

plans under this section, could, for fiscal years 1979 and 1980, waive any particular requirement relating to the delivery of services or the establishment or operation of multipurpose senior centers which such agency could not meet because of the consolidation authorized by the Comprehensive Older Americans Act Amendments of 1978, except that the State agency could grant such a waiver only if the area agency demonstrated to the State agency that it was taking steps to meet the requirements of this subchapter, but that in any event the State agency could not grant a waiver for any requirement of this chapter in effect on Sept. 30, 1978, struck out par. (2) designation, made mandatory the formerly discretionary waiver by each State, in approving area agency plans under this section, of the requirement described in clause (2) of subsection (a) of this section for any category of services described in such clause if the area agency on aging demonstrates to the State agency that services being furnished for such category in the area are sufficient to meet the need for such services in such area, and struck out provisions that if the State agency granted a waiver with respect to any category, then the area agency had to expend under clause (2) of subsection (a) of this section a percentage of the amount allotted for part B to the planning and service area, for the categories with respect to which such waiver did not apply, that had been agreed upon by the State agency and the area agency.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by section 306 of Pub. L. 102-375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103-171, set out as a note under section 3001 of this title.

Amendment by section 306 of Pub. L. 102-375 inapplicable with respect to fiscal year 1992, see section 905(b)(2) of Pub. L. 102-375, set out as a note under section 3001 of this title.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100-175, set out as a note under section 3001 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

#### REFERENCE TO COMMUNITY, MIGRANT, PUBLIC HOUSING, OR HOMELESS HEALTH CENTER CONSIDERED REFERENCE TO HEALTH CENTER

Reference to community health center, migrant health center, public housing health center, or homeless health center considered reference to health center, see section 4(c) of Pub. L. 104-299, set out as a note under section 254b of this title.

#### IMPLEMENTATION INFORMATION

Pub. L. 100-175, title I, §155(g), Nov. 29, 1987, 101 Stat. 954, directed Commissioner on Aging, not later than Sept. 1, 1988, to analyze and compile information on successful and unsuccessful activities carried out to conduct outreach of the type described in 42 U.S.C. 3026(a)(6)(P) and distribute such information to State agencies on aging for dissemination to interested area agencies on aging to assist such area agencies in designing outreach activities.

#### EVALUATION OF GUIDELINES

Pub. L. 100-175, title I, §155(h), Nov. 29, 1987, 101 Stat. 954, directed Commissioner on Aging to issue guidelines to be followed by State agencies on aging and area agencies on aging in conducting evaluations of out-

reach activities carried out under former subsec. (a)(6)(P) of this section that would ensure that such evaluations are based on uniform criteria that provide a basis for the valid comparison of such outreach activities conducted by the various area agencies.

### § 3027. State plans

#### (a) Criteria for eligibility; contents

Except as provided in the succeeding sentence and section 3029(a) of this title, each State, in order to be eligible for grants from its allotment under this subchapter for any fiscal year, shall submit to the Assistant Secretary a State plan for a two-, three-, or four-year period determined by the State agency, with such annual revisions as are necessary, which meets such criteria as the Assistant Secretary may by regulation prescribe. If the Assistant Secretary determines, in the discretion of the Assistant Secretary, that a State failed in 2 successive years to comply with the requirements under this subchapter, then the State shall submit to the Assistant Secretary a State plan for a 1-year period that meets such criteria, for subsequent years until the Assistant Secretary determines that the State is in compliance with such requirements. Each such plan shall comply with all of the following requirements:

(1) The plan shall—

(A) require each area agency on aging designated under section 3025(a)(2)(A) of this title to develop and submit to the State agency for approval, in accordance with a uniform format developed by the State agency, an area plan meeting the requirements of section 3026 of this title; and

(B) be based on such area plans.

(2) The plan shall provide that the State agency will—

(A) evaluate, using uniform procedures described in section 3012(a)(29)<sup>1</sup> of this title, the need for supportive services (including legal assistance pursuant to subsection (a)(11) of this section, information and assistance, and transportation services), nutrition services, and multipurpose senior centers within the State;

(B) develop a standardized process to determine the extent to which public or private programs and resources (including volunteers and programs and services of voluntary organizations) that have the capacity and actually meet such need;

(C) specify a minimum proportion of the funds received by each area agency on aging in the State to carry out part B of this subchapter that will be expended (in the absence of a waiver under section 3026(c) or 3030c-3 of this title) by such area agency on aging to provide each of the categories of services specified in section 3026(a)(2) of this title.

(3) The plan shall—

(A) include (and may not be approved unless the Assistant Secretary approves) the statement and demonstration required by paragraphs (2) and (4) of section 3025(d) of this title (concerning intrastate distribution of funds); and

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

(B) with respect to services for older individuals residing in rural areas—

(i) provide assurances that the State agency will spend for each fiscal year, not less than the amount expended for such services for fiscal year 2000;

(ii) identify, for each fiscal year to which the plan applies, the projected costs of providing such services (including the cost of providing access to such services); and

(iii) describe the methods used to meet the needs for such services in the fiscal year preceding the first year to which such plan applies.

(4) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out in the State under this subchapter and subchapter XI of this chapter, including evaluations of the effectiveness of services provided to individuals with greatest economic need, greatest social need, or disabilities (with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas).

