

2000—Subsec. (b)(1). Pub. L. 106-345, §101(a)(1), substituted “demographics of the population of individuals with HIV disease in the eligible area involved,” for “demographics of the epidemic in the eligible area involved.”

Subsec. (b)(2)(C). Pub. L. 106-345, §101(a)(2)(A), inserted before semicolon at end “, including providers of housing and homeless services”.

Subsec. (b)(2)(G). Pub. L. 106-345, §101(a)(2)(B), struck out “or AIDS” after “HIV disease”.

Subsec. (b)(2)(K). Pub. L. 106-345, §101(a)(2)(C), struck out “and” after semicolon.

Subsec. (b)(2)(L). Pub. L. 106-345, §101(a)(2)(D), substituted “, including but not limited to providers of HIV prevention services; and” for period at end.

Subsec. (b)(2)(M). Pub. L. 106-345, §101(a)(2)(E), added subpar. (M).

Subsec. (b)(3)(C). Pub. L. 106-345, §103(1), struck out heading and text of subpar. (C). Text read as follows: “A planning council may not be chaired solely by an employee of the grantee.”

Subsec. (b)(4)(A), (B). Pub. L. 106-345, §102(a)(2), added subpars. (A) and (B). Former subpars. (A) and (B) redesignated (C) and (D), respectively.

Subsec. (b)(4)(C). Pub. L. 106-345, §102(a)(1), redesignated subpar. (A) as (C). Former subpar. (C) redesignated (E).

Subsec. (b)(4)(C)(i) to (vi). Pub. L. 106-345, §102(a)(3), added cls. (i) to (vi) and struck out former cls. (i) to (iv) which read as follows:

“(i) documented needs of the HIV-infected population;

“(ii) cost and outcome effectiveness of proposed strategies and interventions, to the extent that such data are reasonably available (either demonstrated or probable);

“(iii) priorities of the HIV-infected communities for whom the services are intended; and

“(iv) availability of other governmental and non-governmental resources;”

Subsec. (b)(4)(D). Pub. L. 106-345, §102(a)(4), amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “develop a comprehensive plan for the organization and delivery of health services described in section 300ff-14 of this title that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease;”

Pub. L. 106-345, §102(a)(1), redesignated subpar. (B) as (D). Former subpar. (D) redesignated (F).

Subsec. (b)(4)(E), (F). Pub. L. 106-345, §102(a)(1), redesignated subpars. (C) and (D) as (E) and (F), respectively. Former subpar. (E) redesignated (G).

Subsec. (b)(4)(G). Pub. L. 106-345, §102(a)(1), (6)(A), redesignated subpar. (E) as (G) and substituted “public meetings (in accordance with paragraph (7)),” for “public meetings,”

Subsec. (b)(4)(H). Pub. L. 106-345, §102(a)(5), (6)(B), (7), added subpar. (H).

Subsec. (b)(5)(C). Pub. L. 106-345, §101(b), added subpar. (C).

Subsec. (b)(7). Pub. L. 106-345, §103(2), added par. (7).

Subsec. (d). Pub. L. 106-345, §102(b), added subsec. (d).

Subsec. (e). Pub. L. 106-345, §102(c), added subsec. (e).

1996—Subsec. (b)(1). Pub. L. 104-146, §3(b)(1)(A)(ii), inserted at end “Nominations for membership on the council shall be identified through an open process and candidates shall be selected based on locally delineated and publicized criteria. Such criteria shall include a conflict-of-interest standard that is in accordance with paragraph (5).”

Pub. L. 104-146, §3(b)(1)(A)(i), substituted “reflect in its composition the demographics of the epidemic in the eligible area involved, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations.” for “include representatives of—

“(A) health care providers;

“(B) community-based and AIDS service organizations;

“(C) social service providers;

“(D) mental health care providers;

“(E) local public health agencies;

“(F) hospital planning agencies or health care planning agencies;

“(G) affected communities, including individuals with HIV disease;

“(H) non-elected community leaders;

“(I) State government;

“(J) grantees under subpart II of part C of this subchapter; and

“(K) the lead agency of any Health Resources and Services Administration adult and pediatric HIV-related care demonstration project operating in the area to be served.”

Subsec. (b)(2). Pub. L. 104-146, §3(b)(1)(E), added par. (2). Former par. (2) redesignated (3).

Subsec. (b)(2)(C). Pub. L. 104-146, §3(b)(1)(B), added subpar. (C).

Subsec. (b)(3). Pub. L. 104-146, §3(b)(1)(D), redesignated par. (2) as (3). Former par. (3) redesignated (4).

Subsec. (b)(3)(A). Pub. L. 104-146, §3(b)(1)(C)(i), substituted “area, including how best to meet each such priority and additional factors that a grantee should consider in allocating funds under a grant based on the—” for “area;” and added cls. (i) to (iv).

Subsec. (b)(3)(B). Pub. L. 104-146, §3(b)(1)(C)(ii), struck out “and” at end.

Subsec. (b)(3)(C). Pub. L. 104-146, §3(b)(1)(C)(iii), substituted “, and at the discretion of the planning council, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;” for period at end.

Subsec. (b)(3)(D), (E). Pub. L. 104-146, §3(b)(1)(C)(iv), added subpars. (D) and (E).

Subsec. (b)(4). Pub. L. 104-146, §3(b)(1)(D), redesignated par. (3) as (4).

Subsec. (b)(5), (6). Pub. L. 104-146, §3(b)(1)(F), added pars. (5) and (6).

Subsec. (c). Pub. L. 104-146, §3(b)(1)(F), added subsec. (c).

1992—Subsec. (a)(1). Pub. L. 102-531 substituted “Centers for Disease Control and Prevention” for “Centers for Disease Control”.

EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, that the provisions of this section as in effect on Sept. 30, 2009, be revived, and that amendment by section 6(a) of Pub. L. 111-87 be applicable to this section as so revived and effective as if enacted on Sept. 30, 2009, see section 2(a)(2), (3) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-345, title VI, §601, Oct. 20, 2000, 114 Stat. 1355, provided that: “This Act [see section 1 of Pub. L. 106-345, set out as a Short Title of 2000 Amendments note under section 201 of this title] and the amendments made by this Act take effect October 1, 2000, or upon the date of the enactment of this Act [Oct. 20, 2000], whichever occurs later.”

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-146 effective Oct. 1, 1996, see section 13 of Pub. L. 104-146, set out as a note under section 300ff-11 of this title.

§ 300ff-13. Type and distribution of grants

(a) Grants based on relative need of area

(1) In general

In carrying out section 300ff-11(a) of this title, the Secretary shall make a grant for each eligible area for which an application under section 300ff-15(a) of this title has been approved. Each such grant shall be made in an

amount determined in accordance with paragraph (3).

(2) Expedited distribution

Not later than 60 days after an appropriation becomes available to carry out this subpart for a fiscal year, the Secretary shall, except in the case of waivers granted under section 300ff-15(c)¹ of this title, disburse 66% percent of the amount made available under section 300ff-20(b) of this title for carrying out this subpart for such fiscal year through grants to eligible areas under section 300ff-11(a) of this title, in accordance with paragraphs (3) and (4).

(3) Amount of grant

(A) In general

Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of—

- (i) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and
- (ii) the percentage constituted by the ratio of the distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas;

which product shall then, as applicable, be increased under paragraph (4).

(B) Distribution factor

For purposes of subparagraph (A)(ii), the term “distribution factor” means an amount equal to the living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention) in the eligible area involved, as determined under subparagraph (C).

(C) Living cases of HIV/AIDS

(i) Requirement of names-based reporting

Except as provided in clause (ii), the number determined under this subparagraph for an eligible area for a fiscal year for purposes of subparagraph (B) is the number of living names-based cases of HIV/AIDS that, as of December 31 of the most recent calendar year for which such data is available, have been reported to and confirmed by the Director of the Centers for Disease Control and Prevention.

(ii) Transition period; exemption regarding non-AIDS cases

For each of the fiscal years 2007 through 2012, an eligible area is, subject to clauses (iii) through (v), exempt from the requirement under clause (i) that living names-based non-AIDS cases of HIV be reported unless—

- (I) a system was in operation as of December 31, 2005, that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State in which the area is located, subject to clause (viii); or

- (II) no later than the beginning of fiscal year 2008 or a subsequent fiscal year through fiscal year 2012, the Secretary, in consultation with the chief executive of the State in which the area is located, determines that a system has become operational in the State that provides sufficiently accurate and reliable names-based reporting of such cases throughout the State.

(iii) Requirements for exemption for fiscal year 2007

For fiscal year 2007, an exemption under clause (i) for an eligible area applies only if, by October 1, 2006—

- (I)(aa) the State in which the area is located had submitted to the Secretary a plan for making the transition to sufficiently accurate and reliable names-based reporting of living non-AIDS cases of HIV; or

- (bb) all statutory changes necessary to provide for sufficiently accurate and reliable reporting of such cases had been made; and

- (II) the State had agreed that, by April 1, 2008, the State will begin accurate and reliable names-based reporting of such cases, except that such agreement is not required to provide that, as of such date, the system for such reporting be fully sufficient with respect to accuracy and reliability throughout the area.

(iv) Requirement for exemption as of fiscal year 2008

For each of the fiscal years 2008 through 2012, an exemption under clause (ii) for an eligible area applies only if, as of April 1, 2008, the State in which the area is located is substantially in compliance with the agreement under clause (iii)(II).

(v) Progress toward names-based reporting

For fiscal year 2009 or a subsequent fiscal year, the Secretary may terminate an exemption under clause (ii) for an eligible area if the State in which the area is located submitted a plan under clause (iii)(I)(aa) and the Secretary determines that the State is not substantially following the plan.

(vi) Counting of cases in areas with exemptions

(I) In general

With respect to an eligible area that is under a reporting system for living non-AIDS cases of HIV that is not names-based (referred to in this subparagraph as “code-based reporting”), the Secretary shall, for purposes of this subparagraph, modify the number of such cases reported for the eligible area in order to adjust for duplicative reporting in and among systems that use code-based reporting.

(II) Adjustment rate

The adjustment rate under subclause (I) for an eligible area shall be a reduc-

¹ See References in Text note below.

tion of 5 percent for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012) in the number of living non-AIDS cases of HIV reported for the area.

(III) Increased adjustment for certain areas previously using code-based reporting

For purposes of this subparagraph for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in an area that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if—

(aa) for fiscal year 2007, such area was a transitional area;

(bb) fiscal year 2007 was the first year in which the count of living non-AIDS cases of HIV in such area, for purposes of this section, was based on a names-based reporting system; and

(cc) the amount of funding that such area received under this part for fiscal year 2007 was less than 70 percent of the amount of funding (exclusive of funds that were identified as being for purposes of the Minority AIDS Initiative) that such area received under such part for fiscal year 2006.

(vii) Multiple political jurisdictions

With respect to living non-AIDS cases of HIV, if an eligible area is not entirely within one political jurisdiction and as a result is subject to more than one reporting system for purposes of this subparagraph:

(I) Names-based reporting under clause (i) applies in a jurisdictional portion of the area, or an exemption under clause (ii) applies in such portion (subject to applicable provisions of this subparagraph), according to whether names-based reporting or code-based reporting is used in such portion.

