

(c) Waivers regarding certain territories

In the case of any territory of the United States except Puerto Rico, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 300x-31 of this title.

(d) Issuance of regulations; precondition to making grants**(1) Regulations**

Not later than August 25, 1992, the Secretary, acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 300x-21 of this title to be in accordance with this section.

(2) Issuance as precondition to making grants

The Secretary may not make payments under any grant under section 300x-21 of this title for fiscal year 1993 on or after January 1, 1993, unless the Secretary has issued standards under paragraph (1).

(e) Waiver authority for certain requirements**(1) In general**

Upon the request of a State, the Secretary may waive the requirements of all or part of the sections described in paragraph (2) using objective criteria established by the Secretary by regulation after consultation with the States and other interested parties including consumers and providers.

(2) Sections

The sections described in paragraph (1) are sections 300x-22(c)¹, 300x-23, 300x-24 and 300x-28 of this title.

(3) Date certain for acting upon request

The Secretary shall approve or deny a request for a waiver under paragraph (1) and inform the State of that decision not later than 120 days after the date on which the request and all the information needed to support the request are submitted.

(4) Annual reporting requirement

The Secretary shall annually report to the general public on the States that receive a waiver under this subsection.

(July 1, 1944, ch. 373, title XIX, §1932, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 399; amended Pub. L. 106-310, div. B, title XXXIII, §3303(d)-(f)(1), Oct. 17, 2000, 114 Stat. 1211.)

REFERENCES IN TEXT

Section 300x-30(c) of this title, referred to in subsec. (a)(5), was redesignated section 300x-30(d) of this title by Pub. L. 106-310, div. B, title XXXIII, §3303(c)(1), Oct. 17, 2000, 114 Stat. 1211.

Section 300x-22(c) of this title, referred to in subsec. (e)(2), was redesignated section 300x-22(b) of this title by Pub. L. 106-310, div. B, title XXXIII, §3303(a)(2), Oct. 17, 2000, 114 Stat. 1210.

PRIOR PROVISIONS

A prior section 1932 of act July 1, 1944, was classified to section 300y-22 of this title and subsequently omitted from the Code.

Another prior section 1932 of act July 1, 1944, was classified to section 300y-11 of this title prior to repeal by Pub. L. 99-280.

AMENDMENTS

2000—Subsec. (a)(1). Pub. L. 106-310, §3303(d), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the State involved submits the application not later than the date specified by the Secretary;”.

Subsec. (c). Pub. L. 106-310, §3303(e), substituted “except Puerto Rico” for “whose allotment under section 300x-21 of this title for the fiscal year is the amount specified in section 300x-33(c)(2)(B) of this title”.

Subsec. (e). Pub. L. 106-310, §3303(f)(1), added subsec. (e).

§ 300x-33. Determination of amount of allotment**(a) States****(1) In general**

Subject to subsection (b) of this section, the Secretary shall determine the amount of the allotment required in section 300x-21 of this title for a State for a fiscal year as follows:

(A) The formula established in paragraph (1) of section 300x-7(a) of this title shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 300x-7(a) of this title, except that, in the application of such formula for purposes of this subsection, the modifications described in subparagraph (B) shall apply.

(B) For purposes of subparagraph (A), the modifications described in this subparagraph are as follows:

(i) The amount specified in paragraph (2)(A) of section 300x-7(a) of this title is deemed to be the amount appropriated under section 300x-35(a) of this title for allotments under section 300x-21 of this title for the fiscal year involved.

(ii) The term “P” is deemed to have the meaning given in paragraph (2) of this subsection. Section 300x-7(a)(5)(B) of this title applies to the data used in determining such term for the States.

(iii) The factor determined under paragraph (8) of section 300x-7(a) of this title is deemed to have the purpose of reflecting the differences that exist between the State involved and other States in the costs of providing authorized services.

(2) Determination of term “P”

For purposes of this subsection, the term “P” means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows:

(A) The percentage constituted by the ratio of—

(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in urbanized areas of the State and are between such years of age; to

(ii) an amount equal to the total of the respective sums determined for the States under clause (i).

(B) The percentage constituted by the ratio of—

(i) the total number of individuals in the State who are between 25 and 64 years of age (inclusive); to

(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i).