(5) The plan shall provide that the State agency will—

(A) afford an opportunity for a hearing upon request, in accordance with published procedures, to any area agency on aging submitting a plan under this subchapter, to any provider of (or applicant to provide) services;

(B) issue guidelines applicable to grievance procedures required by section 3026(a)(10) of this title; and

(C) afford an opportunity for a public hearing, upon request, by any area agency on aging, by any provider of (or applicant to provide) services, or by any recipient of services under this subchapter regarding any waiver request, including those under section 3030c-3 of this title.

(6) The plan shall provide that the State agency will make such reports, in such form, and containing such information, as the Assistant Secretary may require, and comply with such requirements as the Assistant Secretary may impose to insure the correctness of such reports.

(7)(A) The plan shall provide satisfactory assurance that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid under this subchapter to the State, including any such funds paid to the recipients of a grant or contract.

(B) The plan shall provide assurances that—

(i) no individual (appointed or otherwise) involved in the designation of the State agency or an area agency on aging, or in the designation of the head of any subdivision of the State agency or of an area agency on aging, is subject to a conflict of interest prohibited under this chapter;

(ii) no officer, employee, or other representative of the State agency or an area agency on aging is subject to a conflict of interest prohibited under this chapter; and

(iii) mechanisms are in place to identify and remove conflicts of interest prohibited under this chapter.

(8)(A) The plan shall provide that no supportive services, nutrition services, or in-home services will be directly provided by the State agency or an area agency on aging in the State, unless, in the judgment of the State agency—

(i) provision of such services by the State agency or the area agency on aging is necessary to assure an adequate supply of such services;

(ii) such services are directly related to such State agency's or area agency on aging's administrative functions; or

(iii) such services can be provided more economically, and with comparable quality, by such State agency or area agency on aging.

(B) Regarding case management services, if the State agency or area agency on aging is already providing case management services (as of the date of submission of the plan) under a State program, the plan may specify that such agency is allowed to continue to provide case management services.

(C) The plan may specify that an area agency on aging is allowed to directly provide information and assistance services and outreach.

(9) The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 3058g of this title and this subchapter, and will expend for such purpose an amount that is not less than an amount expended by the State agency with funds received under this subchapter for fiscal year 2000, and an amount that is not less than the amount expended by the State agency with funds received under subchapter XI of this chapter for fiscal year 2000.

(10) The plan shall provide assurances that the special needs of older individuals residing in rural areas will be taken into consideration and shall describe how those needs have been met and describe how funds have been allocated to meet those needs.

(11) The plan shall provide that with respect to legal assistance—

(A) the plan contains assurances that area agencies on aging will (i) enter into contracts with providers of legal assistance which can demonstrate the experience or capacity to deliver legal assistance; (ii) include in any such contract provisions to assure that any recipient of funds under division (i) will be subject to specific restrictions and regulations promulgated under the Legal Services Corporation Act [42 U.S.C. 2996 et seq.] (other than restrictions and regulations governing eligibility for legal assistance under such Act and governing membership of local governing boards) as determined appropriate by the Assistant Secretary; and (iii) attempt to involve the private bar in legal assistance activities authorized under this subchapter, including

groups within the private bar furnishing services to older individuals on a pro bono and reduced fee basis;

(B) the plan contains assurances that no legal assistance will be furnished unless the grantee administers a program designed to provide legal assistance to older individuals with social or economic need and has agreed, if the grantee is not a Legal Services Corporation project grantee, to coordinate its services with existing Legal Services Corporation projects in the planning and service area in order to concentrate the use of funds provided under this subchapter on individuals with the greatest such need; and the area agency on aging makes a finding, after assessment, pursuant to standards for service promulgated by the Assistant Secretary, that any grantee selected is the entity best able to provide the particular services;

(C) the State agency will provide for the coordination of the furnishing of legal services to older individuals within the State, and provide advice and technical assistance in the provision of legal services to older individuals within the State and support the furnishing of training and technical assistance for legal services for older individuals;

(D) the plan contains assurances, to the extent practicable, that legal services furnished under the plan will be in addition to any legal services for older individuals being furnished with funds from sources other than this chapter and that reasonable efforts will be made to maintain existing levels of legal services for older individuals; and

(E) the plan contains assurances that area agencies on aging will give priority to legal assistance related to income, health care, long-term care, nutrition, housing, utilities, protective services, defense of guardianship, abuse, neglect, and age discrimination.

(12) The plan shall provide, whenever the State desires to provide for a fiscal year for services for the prevention of abuse of older individuals—

(A) the plan contains assurances that any area agency on aging carrying out such services will conduct a program consistent with relevant State law and coordinated with existing State adult protective service activities for—

(i) public education to identify and prevent abuse of older individuals;

(ii) receipt of reports of abuse of older individuals;

(iii) active participation of older individuals participating in programs under this chapter through outreach, conferences, and referral of such individuals to other social service agencies or sources of assistance where appropriate and consented to by the parties to be referred; and

(iv) referral of complaints to law enforcement or public protective service agencies where appropriate;

(B) the State will not permit involuntary or coerced participation in the program of services described in this paragraph by alleged victims, abusers, or their households; and

(C) all information gathered in the course of receiving reports and making referrals shall remain confidential unless all parties to the complaint consent in writing to the release of such information, except that such information may be released to a law enforcement or public protective service agency.