(II) If under subclause (I) both names-based reporting and code-based reporting apply in the area, the number of code-based cases shall be reduced under clause (vi).

(viii) List of eligible areas meeting standard regarding December 31, 2005

(I) In general

If an eligible area or portion thereof is in a State specified in subclause (II), the eligible area or portion shall be considered to meet the standard described in clause (ii)(I). No other eligible area or portion thereof may be considered to meet such standard.

(II) Relevant States

For purposes of subclause (I), the States specified in this subclause are the following: Alaska, Alabama, Arkansas, Arizona, Colorado, Florida, Indiana, Iowa, Idaho, Kansas, Louisiana, Michigan, Minnesota, Missouri, Mississippi, North Carolina, North Dakota, Ne-

braska, New Jersey, New Mexico, New York, Nevada, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, West Virginia, Wyoming, Guam, and the Virgin Islands.

(ix) Rules of construction regarding acceptance of reports

(I) Cases of AIDS

With respect to an eligible area that is subject to the requirement under clause (i) and is not in compliance with the requirement for names-based reporting of living non-AIDS cases of HIV, the Secretary shall, notwithstanding such non-compliance, accept reports of living cases of AIDS that are in accordance with such clause.

(II) Applicability of exemption requirements

The provisions of clauses (ii) through (viii) may not be construed as having any legal effect for fiscal year 2013 or any subsequent fiscal year, and accordingly, the status of a State for purposes of such clauses may not be considered after fiscal year 2012.

(x) Program for detecting inaccurate or fraudulent counting

The Secretary shall carry out a program to monitor the reporting of names-based cases for purposes of this subparagraph and to detect instances of inaccurate reporting, including fraudulent reporting.

(xi) Future fiscal years

For fiscal years beginning with fiscal year 2013, determinations under this paragraph shall be based only on living names-based cases of HIV/AIDS with respect to the area involved.

(D) Code-based areas; limitation on increase in grant

(i) In general

For each of the fiscal years 2007 through 2012, if code-based reporting (within the meaning of subparagraph (C)(vi)) applies in an eligible area or any portion thereof as of the beginning of the fiscal year involved, then notwithstanding any other provision of this paragraph, the amount of the grant pursuant to this paragraph for such area for such fiscal year may not—

(I) for fiscal year 2007, exceed by more than 5 percent the amount of the grant for the area that would have been made pursuant to this paragraph and paragraph (4) for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting “66% percent” for “50 percent”; and

(II) for each of the fiscal years 2008 through 2012, exceed by more than 5 percent the amount of the grant pursuant to this paragraph and paragraph (4) for the area for the preceding fiscal year.

(ii) Use of amounts involved

For each of the fiscal years 2007 through 2012, amounts available as a result of the

limitation under clause (i) shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the fiscal year involved, subject to paragraph (4) and section 300ff-20(d)(2) of this title.

(4) Increases in grant

(A) In general

For each eligible area that received a grant pursuant to this subsection for fiscal year 2009, the Secretary shall, for each of the fiscal years 2010 through 2013, increase the amount of the grant made pursuant to paragraph (3) for the area to ensure that the amount of the grant for the fiscal year involved is not less than the following amount, as applicable to such fiscal year:

(i) For fiscal year 2010, an amount equal to 95 percent of the sum of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2009.

(ii) For each of the fiscal years 2011 and 2012, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2010.

(iii) For fiscal year 2013, an amount equal to 92.5 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2012.

(B) Source of funds for increase

(i) In general

From the amounts available for carrying out the single program referred to in section 300ff-19(d)(2)(C) of this title for a fiscal year (relating to supplemental grants), the Secretary shall make available such amounts as may be necessary to comply with subparagraph (A), subject to section 300ff-20(d)(2) of this title.

(ii) Pro rata reduction

If the amounts referred to in clause (i) for a fiscal year are insufficient to fully comply with subparagraph (A) for the year, the Secretary, in order to provide the additional funds necessary for such compliance, shall reduce on a pro rata basis the amount of each grant pursuant to this subsection for the fiscal year, other than grants for eligible areas for which increases under subparagraph (A) apply. A reduction under the preceding sentence may not be made in an amount that would result in the eligible area involved becoming eligible for such an increase.

(C) Limitation

This paragraph may not be construed as having any applicability after fiscal year 2013.

(b) Supplemental grants

(1) In general

Subject to subsection (a)(4)(B)(i) and section 300ff-20(d) of this title, the Secretary shall disburse the remainder of amounts not disbursed under subsection (a)(2) of this section for such fiscal year for the purpose of making grants under section 300ff-11(a) of this title to eligible

areas whose application under section 300ff-15(b) of this title—

(A) contains a report concerning the dissemination of emergency relief funds under subsection (a) of this section and the plan for utilization of such funds;

(B) demonstrates the need in such area, on an objective and quantified basis, for supplemental financial assistance to combat the HIV epidemic;

(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective;

(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, youth, women, and families with HIV/AIDS;

(F) demonstrates the inclusiveness of affected communities and individuals with HIV/AIDS;

(G) demonstrates the manner in which the proposed services are consistent with the local needs assessment and the statewide coordinated statement of need;

(H) demonstrates the ability of the applicant to expend funds efficiently by not having had, for the most recent grant year under subsection (a) for which data is available, more than 5 percent of grant funds under such subsection canceled, offset under subsection (c)(4), or covered by any waivers under subsection (c)(3); and

(I) demonstrates success in identifying individuals with HIV/AIDS as described in clauses (i) through (iii) of paragraph (2)(A).