(b) Minimum allotments for States

(1) In general

With respect to fiscal year 2000, and each subsequent fiscal year, the amount of the allotment of a State under section 300x-21 of this title shall not be less than the amount the State received under such section for the previous fiscal year increased by an amount equal to 30.65 percent of the percentage by which the aggregate amount allotted to all States for such fiscal year exceeds the aggregate amount allotted to all States for the previous fiscal year.

(2) Limitations

(A) In general

Except as provided in subparagraph (B), a State shall not receive an allotment under section 300x-21 of this title for a fiscal year in an amount that is less than an amount equal to 0.375 percent of the amount appropriated under section 300x-35(a) of this title for such fiscal year.

(B) Exception

In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 300x-21 of this title for a fiscal year (as compared to the amount allotted to the State in the prior fiscal year) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 300x-35(a) of this title for such fiscal year exceeds the amount appropriated for the prior fiscal year.

(3) Decrease in or equal appropriations

If the amount appropriated under section 300x-35(a) of this title for a fiscal year is equal to or less than the amount appropriated under such section for the prior fiscal year, the amount of the State allotment under section 300x-21 of this title shall be equal to the amount that the State received under section 300x-21 of this title in the prior fiscal year decreased by the percentage by which the amount appropriated for such fiscal year is less than the amount appropriated or¹ such section for the prior fiscal year.

(c) Territories

(1) Determination under formula

Subject to paragraphs (2) and (4), the amount of an allotment under section 300x-21 of this title for a territory of the United States for a fiscal year shall be the product of—

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year; and

(B) a percentage equal to the quotient of—
 (i) the civilian population of the territory, as indicated by the most recently available data; divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data.

(2) Minimum allotment for territories

The amount of an allotment under section 300x-21 of this title for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year;

(B) \$50,000; and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 79.4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992.

(3) Reservation of amounts

The Secretary shall each fiscal year reserve for the territories of the United States 1.5 percent of the amounts appropriated under section 300x-35(a) of this title for allotments under section 300x-21 of this title for the fiscal year.

(4) Availability of data on population

With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist.

(5) Applicability of certain provisions

For purposes of subsections (a) and (b) of this section, the term “State” does not include the territories of the United States.

(d) Indian tribes and tribal organizations

(1) In general

If the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization; and

(B) makes a determination that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this;²

the Secretary shall reserve from the allotment under section 300x-21 of this title for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the tribe or tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the abuse of alcohol and other drugs bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities.

(2) Tribe or tribal organization as grantee

The amount reserved by the Secretary on the basis of a determination under this para-

¹ So in original. Probably should be “for”.

² So in original. Probably should be “this subpart;”.

graph³ shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(3) Application

In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph,³ it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe.

(4) Definitions

The terms “Indian tribe” and “tribal organization” have the same meaning given such terms in subsections (b) and (c)⁴ of section 450b of title 25.

(July 1, 1944, ch. 373, title XIX, §1933, as added Pub. L. 102-321, title II, §202, July 10, 1992, 106 Stat. 400; amended Pub. L. 102-352, §2(a)(11), Aug. 26, 1992, 106 Stat. 938; Pub. L. 105-277, div. A, §101(f) [title II, §218(b)], Oct. 21, 1998, 112 Stat. 2681-337, 2681-362; Pub. L. 106-113, div. B, §1000(a)(4) [title II, §212(b)], Nov. 29, 1999, 113 Stat. 1535, 1501A-239; Pub. L. 106-310, div. B, title XXXIII, §3304, Oct. 17, 2000, 114 Stat. 1212.)

REFERENCES IN TEXT

Section 450b of title 25, referred to in subsec. (d)(4), was amended, and subsecs. (b) and (c) of section 450 no longer define the terms “Indian tribe” and “tribal organization”. However, such terms are defined elsewhere in that section.

PRIOR PROVISIONS

A prior section 1933 of act July 1, 1944, was classified to section 300y-23 of this title and subsequently omitted from the Code.