(13) The plan shall provide assurances that each State will assign personnel (one of whom shall be known as a legal assistance developer) to provide State leadership in developing legal assistance programs for older individuals throughout the State.

(14) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

(A) identify the number of low-income minority older individuals in the State, including the number of low-income minority older individuals with limited English proficiency; and

(B) describe the methods used to satisfy the service needs of the low-income minority older individuals described in subparagraph (A), including the plan to meet the needs of low-income minority older individuals with limited English proficiency.

(15) The plan shall provide assurances that, if a substantial number of the older individuals residing in any planning and service area in the State are of limited English-speaking ability, then the State will require the area agency on aging for each such planning and service area—

(A) to utilize, in the delivery of outreach services under section 3026(a)(2)(A) of this title, the services of workers who are fluent in the language spoken by a predominant number of such older individuals who are of limited English-speaking ability; and

(B) to designate an individual employed by the area agency on aging, or available to such area agency on aging on a full-time basis, whose responsibilities will include—

(i) taking such action as may be appropriate to assure that counseling assistance is made available to such older individuals who are of limited English-speaking ability in order to assist such older individuals in participating in programs and receiving assistance under this chapter; and

(ii) providing guidance to individuals engaged in the delivery of supportive services under the area plan involved to enable such individuals to be aware of cultural sensitivities and to take into account effectively linguistic and cultural differences.

(16) The plan shall provide assurances that the State agency will require outreach efforts that will—

(A) identify individuals eligible for assistance under this chapter, with special emphasis on—

(i) older individuals residing in rural areas;

(ii) older individuals with greatest economic need (with particular attention to low-income older individuals, including

low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);

(iii) older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas);

(iv) older individuals with severe disabilities;

(v) older individuals with limited English-speaking ability; and

(vi) older individuals with Alzheimer's disease and related disorders with neurological and organic brain dysfunction (and the caretakers of such individuals); and

(B) inform the older individuals referred to in clauses (i) through (vi) of subparagraph (A), and the caretakers of such individuals, of the availability of such assistance.

(17) The plan shall provide, with respect to the needs of older individuals with severe disabilities, assurances that the State will coordinate planning, identification, assessment of needs, and service for older individuals with disabilities with particular attention to individuals with severe disabilities with the State agencies with primary responsibility for individuals with disabilities, including severe disabilities, to enhance services and develop collaborative programs, where appropriate, to meet the needs of older individuals with disabilities.

(18) The plan shall provide assurances that area agencies on aging will conduct efforts to facilitate the coordination of community-based, long-term care services, pursuant to section 3026(a)(7) of this title, for older individuals who—

(A) reside at home and are at risk of institutionalization because of limitations on their ability to function independently;

(B) are patients in hospitals and are at risk of prolonged institutionalization; or

(C) are patients in long-term care facilities, but who can return to their homes if community-based services are provided to them.

(19) The plan shall include the assurances and description required by section 3058d(a) of this title.

(20) The plan shall provide assurances that special efforts will be made to provide technical assistance to minority providers of services.

(21) The plan shall—

(A) provide an assurance that the State agency will coordinate programs under this subchapter and programs under subchapter X of this chapter, if applicable; and

(B) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits provided under this subchapter, if applicable, and specify the ways

in which the State agency intends to implement the activities.

(22) If case management services are offered to provide access to supportive services, the plan shall provide that the State agency shall ensure compliance with the requirements specified in section 3026(a)(8) of this title.

(23) The plan shall provide assurances that demonstrable efforts will be made—

(A) to coordinate services provided under this chapter with other State services that benefit older individuals; and

(B) to provide multigenerational activities, such as opportunities for older individuals to serve as mentors or advisers in child care, youth day care, educational assistance, at-risk youth intervention, juvenile delinquency treatment, and family support programs.

(24) The plan shall provide assurances that the State will coordinate public services within the State to assist older individuals to obtain transportation services associated with access to services provided under this subchapter, to services under subchapter X of this chapter, to comprehensive counseling services, and to legal assistance.

(25) The plan shall include assurances that the State has in effect a mechanism to provide for quality in the provision of in-home services under this subchapter.

(26) The plan shall provide assurances that funds received under this subchapter will not be used to pay any part of a cost (including an administrative cost) incurred by the State agency or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this subchapter.

(27) The plan shall provide assurances that area agencies on aging will provide, to the extent feasible, for the furnishing of services under this chapter, consistent with self-directed care.

(28)(A) The plan shall include, at the election of the State, an assessment of how prepared the State is, under the State's statewide service delivery model, for any anticipated change in the number of older individuals during the 10-year period following the fiscal year for which the plan is submitted.

(B) Such assessment may include—

(i) the projected change in the number of older individuals in the State;

(ii) an analysis of how such change may affect such individuals, including individuals with low incomes, individuals with greatest economic need, minority older individuals, older individuals residing in rural areas, and older individuals with limited English proficiency;

(iii) an analysis of how the programs, policies, and services provided by the State can be improved, including coordinating with area agencies on aging, and how resource levels can be adjusted to meet the needs of the changing population of older individuals in the State; and

(iv) an analysis of how the change in the number of individuals age 85 and older in the

State is expected to affect the need for supportive services.