(2) Amount of grant

(A) In general

The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on a weighting of factors under paragraph (1), with demonstrated need under subparagraph (B) of such paragraph counting one-third, and demonstrated success in identifying individuals with HIV/AIDS who do not know their HIV status and making them aware of such status counting one-third. In making such determination, the Secretary shall consider—

(i) the number of individuals who have been tested for HIV/AIDS;

(ii) of those individuals described in clause (i), the number of individuals who tested for HIV/AIDS who are made aware of their status, including the number who test positive; and

(iii) of those individuals described in clause (ii), the number who have been referred to appropriate treatment and care.

(B) Demonstrated need

The factors considered by the Secretary in determining whether an eligible area has a demonstrated need for purposes of paragraph

(1)(B) may include any or all of the following:

(i) The unmet need for such services, as determined under section 300ff-12(b)(4) of this title or other community input process as defined under section 300ff-19(d)(1)(A) of this title.

(ii) An increasing need for HIV/AIDS-related services, including relative rates of increase in the number of cases of HIV/AIDS.

(iii) The relative rates of increase in the number of cases of HIV/AIDS within new or emerging subpopulations.

(iv) The current prevalence of HIV/AIDS.

(v) Relevant factors related to the cost and complexity of delivering health care to individuals with HIV/AIDS in the eligible area.

(vi) The impact of co-morbid factors, including co-occurring conditions, determined relevant by the Secretary.

(vii) The prevalence of homelessness.

(viii) The prevalence of individuals described under section 300ff-12(b)(2)(M) of this title.

(ix) The relevant factors that limit access to health care, including geographic variation, adequacy of health insurance coverage, and language barriers.

(x) The impact of a decline in the amount received pursuant to subsection (a) on services available to all individuals with HIV/AIDS identified and eligible under this subchapter.

(C) Priority in making grants

The Secretary shall provide funds under this subsection to an eligible area to address the decline or disruption of all EMA-provided services related to the decline in the amounts received pursuant to subsection (a) consistent with the grant award for the eligible area for fiscal year 2006, to the extent that the factor under subparagraph (B)(x) (relating to a decline in funding) applies to the eligible area.

(D) Increased adjustment for certain areas previously using code-based reporting

For purposes of this subsection for each of fiscal years 2010 through 2012, the Secretary shall deem the applicable number of living cases of HIV/AIDS in an area that were reported to and confirmed by the Centers for Disease Control and Prevention to be 3 percent higher than the actual number if the conditions described in items (aa) through (cc) of subsection (a)(3)(C)(vi)(III) are all satisfied.

(3) Remainder of amounts

In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under subsection (a)(2) of this section as a result of—

(A) the failure of any eligible area to submit an application under section 300ff-15(c)¹ of this title; or

(B) any eligible area informing the Secretary that such eligible area does not in-

tend to expend the full amount of its grant under such section.

(4) Failure to submit

(A) In general

The failure of an eligible area to submit an application for an expedited grant under subsection (a)(2) of this section shall not result in such area being ineligible for a grant under this subsection.

(B) Application

The application of an eligible area submitted under section 300ff-15(b) of this title shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited grant under subsection (a)(2) of this section.

(c) Timeframe for obligation and expenditure of grant funds

(1) Obligation by end of grant year

Effective for fiscal year 2007 and subsequent fiscal years, funds from a grant award made pursuant to subsection (a) or (b) for a fiscal year are available for obligation by the eligible area involved through the end of the one-year period beginning on the date in such fiscal year on which funds from the award first become available to the area (referred to in this subsection as the “grant year for the award”), except as provided in paragraph (3)(A).

(2) Supplemental grants; cancellation of unobligated balance of grant award

Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (b) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award—

(A) the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area; and

(B) the funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under subparagraph (A) to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 300ff-20(d)(2) of this title as applied for such year.

(3) Formula grants; cancellation of unobligated balance of grant award; waiver permitting carryover

(A) In general

Effective for fiscal year 2007 and subsequent fiscal years, if a grant award made pursuant to subsection (a) for an eligible area for a fiscal year has an unobligated balance as of the end of the grant year for the award, the Secretary shall cancel that unobligated balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area, unless—

(i) before the end of the grant year, the chief elected official of the area submits to the Secretary a written application for a waiver of the cancellation, which application includes a description of the purposes for which the area intends to expend the funds involved; and

(ii) the Secretary approves the waiver.

(B) Expenditure by end of carryover year

With respect to a waiver under subparagraph (A) that is approved for a balance that is unobligated as of the end of a grant year for an award:

(i) The unobligated funds are available for expenditure by the eligible area involved for the one-year period beginning upon the expiration of the grant year (referred to in this subsection as the “carry-over year”).

(ii) If the funds are not expended by the end of the carryover year, the Secretary shall cancel that unexpended balance of the award, and shall require the eligible area to return any amounts from such balance that have been disbursed to the area.

(C) Use of cancelled balances

In the case of any balance of a grant award that is cancelled under subparagraph (A) or (B)(ii), the grant funds involved shall be made available by the Secretary as additional amounts for grants pursuant to subsection (b) for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that the balance is required under such subparagraph to be canceled, except that the availability of the funds for such grants is subject to subsection (a)(4) and section 300ff-20(d)(2) of this title as applied for such year.

(D) Corresponding reduction in future grant

(i) In general

In the case of an eligible area for which a balance from a grant award under subsection (a) is unobligated as of the end of the grant year for the award—

(I) the Secretary shall reduce, by the same amount as such unobligated balance (less any amount of such balance that is the subject of a waiver of cancellation under subparagraph (A)), the amount of the grant under such subsection for the first fiscal year beginning after the fiscal year in which the Secretary obtains the information necessary for determining that such balance was unobligated as of the end of the grant year (which requirement for a reduction applies without regard to whether a waiver under subparagraph (A) has been approved with respect to such balance); and

(II) the grant funds involved in such reduction shall be made available by the Secretary as additional funds for grants pursuant to subsection (b) for such first fiscal year, subject to subsection (a)(4) and section 300ff-20(d)(2) of this title;

except that this clause does not apply to the eligible area if the amount of the unobligated balance was 5 percent or less.

