

**(b) Exclusion of certain funds**

The Secretary may exclude from the aggregate State expenditures under subsection (a) of this section, funds appropriated to the principle agency for authorized activities which are of a non-recurring nature and for a specific purpose.

**(c) Waiver****(1) In general**

Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) of this section if the Secretary determines that extraordinary economic conditions in the State justify the waiver.

**(2) Date certain for acting upon request**

The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

**(3) Applicability of waiver**

Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved.

**(d) Noncompliance by State****(1) In general**

In making a grant under section 300x-21 of this title to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year, the State maintained material compliance with any agreement made under subsection (a) of this section. If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 300x-21 of this title for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year.

**(2) Submission of information to Secretary**

The Secretary may make a grant under section 300x-21 of this title for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1).

(July 1, 1944, ch. 373, title XIX, §1930, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 397; amended Pub. L. 106-310, div. B, title XXXIII, §3303(c), Oct. 17, 2000, 114 Stat. 1210.)

## PRIOR PROVISIONS

A prior section 1930 of act July 1, 1944, was classified to section 300y-9 of this title prior to repeal by Pub. L. 99-280.

## AMENDMENTS

2000—Subsecs. (b) to (d). Pub. L. 106-310 added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

**§ 300x-31. Restrictions on expenditure of grant****(a) In general****(1) Certain restrictions**

A funding agreement for a grant under section 300x-21 of this title is that the State involved will not expend the grant—

(A) to provide inpatient hospital services, except as provided in subsection (b) of this section;

(B) to make cash payments to intended recipients of health services;

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment;

(D) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds;

(E) to provide financial assistance to any entity other than a public or nonprofit private entity; or

(F) to carry out any program prohibited by section 300ee-5 of this title.

**(2) Limitation on administrative expenses**

A funding agreement for a grant under section 300x-21 of this title is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant.

**(3) Limitation regarding penal and correctional institutions**

A funding agreement for a State for a grant under section 300x-21 of this title is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 300x-1a<sup>1</sup> of this title to the State for fiscal year 1991 (as section 300x-1a<sup>1</sup> of this title was in effect for such fiscal year).

**(b) Exception regarding inpatient hospital services****(1) Medical necessity as precondition**

With respect to compliance with the agreement made under subsection (a) of this section, a State may expend a grant under section 300x-21 of this title to provide inpatient hospital services as treatment for substance abuse only if it has been determined, in accordance with guidelines issued by the Secretary, that such treatment is a medical necessity for the individual involved, and that the individual cannot be effectively treated in a community-based, nonhospital, residential program of treatment.

**(2) Rate of payment**

In the case of an individual for whom a grant under section 300x-21 of this title is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community-based, nonhospital, residential programs of treatment for substance abuse.

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

**(c) Waiver regarding construction of facilities****(1) In general**

The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) of this section for the purpose of authorizing the State to expend a grant under section 300x-21 of this title for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition.

**(2) Standard regarding need for waiver**

The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available.

**(3) Amount**

In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds.

**(4) Matching funds**

The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than \$1 for each \$1 of Federal funds provided under section 300x-21 of this title.

**(5) Date certain for acting upon request**

The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made.

(July 1, 1944, ch. 373, title XIX, §1931, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 397.)

## REFERENCES IN TEXT

Section 300x-1a of this title, referred to in subsection (a)(3), was repealed by Pub. L. 102-321, title II, §201(2), July 10, 1992, 106 Stat. 378.

## PRIOR PROVISIONS

A prior section 1931 of act July 1, 1944, was classified to section 300y-21 of this title and subsequently omitted from the Code.

Another prior section 1931 of act July 1, 1944, was classified to section 300y-10 of this title prior to repeal by Pub. L. 99-280.

**§ 300x-32. Application for grant; approval of State plan****(a) In general**

For purposes of section 300x-21 of this title, an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsections (c) and (d)(2) of this section—

(1) the application is received by the Secretary not later than October 1 of the fiscal year for which the State is seeking funds;

(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State);

(3) the agreements are made through certification from the chief executive officer of the State;

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

(5) the application contains the information required in section 300x-29 of this title, the information required in section 300x-30(c)(2)<sup>1</sup> of this title, and the report required in section 300x-52(a) of this title;

(6)(A) the application contains a plan in accordance with subsection (b) of this section and the plan is approved by the Secretary; and

(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 300x-21 of this title; and

(7) the application (including the plan under paragraph (6)) is otherwise in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this subpart.

**(b) State plan****(1) In general**

A plan submitted by a State under subsection (a)(6) of this section is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement for a grant under section 300x-21 of this title that is applicable to the State, including a description of the manner in which the State intends to expend the grant.

**(2) Authority of Secretary regarding modifications**

As a condition of making a grant under section 300x-21 of this title to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) of this section (including provisions on priorities in carrying out authorized activities). If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan.

**(3) Authority of Center for Substance Abuse Prevention**

With respect to plans submitted by the States under subsection (a)(6) of this section, the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities.

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