558, §605(d), in amending subsec. (e) generally, inserted provisions requiring that the audits be made public and that they shall be conducted in accordance with the Comptroller General’s standards.

Subsec. (f). Pub. L. 98-558, §605(e), inserted “unless enacted in express limitation of this paragraph”.

Subsec. (h). Pub. L. 98-558, §605(f), inserted “(but not less frequently than every three years)”.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the

date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 4002(b)(1)(B), (E), (2)(EE) of Pub. L. 110-246 effective Oct. 1, 2008, see section 4407 of Pub. L. 110-246, set out as a note under section 1161 of Title 2, The Congress.

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective Oct. 1, 1994, see section 314 of Pub. L. 103-252, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 504(a)–(d) of Pub. L. 99-425 not applicable with respect to any fiscal year beginning in or before the 60-day period ending on Oct. 1, 1986, and amendment by section 504(e) effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-558 effective on first day of first fiscal year beginning after Oct. 30, 1984, see section 609(b) of Pub. L. 98-558, set out as a note under section 8621 of this title.

#### CLARIFICATION ON UTILITY ALLOWANCES

Pub. L. 102-550, title IX, §927, Oct. 28, 1992, 106 Stat. 3885, as amended by Pub. L. 103-185, §1, Dec. 14, 1993, 107 Stat. 2244, provided that:

“(a) ELIGIBILITY.—Tenants who—

“(1) are responsible for making out-of-pocket payments for utility bills; and

“(2) receive energy assistance through utility allowances that include energy costs under programs identified in subsection (c);

shall not have their eligibility or benefits under other programs designed to assist low-income people with increases in energy costs since 1978 reduced or eliminated, except as provided in subsection (d).

“(b) EQUAL TREATMENT IN BENEFIT PROGRAMS.—Tenants described in subsection (a) shall be treated identically with other households eligible for or receiving energy assistance, including in the determination of the home energy costs for which they are individually responsible and in the determination of their incomes for any program in which eligibility or benefits are based on need, except as provided in subsection (d).

“(c) APPLICABILITY.—This section applies to programs under the United States Housing Act of 1937 [42 U.S.C. 1437 et seq.], the National Housing Act [12 U.S.C. 1701 et seq.], section 101 of the Housing and Urban Development Act of 1965 [12 U.S.C. 1701s], section 202 of the Housing Act of 1959 [12 U.S.C. 1701q], and title V of the Housing Act of 1949 [42 U.S.C. 1471 et seq.].

“(d) SPECIAL RULE FOR LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.—For purposes of the Low-Income Home Energy Assistance Program, tenants described in

subsection (a)(2) who are responsible for paying some or all heating or cooling costs shall not have their eligibility automatically denied. A State may consider the amount of the heating or cooling component of utility allowances received by tenants described in subsection (a)(2) when setting benefit levels under the Low-Income Home Energy Assistance Program. The size of any reduction in Low-Income Home Energy Assistance Program benefits must be reasonably related to the amount of the heating or cooling component of the utility allowance received and must ensure that the highest level of assistance will be furnished to those households with the lowest incomes and the highest energy costs in relation to income, taking into account family size, in compliance with section 2605(b)(5) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(b)(5))."

### § 8625. Nondiscrimination provisions

#### (a) Prohibitions

No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this subchapter. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.] or with respect to an otherwise qualified handicapped individual as provided in section 794 of title 29 also shall apply to any such program or activity.

#### (b) Procedures applicable to secure compliance

Whenever the Secretary determines that a State that has received a payment under this subchapter has failed to comply with subsection (a) of this section or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], or section 794 of title 29, as may be applicable; or (3) take such other action as may be provided by law.

#### (c) Maintenance of civil actions

When a matter is referred to the Attorney General pursuant to subsection (b) of this section, or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(Pub. L. 97-35, title XXVI, § 2606, Aug. 13, 1981, 95 Stat. 900.)

#### REFERENCES IN TEXT

The Age Discrimination Act of 1975, referred to in subsecs. (a) and (b), is title III of Pub. L. 94-135, Nov. 28, 1975, 78 Stat. 728, as amended, which is classified generally to chapter 76 (§6101 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 6101 of this title and Tables.

The Civil Rights Act of 1964, referred to in subsec. (b), is Pub. L. 88-352, July 2, 1964, 78 Stat. 241, as amended. Title VI of the Civil Rights Act of 1964 is classified generally to subchapter V (§2000d et seq.) of chapter 21 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2000a of this title and Tables.

### § 8626. Payments to States; fiscal year requirements respecting availability, etc.

(a)(1) From its allotment under section 8623 of this title, the Secretary shall make payments to each State in accordance with section 6503(a) of title 31, for use under this subchapter.

(2) Each State shall notify the Secretary, not later than 2 months prior to the close of a fiscal year, of the amount (if any) of its allotment for such year that will not be obligated in such year, and, if such State elects to submit a request described in subsection (b)(2) of this section, such State shall submit such request at the same time. The Secretary shall make no payment under paragraph (1) to a State for a fiscal year unless the State has complied with this paragraph with respect to the prior fiscal year.

(b)(1) If—

(A) the Secretary determines that, as of September 1 of any fiscal year, an amount allotted to a State under section 8623 of this title for any fiscal year will not be used by such State during such fiscal year;

(B) the Secretary—

(i) notifies the chief executive officer of such State; and

(ii) publishes a timely notice in the Federal Register;

that, after the 30-day period beginning on the date of the notice to such chief executive officer, such amount may be reallocated; and

(C) the State does not request, under paragraph (2), that such amount be held available for such State for the following fiscal year;

then such amount shall be treated by the Secretary for purposes of this subchapter as an amount appropriated for the following fiscal year to be allotted under section 8623 of this title for such following fiscal year.

(2)(A) Any State may request that an amount allotted to such State for a fiscal year be held available for such State for the following fiscal year. Such request shall include a statement of the reasons that the amount allotted to such State for a fiscal year will not be used by such State during such fiscal year and a description of the types of assistance to be provided with the amount held available for the following fiscal year. Any amount so held available for the following fiscal year shall not be taken into account in computing the allotment of or the amount payable to such State for such fiscal year under this subchapter.

(B) No amount may be held available under this paragraph for a State from a prior fiscal year to the extent such amount exceeds 10 percent of the amount payable to such State for such prior fiscal year. For purposes of the preceding sentence, the amount payable to a State for a fiscal year shall be determined without regard to any amount held available under this paragraph for such State for such fiscal year from the prior fiscal year.