(ii) Relation to increases in grant

A reduction under clause (i) for an eligible area for a fiscal year may not be taken into account in applying subsection (a)(4) with respect to the area for the subsequent fiscal year.

(4) Authority regarding administration of provisions

In administering paragraphs (2) and (3) with respect to the unobligated balance of an eligible area, the Secretary may elect to reduce the amount of future grants to the area under subsection (a) or (b), as applicable, by the amount of any such unobligated balance in lieu of cancelling such amount as provided for in paragraph (2) or (3)(A). In such case, the Secretary may permit the area to use such unobligated balance for purposes of any such future grant. An amount equal to such reduction shall be available for use as additional amounts for grants pursuant to subsection (b), subject to subsection (a)(4) and section 300ff-20(d)(2) of this title. Nothing in this paragraph shall be construed to affect the authority of the Secretary under paragraphs (2) and (3), including the authority to grant waivers under paragraph (3)(A). The reduction in future grants authorized under this paragraph shall be notwithstanding the penalty required under paragraph (3)(D) with respect to unobligated funds.

(d) Compliance with priorities of HIV planning council

Notwithstanding any other provision of this subpart, the Secretary, in carrying out section 300ff-11(a) of this title, may not make any grant under subsection (a) or (b) of this section to an eligible area unless the application submitted by such area under section 300ff-15 of this title for the grant involved demonstrates that the grants made under subsections (a) and (b) of this section to the area for the preceding fiscal year (if any) were expended in accordance with the priorities applicable to such year that were established, pursuant to section 300ff-12(b)(4)(C) of this title, by the planning council serving the area.

(e) Report on the awarding of supplemental funds

Not later than 45 days after the awarding of supplemental funds under this section, the Secretary shall submit to Congress a report concerning such funds. Such report shall include information detailing—

(1) the total amount of supplemental funds available under this section for the year involved;

(2) the amount of supplemental funds used in accordance with the hold harmless provisions of subsection (a)(4);

(3) the amount of supplemental funds disbursed pursuant to subsection (b)(2)(C);

(4) the disbursement of the remainder of the supplemental funds after taking into account the uses described in paragraphs (2) and (3); and

(5) the rationale used for the amount of funds disbursed as described under paragraphs (2), (3), and (4).

(July 1, 1944, ch. 373, title XXVI, §2603, as added Pub. L. 101-381, title I, §101(3), Aug. 18, 1990, 104 Stat. 578; amended Pub. L. 101-502, §6(a), Nov. 3, 1990, 104 Stat. 1289; Pub. L. 102-531, title III, §312(d)(27), Oct. 27, 1992, 106 Stat. 3506; Pub. L. 104-146, §§3(b)(2), (3), 4, 6(c)(1), 12(c)(2), May 20, 1996, 110 Stat. 1349, 1350, 1364, 1367, 1373; Pub. L. 106-345, title I, §§102(d), 111, 112, Oct. 20, 2000, 114 Stat. 1323, 1326; Pub. L. 109-415, title I, §§102-104, 107(b), title VII, §§702(3), 703, Dec. 19, 2006, 120 Stat. 2768-2774, 2783, 2820; Pub. L. 111-87, §§2(a)(1), (3)(A), 3(a), 5(a), 6(b), 7(a), 8(a)(1), (b)(1)(A), (2)(A), (C), (c)(1), Oct. 30, 2009, 123 Stat. 2885, 2888, 2890, 2892-2894.)

REFERENCES IN TEXT

Section 300ff-15 of this title, referred to in subsecs. (a)(2) and (b)(3)(A), was amended by Pub. L. 104-146, §3(b)(5)(C), (D), May 20, 1996, 110 Stat. 1353, to add a new subsec. (c), relating to single application and grant awards, and redesignate former subsec. (c), relating to date for submission of grant applications, as (d).

PRIOR PROVISIONS

A prior section 2603 of act July 1, 1944, was successively renumbered by subsequent acts and transferred, see section 238b of this title.

AMENDMENTS

2009—Pub. L. 111-87, §2(a)(1), (3)(A), repealed Pub. L. 109-415, §703, and revised the provisions of this section as in effect on Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009; Revival of Section note below.

Subsec. (a)(3)(C)(ii). Pub. L. 111-87, §3(a)(1)(A)(i), substituted “2012” for “2009” in introductory provisions.

Subsec. (a)(3)(C)(ii)(II). Pub. L. 111-87, §3(a)(1)(A)(ii), substituted “or a subsequent fiscal year through fiscal year 2012” for “or 2009”.

Subsec. (a)(3)(C)(iv). Pub. L. 111-87, §3(a)(1)(B), substituted “2012” for “2010”.

Subsec. (a)(3)(C)(v). Pub. L. 111-87, §3(a)(1)(C), inserted “or a subsequent fiscal year” after “2009”.

Subsec. (a)(3)(C)(vi)(II). Pub. L. 111-87, §3(a)(1)(D), inserted “for fiscal years before fiscal year 2012 (and 6 percent for fiscal year 2012)” after “5 percent”.

Subsec. (a)(3)(C)(vi)(III). Pub. L. 111-87, §7(a)(1), added subcl. (III).

Subsec. (a)(3)(C)(ix)(II). Pub. L. 111-87, §3(a)(1)(E), substituted “2013” for “2010” and “2012” for “2009”.

Subsec. (a)(3)(C)(xi). Pub. L. 111-87, §3(a)(1)(F), added cl. (xi).

Subsec. (a)(3)(D)(i). Pub. L. 111-87, §3(a)(2)(A)(i), substituted “2012” for “2009” in introductory provisions.