AMENDMENTS

2000—Subsec. (b). Pub. L. 106-310 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “Each State’s allotment for fiscal year 2000 for programs under this subpart shall be equal to such State’s allotment for such programs for fiscal year 1999, except that, if the amount appropriated in fiscal year 2000 is less than the amount appropriated in fiscal year 1999, then the amount of a State’s allotment under section 300x-21 of this title shall be equal to the amount that the State received under section 300x-21 of this title in fiscal year 1999 decreased by the percentage by which the amount appropriated for fiscal year 2000 is less than the amount appropriated for such section for fiscal year 1999.”

1999—Subsec. (b). Pub. L. 106-113 amended heading and text of subsec. (b) generally. Prior to amendment, text read as follows: “For each of the fiscal years 1993 and 1994, the amount of the allotment required in section 300x-21 of this title for a State for the fiscal year involved shall be the greater of—

“(1) the amount determined under subsection (a) of this section for the State for the fiscal year; and

“(2) an amount equal to 79.4 percent of the amount received by the State from allotments made pursuant to this part for fiscal year 1992 (including reallocations under section 205(a) of the ADAMHA Reorganization Act).”

1998—Subsec. (b). Pub. L. 105-277, temporarily amended subsec. (b) to read as follows: “(b) MINIMUM ALLOTMENTS FOR STATES.—

“(1) IN GENERAL.—With respect to fiscal year 1999, the amount of the allotment of a State under section 300x-21 of this title shall not be less than the amount

the State received under section 300x-21 of this title for fiscal year 1998 increased by 30.65 percent of the percentage by which the amount allotted to the States for fiscal year 1999 exceeds the amount allotted to the States for fiscal year 1998.

“(2) LIMITATION

“(A) IN GENERAL.—Except as provided in subparagraph (B), a State shall not receive an allotment under section 300x-21 of this title for fiscal year 1999 in an amount that is less than an amount equal to 0.375 percent of the amount appropriated under section 300x-35(a) of this title for such fiscal year.

“(B) EXCEPTION.—In applying subparagraph (A), the Secretary shall ensure that no State receives an increase in its allotment under section 300x-21 of this title for fiscal year 1999 (as compared to the amount allotted to the State in the fiscal year 1998) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 300x-35(a) of this title for fiscal year 1999 exceeds the amount appropriated for the prior fiscal year.

“(3) Only for the purposes of calculating minimum allotments under this subsection, any reference to the amount appropriated under section 300x-35(a) of this title for fiscal year 1998, allotments to States under section 300x-21 of this title and any references to amounts received by States in fiscal year 1998 shall include amounts appropriated or received under the amendments made by section 105 of the Contract with America Advancement Act of 1996 (Public Law 104-121).”

See Effective and Termination Dates of 1998 Amendment note below.

1992—Subsec. (c)(2)(C). Pub. L. 102-352 added subpar. (C).

EFFECTIVE AND TERMINATION DATES OF 1998 AMENDMENT

Amendment by Pub. L. 105-277 effective as if enacted on Oct. 1, 1998, and applicable only during fiscal year 1999, and upon expiration of fiscal year 1999, subsec. (b) of this section, as in effect on Sept. 30, 1998, to be applied as if such amendment had not been enacted, see section 101(f) [title II, §218(c)] of Pub. L. 105-277, set out as a note under section 300x-7 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-352 effective immediately upon effectuation of amendment made by Pub. L. 102-321, see section 3(1) of Pub. L. 102-352, set out as a note under section 285n of this title.

§ 300x-34. Definitions

For purposes of this subpart:

(1) The term “authorized activities”, subject to section 300x-31 of this title, means the activities described in section 300x-21(b) of this title.

(2) The term “funding agreement”, with respect to a grant under section 300x-21 of this title to a State, means that the Secretary may make such a grant only if the State makes the agreement involved.

(3) The term “prevention activities”, subject to section 300x-31 of this title, means activities to prevent substance abuse.

(4) The term “substance abuse” means the abuse of alcohol or other drugs.

(5) The term “treatment activities” means treatment services and, subject to section 300x-31 of this title, authorized activities that are related to treatment services.

(6) The term “treatment facility” means an entity that provides treatment services.

(7) The term “treatment services”, subject to section 300x-31 of this title, means treatment for substance abuse.

³So in original. Probably should be “subsection”.

⁴See References in Text note below.