(29) The plan shall include information detailing how the State will coordinate activities, and develop long-range emergency preparedness plans, with area agencies on aging, local emergency response agencies, relief organizations, local governments, State agencies responsible for emergency preparedness, and any other institutions that have responsibility for disaster relief service delivery.

(30) The plan shall include information describing the involvement of the head of the State agency in the development, revision, and implementation of emergency preparedness plans, including the State Public Health Emergency Preparedness and Response Plan.

**(b) Approval by Assistant Secretary; waiver of requirements**

(1) The Assistant Secretary shall approve any State plan which the Assistant Secretary finds fulfills the requirements of subsection (a) of this section, except the Assistant Secretary may not approve such plan unless the Assistant Secretary determines that the formula submitted under section 3025(a)(2)(D) of this title complies with the guidelines in effect under section 3025(a)(2)(C) of this title.

(2) The Assistant Secretary, in approving any State plan under this section, may waive the requirement described in paragraph (3)(B) of subsection (a) of this section if the State agency demonstrates to the Assistant Secretary that the service needs of older individuals residing in rural areas in the State are being met, or that the number of older individuals residing in such rural areas is not sufficient to require the State agency to comply with such requirement.

**(c) Notice and hearing prior to disapproval**

(1) The Assistant Secretary shall not make a final determination disapproving any State plan, or any modification thereof, or make a final determination that a State is ineligible under section 3025 of this title, without first affording the State reasonable notice and opportunity for a hearing.

(2) Not later than 30 days after such final determination, a State dissatisfied with such final determination may appeal such final determination to the Secretary for review. If the State timely appeals such final determination in accordance with subsection (e)(1) of this section, the Secretary shall dismiss the appeal filed under this paragraph.

(3) If the State is dissatisfied with the decision of the Secretary after review under paragraph (2), the State may appeal such decision not later than 30 days after such decision and in the manner described in subsection (e) of this section. For purposes of appellate review under the preceding sentence, a reference in subsection (e) of this section to the Assistant Secretary shall be deemed to be a reference to the Secretary.

**(d) Discontinuance of payments; disbursement of withheld funds to agencies with approved plans; matching funds**

Whenever the Assistant Secretary, after reasonable notice and opportunity for a hearing to the State agency, finds that—

(1) the State is not eligible under section 3025 of this title,

(2) the State plan has been so changed that it no longer complies substantially with the provisions of subsection (a) of this section, or

(3) in the administration of the plan there is a failure to comply substantially with any such provision of subsection (a) of this section,

the Assistant Secretary shall notify such State agency that no further payments from its allotments under section 3024 of this title and section 3028 of this title will be made to the State (or, in the Assistant Secretary's discretion, that further payments to the State will be limited to projects under or portions of the State plan not affected by such failure), until the Assistant Secretary is satisfied that there will no longer be any failure to comply. Until the Assistant Secretary is so satisfied, no further payments shall be made to such State from its allotments under section 3024 of this title and section 3028 of this title (or payments shall be limited to projects under or portions of the State plan not affected by such failure). The Assistant Secretary shall, in accordance with regulations the Assistant Secretary shall prescribe, disburse the funds so withheld directly to any public or non-profit private organization or agency or political subdivision of such State submitting an approved plan in accordance with the provisions of this section. Any such payment shall be matched in the proportions specified in section 3024 of this title.

**(e) Appeal**

(1) A State which is dissatisfied with a final action of the Assistant Secretary under subsection (b), (c), or (d) of this section may appeal to the United States court of appeals for the circuit in which the State is located, by filing a petition with such court within 30 days after such final action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Assistant Secretary, or any officer designated by the Assistant Secretary for such purpose. The Assistant Secretary thereupon shall file in the court the record of the proceedings on which the Assistant Secretary's action is based, as provided in section 2112 of title 28.

(2) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Assistant Secretary or to set it aside, in whole or in part, temporarily or permanently, but until the filing of the record, the Assistant Secretary may modify or set aside the Assistant Secretary's order. The findings of the Assistant Secretary as to the facts, if supported by substantial evidence, shall be conclusive, but the court, for good cause shown, may remand the case to the Assistant Secretary to take further evidence, and the Assistant Secretary shall, within 30 days, file in the court the record of those further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence. The judgment of the court affirming or setting aside, in whole or in part, any action of the Assistant Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(3) The commencement of proceedings under this subsection shall not, unless so specifically ordered by the court, operate as a stay of the Assistant Secretary's action.

**(f) Confidentiality of information relating to legal assistance**

Neither a State, nor a State agency, may require any provider of legal assistance under this subchapter to reveal any information that is protected by the attorney-client privilege.