Subsec. (a)(3)(D)(i)(II). Pub. L. 111-87, §3(a)(2)(A)(ii), substituted “through 2012” for “and 2009”.

Subsec. (a)(3)(D)(ii). Pub. L. 111-87, §3(a)(2)(B), substituted “2012” for “2009”.

Subsec. (a)(4)(A). Pub. L. 111-87, §5(a)(1), (2), substituted “2009” for “2006” and “2010 through 2013” for “2007 through 2009” in introductory provisions, added cls. (i) to (iii), and struck out former cls. (i) and (ii) which read as follows:

“(i) For fiscal year 2007, an amount equal to 95 percent of the amount of the grant that would have been made pursuant to paragraph (3) and this paragraph for fiscal year 2006 (as such paragraphs were in effect for such fiscal year) if paragraph (2) (as so in effect) had been applied by substituting ‘66½ percent’ for ‘50 percent’.

“(ii) For each of the fiscal years 2008 and 2009, an amount equal to 100 percent of the amount of the grant made pursuant to paragraph (3) and this paragraph for fiscal year 2007.”

Subsec. (a)(4)(C). Pub. L. 111-87, §5(a)(3), substituted “2013” for “2009”.

Subsec. (b)(1)(H). Pub. L. 111-87, §8(a)(1), (b)(2)(C), substituted “5 percent” for “2 percent” and “canceled, offset under subsection (c)(4),” for “canceled”.

Subsec. (b)(1)(I). Pub. L. 111-87, §6(b)(1), added subpar. (I).

Subsec. (b)(2)(A). Pub. L. 111-87, §6(b)(2), substituted “one-third, and demonstrated success in identifying individuals with HIV/AIDS who do not know their HIV status and making them aware of such status counting one-third. In making such determination, the Secretary shall consider—” for “one-third.” and added cls. (i) to (iii).

Subsec. (b)(2)(D). Pub. L. 111-87, §7(a)(2), added subpar. (D).

Subsec. (c)(3)(D)(i). Pub. L. 111-87, §8(b)(1)(A), substituted “5 percent” for “2 percent” in concluding provisions.

Subsec. (c)(3)(D)(i)(I). Pub. L. 111-87, §8(c)(1), inserted “(less any amount of such balance that is the subject of a waiver of cancellation under subparagraph (A))” after “unobligated balance”.

Subsec. (c)(4). Pub. L. 111-87, §8(b)(2)(A), added par. (4).

2006—Pub. L. 109-415, §703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, §2(a)(1), effective Sept. 30, 2009.

Subsec. (a)(2). Pub. L. 109-415, §107(b), substituted “this subpart” for “this part”.

Pub. L. 109-415, §102(a), substituted “66½ percent of the amount made available under section 300ff-20(b) of this title for carrying out this subpart” for “50 percent of the amount appropriated under section 300ff-77 of this title” and “paragraphs (3) and (4)” for “paragraph (3)” in first sentence and struck out last sentence which read as follows: “The Secretary shall reserve an additional percentage of the amount appropriated under section 300ff-77 of this title for a fiscal year for grants under this part to make grants to eligible areas under section 300ff-11(a) of this title in accordance with paragraph (4).”

Subsec. (a)(3)(A). Pub. L. 109-415, §102(d)(1), inserted concluding provisions.

Subsec. (a)(3)(B). Pub. L. 109-415, §102(b)(1), which directed the substitution of “living cases of HIV/AIDS (reported to and confirmed by the Director of the Centers for Disease Control and Prevention)” for “estimated living cases of acquired immune deficiency syndrome”, was executed by making the substitution for “estimated number of living cases of acquired immune deficiency syndrome”, to reflect the probable intent of Congress.

Subsec. (a)(3)(C) to (E). Pub. L. 109-415, §102(b)(2), (c), added subpars. (C) and (D) and struck out former subpars. (C) to (E) which related to estimate of living cases, determination of Secretary regarding data on HIV cases, and unexpended funds, respectively.

Subsec. (a)(4). Pub. L. 109-415, §102(d)(2), reenacted heading without change and amended text generally, substituting provisions relating to increases in grant for each of the fiscal years 2007 through 2009 for provisions relating to increases in grant for the first through fifth or subsequent fiscal years in a protection period.

Subsec. (b)(1). Pub. L. 109-415, §103(1)(A), in introductory provisions, substituted “Subject to subsection (a)(4)(B)(i) and section 300ff-20(d) of this title, the Secretary shall” for “Not later than 150 days after the date on which appropriations are made under section 300ff-77 of this title for a fiscal year, the Secretary shall”.

Subsec. (b)(1)(B). Pub. L. 109-415, §103(1)(B), substituted “demonstrates the need in such area, on an objective and quantified basis,” for “demonstrates the severe need in such area”.

Subsec. (b)(1)(E). Pub. L. 109-415, §702(3), substituted “HIV/AIDS” for “HIV disease”.

Subsec. (b)(1)(F). Pub. L. 109-415, §103(1)(C), added subpar. (F) and struck out former subpar. (F) which read as follows: “demonstrates the inclusiveness of the

planning council membership, with particular emphasis on affected communities and individuals with HIV disease; and”.

Subsec. (b)(1)(H). Pub. L. 109-415, §103(1)(D), (E), added subpar. (H).

Subsec. (b)(2)(A). Pub. L. 109-415, §103(2)(A), substituted “demonstrated need” for “severe need”.

Subsec. (b)(2)(B). Pub. L. 109-415, §103(2)(B), added subpar. (B) and struck out former subpar. (B) which related to severe need.

Subsec. (b)(2)(C), (D). Pub. L. 109-415, §103(2)(C), added subpar. (C) and struck out former subpars. (C) and (D) which related to mechanism to utilize data to determine prevalence of HIV disease and the phasing in, over a 3-year period beginning in fiscal year 1998, of the use of such mechanism to determine severe needs, respectively.

Subsec. (c). Pub. L. 109-415, §104(2), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 109-415, §107(b), substituted “this subpart” for “this part”.

Pub. L. 109-415, §104(1), redesignated subsec. (c) as (d). Subsec. (e). Pub. L. 109-415, §104(3), added subsec. (e). 2000—Subsec. (a)(2). Pub. L. 106-345, §111(a), substituted “for a fiscal year” for “for each of the fiscal years 1996 through 2000” in first sentence.

Subsec. (a)(3)(C)(i). Pub. L. 106-345, §111(b)(1)(A), inserted before semicolon “, except that (subject to subparagraph (D)), for grants made pursuant to this paragraph for fiscal year 2005 and subsequent fiscal years, the cases counted for each 12-month period beginning on or after July 1, 2004, shall be cases of HIV disease (as reported to and confirmed by such Director) rather than cases of acquired immune deficiency syndrome”.

Subsec. (a)(3)(C). Pub. L. 106-345, §111(b)(1)(B), in concluding provisions, inserted before period at end of first sentence “, and shall be reported to the congressional committees of jurisdiction” and inserted at end “Updates shall as applicable take into account the counting of cases of HIV disease pursuant to clause (i).”

Subsec. (a)(3)(D), (E). Pub. L. 106-345, §111(b)(2), added subpar. (D) and redesignated former subpar. (D) as (E).

Subsec. (a)(4). Pub. L. 106-345, §111(c), amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “With respect to an eligible area under section 300ff-11(a) of this title, the Secretary shall increase the amount of a grant under paragraph (2) for a fiscal year to ensure that such eligible area receives not less than—

- “(A) with respect to fiscal year 1996, 100 percent;
- “(B) with respect to fiscal year 1997, 99 percent;
- “(C) with respect to fiscal year 1998, 98 percent;
- “(D) with respect to fiscal year 1999, 96.5 percent;

and
“(E) with respect to fiscal year 2000, 95 percent; of the amount allocated for fiscal year 1995 to such entity under this subsection.”

Subsec. (b)(1)(E). Pub. L. 106-345, §112(b), inserted “youth,” after “children.”

Subsec. (b)(2). Pub. L. 106-345, §112(a)(1), substituted “Amount of grant” for “Definition” in heading.

Subsec. (b)(2)(A). Pub. L. 106-345, §112(a)(3), added subpar. (A). Former subpar. (A) redesignated (B).

Subsec. (b)(2)(B). Pub. L. 106-345, §112(a)(2), (4), redesignated subpar. (A) as (B) and added cls. (iv) to (vi). Former subpar. (B) redesignated (C).

Subsec. (b)(2)(C). Pub. L. 106-345, §112(a)(5)(C), inserted after second sentence “Such a mechanism shall be modified to reflect the findings of the study under section 501(b) of the Ryan White CARE Act Amendments of 2000 (relating to the relationship between epidemiological measures and health care for certain individuals with HIV disease).”

Pub. L. 106-345, §112(a)(5)(B), in second sentence, substituted “18 months after October 20, 2000” for “2 years after May 20, 1996”.

Pub. L. 106-345, §112(a)(5)(A), substituted “subparagraph (B)” for “subparagraph (A)” in two places.

Pub. L. 106-345, §112(a)(2), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (b)(2)(D). Pub. L. 106-345, §112(a)(2), (6), redesignated subpar. (C) as (D) and substituted “subparagraph (C)” for “subparagraph (B)”.

Subsec. (b)(4). Pub. L. 106-345, §112(c)(1), (2), redesignated par. (5) as (4) and struck out heading and text of former par. (4). Text read as follows: “The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on the application submitted by the eligible area under section 300ff-15(b) of this title.”

Subsec. (b)(4)(B). Pub. L. 106-345, §112(c)(3), substituted “an expedited grant” for “an expedited grants”.

Subsec. (b)(5). Pub. L. 106-345, §112(c)(2), redesignated par. (5) as (4).

Subsec. (c). Pub. L. 106-345, §102(d), substituted “section 300ff-12(b)(4)(C) of this title” for “section 300ff-12(b)(3)(A) of this title”.

1996—Subsec. (a)(2). Pub. L. 104-146, §6(c)(1)(A), substituted “section 300ff-77” for “section 300ff-18”.

Pub. L. 104-146, §3(b)(3)(A), inserted “, in accordance with paragraph (3)” after “section 300ff-11(a) of this title” and “The Secretary shall reserve an additional percentage of the amount appropriated under section 300ff-77 of this title for a fiscal year for grants under this part to make grants to eligible areas under section 300ff-11(a) of this title in accordance with paragraph (4).” at end.

Pub. L. 104-146, §3(b)(2)(A), substituted “Not later than 60 days after an appropriation becomes available to carry out this part for each of the fiscal years 1996 through 2000, the Secretary shall” for “Not later than—

- “(A) 90 days after an appropriation becomes available to carry out this part for fiscal year 1991; and
- “(B) 60 days after an appropriation becomes available to carry out this part for each of fiscal years 1992 through 1995;

the Secretary shall”.

Subsec. (a)(3). Pub. L. 104-146, §4, amended par. (3) generally, revising and restating provisions of former subpars. (A) to (C) relating to amount of grants under par. (3) as subpars. (A) to (D).

Subsec. (a)(4). Pub. L. 104-146, §3(b)(3)(B), added par. (4).

Subsec. (b)(1). Pub. L. 104-146, §6(c)(1)(B), substituted “section 300ff-77” for “section 300ff-18” in introductory provisions.