(Pub. L. 89-73, title III, §307, as added Pub. L. 95-478, title I, §103(b), Oct. 18, 1978, 92 Stat. 1524; amended Pub. L. 97-115, §§3(d), 7, Dec. 29, 1981, 95 Stat. 1597, 1598; Pub. L. 98-459, title III, §307, Oct. 9, 1984, 98 Stat. 1775; Pub. L. 100-175, title I, §§128, 129(d), (e), 130(b), 131(b), 132(c), 136(c), 137(b), 138, 140(c), 141(c), 142, 144(d), 155(e)(2), 182(k), Nov. 29, 1987, 101 Stat. 934, 935, 938-940, 943, 944, 946, 947, 949, 953, 965; Pub. L. 100-628, title VII, §705(6), Nov. 7, 1988, 102 Stat. 3247; Pub. L. 102-375, title I, §102(b)(4), (5), (10)(A), (C), (E), (F), title III, §307, title VII, §708(c)(4), title IX, §904(a)(13), Sept. 30, 1992, 106 Stat. 1201, 1202, 1228, 1293, 1308; Pub. L. 103-171, §§2(9), 3(a)(5), Dec. 2, 1993, 107 Stat. 1988, 1990; Pub. L. 106-501, title III, §306, title VIII, §801(c)(4), Nov. 13, 2000, 114 Stat. 2242, 2292; Pub. L. 109-365, title III, §307, Oct. 17, 2006, 120 Stat. 2544.)

REFERENCES IN TEXT

Section 3012(a) of this title, referred to in subsec. (a)(2)(A), does not contain a par. (29). A former section 3012(a)(29) of this title, relating to uniform data collection procedures, was redesignated section 3012(a)(26) by Pub. L. 106-501, title II, §201(1)(B), Nov. 13, 2000, 114 Stat. 2229.

The Legal Services Corporation Act, referred to in subsec. (a)(11)(A), is title X of Pub. L. 88-452, as added by Pub. L. 93-355, §2, July 25, 1974, 88 Stat. 378, as amended, which is classified generally to subchapter X (§2996 et seq.) of chapter 34 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 2701 of this title and Tables.

PRIOR PROVISIONS

A prior section 3027, Pub. L. 89-73, title III, §307, as added Pub. L. 93-29, title III, §301, May 3, 1973, 87 Stat. 44, related to payment of grants or contracts, prior to the general amendment of this subchapter by Pub. L. 95-478. See section 3029 of this title.

Provisions similar to those comprising this section were contained in Pub. L. 89-73, title III, §305, as added Pub. L. 93-29, title III, §301, May 3, 1973, 87 Stat. 41; Pub. L. 94-135, title I, §§106(a), (b), 114(e), Nov. 28, 1975, 89 Stat. 715, 725, which was classified to section 3025 of this title prior to repeal by Pub. L. 95-478.

AMENDMENTS

2006—Subsec. (a)(2)(C). Pub. L. 109-365, §307(1), substituted “section 3026(c)” for “section 3026(b)”.

Subsec. (a)(4). Pub. L. 109-365, §307(2), substituted “(with particular attention to low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)” for “, with particular attention to low-income minority individuals and older individuals residing in rural areas”.

Subsec. (a)(14), (15). Pub. L. 109-365, §307(3)–(5), added par. (14), redesignated former par. (14) as (15), and struck out former par. (15) which read as follows: “The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared—

“(A) identify the number of low-income minority older individuals in the State; and

“(B) describe the methods used to satisfy the service needs of such minority older individuals.”

Subsec. (a)(16)(A)(ii), (iii). Pub. L. 109-365, §307(6)(A), substituted “(with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas)” for “(with particular attention to low-income minority individuals and older individuals residing in rural areas)”.

Subsec. (a)(16)(A)(vi). Pub. L. 109-365, §307(6)(B), substituted “and related” for “or related”.

Subsec. (a)(27) to (30). Pub. L. 109-365, §307(7), added pars. (27) to (30).

2000—Subsec. (a)(1) to (5). Pub. L. 106-501, §306(1), added pars. (1) to (5) and struck out former pars. (1) to (5) which required each State plan to: in par. (1), contain assurances that the State plan would be based on area plans and that the State would distribute a uniform format for developing area plans, in par. (2), provide that each area agency on aging develop an area plan for approval by the State agency, in par. (3), provide that the State agency would evaluate the need for supportive services, nutrition services, and multipurpose senior centers within the State and spend not less than 105 percent of fiscal year 1978 expenditures for services to older individuals residing in rural areas in the State, in par. (4), provide methods of administration of the plan and any necessary reorganization and reassignment of functions to assure efficient administration, and, in par. (5), provide that the State agency would conduct hearings upon request by an area agency on aging submitting a plan, a service provider under a plan, or an applicant to provide service under a plan.

Subsec. (a)(7)(C). Pub. L. 106-501, §306(2), struck out subpar. (C) which required the plan to provide assurances that the State agency and each area agency on aging would maintain the integrity and public purpose of services provided and service providers under the State plan in all contractual and commercial relationships, disclose the parties to and the nature of a contract or relationship relating to services to older individuals, demonstrate no loss or diminution in quantity or quality of services as a result of such contract or relationship, demonstrate enhancement of quantity and quality of services as a result of such contract or relationship, and disclose on request all sources and expenditures of funds the State agency and area agency on aging received or expended to provide services to older individuals.

Subsec. (a)(8), (9). Pub. L. 106-501, §306(3), added pars. (8) and (9) and struck out former pars. (8) and (9) which read as follows:

“(8) The plan shall provide that the State agency will conduct periodic evaluations of, and public hearings on, activities and projects carried out under the State plan, including an evaluation of the effectiveness of the State agency in reaching older individuals with greatest economic need and older individuals with greatest social need, with particular attention to low-income minority individuals. In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgeable about the needs and concerns of low-income minority older individuals.

“(9) The plan shall provide for establishing and maintaining information and assistance services in sufficient numbers to assure that all older individuals in the State who are not furnished adequate information and assistance services under section 3026(a)(4) of this title will have reasonably convenient access to such services.”