Subsec. (b)(1)(F), (G). Pub. L. 104-146, §3(b)(2)(B)(i), added subpars. (F) and (G).

Subsec. (b)(2) to (4). Pub. L. 104-146, §3(b)(2)(B)(ii), (iii), added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively. Former par. (4) redesignated (5).

Subsec. (b)(4)(B). Pub. L. 104-146, §12(c)(2), which directed substitution of “an expedited grant” for “an expedited grants” in par. (4)(B), could not be executed because the words “an expedited grants” did not appear in par. (4)(B) subsequent to redesignation of par. (4) as (5) by Pub. L. 104-146, §3(b)(2)(B)(ii). See above.

Subsec. (b)(5). Pub. L. 104-146, §3(b)(2)(B)(ii), redesignated par. (4) as (5).

Subsec. (c). Pub. L. 104-146, §3(b)(3)(C), added subsec. (c).

1992—Subsec. (a)(3)(B)(i). Pub. L. 102-531 substituted “Centers for Disease Control and Prevention” for “Centers for Disease Control”.

1990—Subsec. (a)(3). Pub. L. 101-502 amended par. (3) generally. Prior to amendment, par. (3) read as follows: “(A) IN GENERAL.—Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph for an eligible area shall be made in an amount equal to the sum of—

- “(i) an amount determined in accordance with subparagraph (B); and
- “(ii) an amount determined in accordance with subparagraph (C).

“(B) AMOUNT RELATING TO CUMULATIVE NUMBER OF CASES.—The amount referred to in clause (i) of subparagraph (A) is an amount equal to the product of—

- “(i) an amount equal to 75 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

“(ii) a percentage equal to the quotient of—

“(I) the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control on the applicable date described in section 300ff-11(a) of this title; divided by

“(II) the sum of the cumulative number of such cases in all eligible areas for which an application for a grant under paragraph (1) has been approved.

“(C) AMOUNT RELATING TO PER CAPITA INCIDENCE OF CASES.—The amount referred to in clause (ii) of subparagraph (A) is an amount equal to the product of—

“(i) an amount equal to 25 percent of the amounts available for distribution under paragraph (2) for the fiscal year involved; and

“(ii) a percentage developed by the Secretary through consideration of the ratio of—

“(I) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

“(II) the per capita incidence of such cumulative cases in all eligible areas for which an application for a grant under paragraph (1) has been approved (computed on the basis of the most recently available data on the population of such areas).”

EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, that the provisions of this section as in effect on Sept. 30, 2009, be revived, and that amendment by sections 3(a), 5(a), 6(b), 7(a), and 8(a)(1), (b)(1)(A), (2)(A), (C), (c)(1) of Pub. L. 111-87 be applicable to this section as so revived and effective as if enacted on Sept. 30, 2009, see section 2(a)(2), (3) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by sections 3(b)(2), (3), 4, 6(c)(1)(B), and 12(c)(2) of Pub. L. 104-146 effective Oct. 1, 1996, and amendment by section 6(c)(1)(A) of Pub. L. 104-146 effective May 20, 1996, see section 13 of Pub. L. 104-146, set out as a note under section 300ff-11 of this title.

§ 300ff-14. Use of amounts

(a) Requirements

The Secretary may not make a grant under section 300ff-11(a) of this title to the chief elected official of an eligible area unless such political subdivision agrees that—

(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 300ff-12(b)(4)(C) of this title, by the HIV health services planning council that serves such eligible area;

(2) funds provided under section 300ff-11 of this title will be expended only for—

(A) core medical services described in subsection (c);

(B) support services described in subsection (d); and

(C) administrative expenses described in subsection (h); and

(3) the use of such funds will comply with the requirements of this section.

(b) Direct financial assistance to appropriate entities

(1) In general

The chief elected official of an eligible area shall use amounts from a grant under section

300ff-11 of this title to provide direct financial assistance to entities described in paragraph (2) for the purpose of providing core medical services and support services.

(2) Appropriate entities

Direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, or private for-profit entities if such entities are the only available provider of quality HIV care in the area.

(c) Required funding for core medical services

(1) In general

With respect to a grant under section 300ff-11 of this title for an eligible area for a grant year, the chief elected official of the area shall, of the portion of the grant remaining after reserving amounts for purposes of paragraphs (1) and (5)(B)(i) of subsection (h), use not less than 75 percent to provide core medical services that are needed in the eligible area for individuals with HIV/AIDS who are identified and eligible under this subchapter (including services regarding the co-occurring conditions of the individuals).

(2) Waiver

(A) In general

The Secretary shall waive the application of paragraph (1) with respect to a chief elected official for a grant year if the Secretary determines that, within the eligible area involved—

(i) there are no waiting lists for AIDS Drug Assistance Program services under section 300ff-26 of this title; and

(ii) core medical services are available to all individuals with HIV/AIDS identified and eligible under this subchapter.

(B) Notification of waiver status

When informing the chief elected official of an eligible area that a grant under section 300ff-11 of this title is being made for the area for a grant year, the Secretary shall inform the official whether a waiver under subparagraph (A) is in effect for such year.

(3) Core medical services

For purposes of this subsection, the term “core medical services”, with respect to an individual with HIV/AIDS (including the co-occurring conditions of the individual), means the following services:

(A) Outpatient and ambulatory health services.

(B) AIDS Drug Assistance Program treatments in accordance with section 300ff-26 of this title.

(C) AIDS pharmaceutical assistance.

(D) Oral health care.

(E) Early intervention services described in subsection (e).

(F) Health insurance premium and cost sharing assistance for low-income individuals in accordance with section 300ff-25 of this title.

(G) Home health care.

(H) Medical nutrition therapy.

(I) Hospice services.

(J) Home and community-based health services as defined under section 300ff-24(c) of this title.