Subsec. (a)(10). Pub. L. 106-501, §306(4), added par. (10) and struck out former par. (10) which read as follows: “The plan shall provide that no supportive services, nutrition services, or in-home services (as defined in section 3030i of this title) will be directly provided by the State agency or an area agency on aging, except where, in the judgment of the State agency, provision of such services by the State agency or an area agency on

aging is necessary to assure an adequate supply of such services, or where such services are directly related to such State or area agency on aging's administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging."

Subsec. (a)(11). Pub. L. 106-501, §306(5), (6), redesignated par. (15) as (11) and struck out former par. (11) which read as follows: "The plan shall provide that subject to the requirements of merit employment systems of State and local governments—

"(A) preference shall be given to older individuals; and

"(B) special consideration shall be given to individuals with formal training in the field of aging (including an educational specialty or emphasis in aging and a training degree or certificate in aging) or equivalent professional experience in the field of aging;

for any staff positions (full time or part time) in State and area agencies for which such individuals qualify."

Subsec. (a)(12). Pub. L. 106-501, §306(5), (6), redesignated par. (16) as (12) and struck out former par. (12) which read as follows: "The plan shall provide assurances that the State agency will carry out, through the Office of the State Long-Term Care Ombudsman, a State Long-Term Care Ombudsman program in accordance with section 3058g of this title and this subchapter."

Subsec. (a)(13). Pub. L. 106-501, §306(5), (8), redesignated par. (18) as (13) and struck out former par. (13) which related to a list of requirements that the plan was to provide with respect to nutrition services.

Subsec. (a)(14). Pub. L. 106-501, §306(5), (10), redesignated par. (20) as (14) and struck out former par. (14) which related to required provisions of the plan with respect to acquisition, alteration, or renovation of existing facilities to serve as multipurpose senior centers.

Subsec. (a)(15). Pub. L. 106-501, §306(12), redesignated par. (23) as (15). Former par. (15) redesignated (11).

Subsec. (a)(16). Pub. L. 106-501, §306(12), (13), redesignated par. (24) as (16) and inserted "and older individuals residing in rural areas" after "low-income minority individuals" in cls. (ii) and (iii). Former par. (16) redesignated (12).

Subsec. (a)(17). Pub. L. 106-501, §306(14), inserted "to enhance services" before "and develop collaborative programs".

Pub. L. 106-501, §306(7), (12), redesignated par. (25) as (17) and struck out former par. (17) which read as follows: "The plan shall provide assurances that each State will provide inservice training opportunities for personnel of agencies and programs funded under this chapter."

Subsec. (a)(18). Pub. L. 106-501, §306(12), (15), redesignated par. (26) as (18) and, in introductory provisions, substituted "section 3026(a)(7)" for "section 3026(a)(6)(I)". Former par. (18) redesignated (13).

Subsec. (a)(19). Pub. L. 106-501, §306(9), (17), redesignated par. (30) as (19) and struck out former par. (19) which read as follows: "The plan shall provide, with respect to education and training services, assurances that area agencies on aging may enter into grants and contracts with providers of education and training services which can demonstrate the experience or capacity to provide such services (except that such contract authority shall be effective for any fiscal year only to such extent, or in such amounts, as are provided in appropriations Acts)."

Subsec. (a)(20). Pub. L. 106-501, §306(17), redesignated par. (32) as (20). Former par. (20) redesignated (14).

Subsec. (a)(21). Pub. L. 106-501, §306(11), (18), added par. (21) and struck out former par. (21) which read as follows: "The plan shall provide assurances that the State agency, in carrying out the State Long-Term Care Ombudsman program under subsection (a)(12) of this section, will expend not less than the total amount expended by the agency in fiscal year 1991 in carrying out such a program under this subchapter."

Subsec. (a)(22). Pub. L. 106-501, §801(c)(4)(A), substituted "3026(a)(8)" for "3026(a)(20)".

Pub. L. 106-501, §306(11), (19), redesignated par. (36) as (22) and struck out former par. (22) which read as follows: "The plan shall specify a minimum percentage of the funds received by each area agency on aging for part B of this subchapter that will be expended, in the absence of the waiver granted under section 3026(b)(1) of this title, by such area agency on aging to provide each of the categories of services specified in section 3026(a)(2) of this title."

Subsec. (a)(23) to (25). Pub. L. 106-501, §306(21), redesignated pars. (41), (42), and (44) as (23) to (25), respectively. Former pars. (23), (24), and (25) redesignated (15) to (17), respectively.

Subsec. (a)(26). Pub. L. 106-501, §306(22), added par. (26). Former par. (26) redesignated (18).

Subsec. (a)(27) to (29). Pub. L. 106-501, §306(16), struck out pars. (27) to (29) which read as follows:

"(27) The plan shall provide assurances of consultation and coordination in planning and provision of in-home services under section 3030h of this title with State and local agencies and private nonprofit organizations which administer and provide services relating to health, social services, rehabilitation, and mental health services.

"(28) The plan shall provide assurances that if the State receives funds appropriated under section 3023(e) of this title, the State agency and area agencies on aging will expend such funds to carry out part E of this subchapter.

"(29) The plan shall, with respect to the fiscal year preceding the fiscal year for which such plan is prepared, describe the methods used to satisfy the service needs of older individuals who reside in rural areas."

Subsec. (a)(30). Pub. L. 106-501, §306(17), redesignated par. (30) as (19).

Subsec. (a)(31). Pub. L. 106-501, §306(16), struck out par. (31) which read as follows:

"(31)(A) If 50 percent or more of the area plans in the State provide for an area volunteer services coordinator, as described in section 3026(a)(12) of this title, the State plan shall provide for a State volunteer services coordinator, who shall—

"(i) encourage area agencies on aging to provide for area volunteer services coordinators;

"(ii) coordinate the volunteer services offered between the various area agencies on aging;

"(iii) encourage, organize, and promote the use of older individuals as volunteers to the State;

"(iv) provide technical assistance, which may include training, to area volunteer services coordinators; and

"(v) promote the recognition of the contribution made by volunteers to the programs administered under the State plan.

"(B) If fewer than 50 percent of the area plans in the State provide for an area volunteer services coordinator, the State plan may provide for the State volunteer services coordinator described in subparagraph (A)."

Subsec. (a)(32). Pub. L. 106-501, §306(17), redesignated par. (32) as (20).

Subsec. (a)(33) to (35). Pub. L. 106-501, §306(18), struck out pars. (33) to (35) which read as follows:

"(33) The plan—

"(A) shall include the statement and the demonstration required by paragraphs (2) and (4) of section 3025(d) of this title; and

"(B) may not be approved unless the Assistant Secretary approves such statement and such demonstration.

"(34) The plan shall provide an assurance that the State agency will coordinate programs under this subchapter and subchapter X of this chapter, if applicable.

"(35) The plan shall—

"(A) provide an assurance that the State agency will pursue activities to increase access by older individuals who are Native Americans to all aging programs and benefits provided by the agency, including programs and benefits under this subchapter, if applicable; and

"(B) specify the ways in which the State agency intends to implement the activities."

Subsec. (a)(36). Pub. L. 106-501, §306(19), redesignated par. (36) as (22).

Subsec. (a)(37) to (40). Pub. L. 106-501, §306(20), struck out pars. (37) to (40) which read as follows:

“(37) The plan shall identify for each fiscal year, the actual and projected additional costs of providing services under this subchapter, including the cost of providing access to such services, to older individuals residing in rural areas in the State (in accordance with a standard definition of rural areas specified by the Assistant Secretary).

“(38) The plan shall provide assurances that funds received under this subchapter will not be used to pay any part of a cost (including an administrative cost) incurred by the State or an area agency on aging to carry out a contract or commercial relationship that is not carried out to implement this subchapter.

“(39) The plan shall provide assurances that preference in receiving services under this subchapter will not be given by the area agency on aging to particular older individuals as a result of a contract or commercial relationship that is not carried out to implement this subchapter.

“(40) The plan shall provide assurances that if the State receives funds appropriated under section 3023(g) of this title the State agency and area agencies on aging will expend such funds to carry out part G of this subchapter.”

Subsec. (a)(41), (42). Pub. L. 106-501, §306(21), redesignated pars. (41) and (42) as (23) and (24), respectively.

Subsec. (a)(43). Pub. L. 106-501, §306(20), struck out par. (43) which read as follows: “The plan shall provide that the State agency shall issue guidelines applicable to grievance procedures required by section 3026(a)(6)(P) of this title.”

Subsec. (a)(44). Pub. L. 106-501, §306(21), redesignated par. (44) as (25).

Subsec. (f). Pub. L. 106-501, §801(c)(4)(B), struck out par. (1) designation before “Neither a State” and struck out par. (2) which read as follows: “Information disclosed under section 3026(a)(14)(B)(i) of this title or subsection (a)(7)(C)(ii)(I) of this section may be disclosed to the public by the State agency or the State only if such information could be disclosed under section 552 of title 5 by an agency of the United States.”

1993—Pub. L. 103-171, §3(a)(5)(B), substituted “Assistant Secretary” for “Commissioner” wherever appearing.

Subsec. (a)(8). Pub. L. 103-171, §2(9)(A)(i), substituted “knowledgeable” for “knowledgeable”.

Subsec. (a)(24). Pub. L. 103-171, §2(9)(A)(ii), substituted period for semicolon at end.

Subsec. (b)(2). Pub. L. 103-171, §2(9)(B), substituted “such requirement” for “the requirement described in clause (3)(B) of subsection (a) of this section”.

Subsecs. (d), (e). Pub. L. 103-171, §3(a)(5)(A), substituted “Assistant Secretary’s” for “Commissioner’s” wherever appearing.

1992—Subsec. (a). Pub. L. 102-375, §307(a)(1), (2), inserted “the succeeding sentence and” after “provided in” in first sentence and inserted after first sentence “If the Commissioner determines, in the discretion of the Commissioner, that a State failed in 2 successive years to comply with the requirements under this subchapter, then the State shall submit to the Commissioner a State plan for a 1-year period that meets such criteria, for subsequent years until the Commissioner determines that the State is in compliance with such requirements.” before “Each such plan shall comply”.

Subsec. (a)(1). Pub. L. 102-375, §102(b)(10)(F), substituted “agencies on aging in” for “agencies in”.

Subsec. (a)(3)(A). Pub. L. 102-375, §307(a)(3), inserted “and transportation services” after “legal assistance” and inserted at end “To conduct the evaluation, the State agency shall use the procedures implemented under section 3012(a)(29) of this title.”

Subsec. (a)(5). Pub. L. 102-375, §307(b), inserted at end “The State agency shall establish and publish procedures for requesting and conducting such hearing.”

Subsec. (a)(7). Pub. L. 102-375, §307(c), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (a)(8). Pub. L. 102-375, §904(a)(13)(A)(i), substituted “greatest economic need and older individuals with greatest social need” for “the greatest economic or social needs”.

Pub. L. 102-375, §307(d), inserted at end “In conducting such evaluations and public hearings, the State agency shall solicit the views and experiences of entities that are knowledgeable about the needs and concerns of low-income minority older individuals.”

Subsec. (a)(9). Pub. L. 102-375, §102(b)(4), substituted “information and assistance” for “information and referral” in two places.

Subsec. (a)(10). Pub. L. 102-375, §102(b)(5), substituted “section 3030i of this title” for “section 3030i(1) of this title”.

Subsec. (a)(11). Pub. L. 102-375, §307(e), substituted “governments—” for “governments, preference shall be given to individuals aged 60 or older” and added subpars. (A) and (B).

Subsec. (a)(12). Pub. L. 102-375, §307(f), amended par. (12) generally, substituting provisions requiring the plan to provide assurances that a State Long-Term Care Ombudsman program be carried out in accordance with section 3058g of this title for provisions setting out, in subpars. (A) to (K), the assurances required to be provided by the plan with respect to such a program.

Subsec. (a)(13)(A). Pub. L. 102-375, §904(a)(13)(A)(ii)(I), (II), substituted “to older individuals” for “to individuals aged 60 or older” and “by older individuals” for “by the elderly”.

Subsec. (a)(13)(B). Pub. L. 102-375, §904(a)(13)(A)(ii)(III), substituted “subparagraph” for “subclause”.

Pub. L. 102-375, §307(g)(1), inserted “(other than under section 3023(b)(3) of this title)” after “available under this subchapter”.

Pub. L. 102-375, §102(b)(10)(C), substituted “area agency on aging” for “area agency”.

Subsec. (a)(13)(F). Pub. L. 102-375, §307(g)(2), inserted “dietitians (or individuals with comparable experience),” after “advice of” and substituted “project will” for “project may”.

Subsec. (a)(13)(H). Pub. L. 102-375, §307(g)(3), struck out “and” at end.

Pub. L. 102-375, §102(b)(10)(E), substituted “area agency on aging” for “area agency” in two places.

Subsec. (a)(13)(I). Pub. L. 102-375, §904(a)(13)(A)(ii)(IV), substituted “participating older individuals” for “elderly participants”.

Pub. L. 102-375, §307(g)(4), substituted semicolon for period at end.

Pub. L. 102-375, §102(b)(10)(C), substituted “area agency on aging” for “area agency”.

Subsec. (a)(13)(J) to (M). Pub. L. 102-375, §307(g)(5), added subpars. (J) to (M).

Subsec. (a)(14). Pub. L. 102-375, §102(b)(10)(A), substituted “area agencies on aging” for “area agencies”.

Subsec. (a)(14)(D). Pub. L. 102-375, §904(a)(13)(A)(iii), substituted “subparagraph” for “clause”.

Subsec. (a)(15)(B). Pub. L. 102-375, §102(b)(10)(C), substituted “area agency on aging” for “area agency”.

Subsec. (a)(15)(E). Pub. L. 102-375, §307(h), added subpar. (E).

Subsec. (a)(16). Pub. L. 102-375, §307(i), substituted “shall provide,” for “shall provide that” and “provide for a” for “, if funds are not appropriated under section 3023(g) of this title for a fiscal year, provide that for such”.

Subsec. (a)(16)(B). Pub. L. 102-375, §904(a)(13)(A)(iv), substituted “paragraph” for “clause”.

Subsec. (a)(18). Pub. L. 102-375, §307(j), inserted “(one of whom shall be known as a legal assistance developer)” after “personnel”.

Subsec. (a)(20)(A). Pub. L. 102-375, §708(c)(4), substituted “section 3026(a)(2)(A) of this title” for “sections 3026(a)(2)(A) and 3026(a)(6)(P) of this title”.

Subsec. (a)(21). Pub. L. 102-375, §307(k), amended par. (21) generally. Prior to amendment, par. (21) read as follows: “The State plan shall provide that the State agency, from funds allotted under section 3024(a) of this



title for part B of this subchapter and for paragraph (12) (relating to the State long-term care ombudsman) shall expend to carry out paragraph (12), for each fiscal year in which the allotment for part B of this subchapter for the State is not less than the allotment for fiscal year 1987 for part B of this subchapter for such State, an amount which is not less than the amount expended from funds received under this chapter by such State in fiscal year 1987 to carry out paragraph (12) as in effect before the effective date of the Older Americans Act Amendments of 1987. This paragraph shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

Subsec. (a)(22). Pub. L. 102-375, §102(b)(10)(E), substituted "area agency on aging" for "area agency" in two places.

Subsec. (a)(24). Pub. L. 102-375, §307(l), amended par. (24) generally. Prior to amendment, par. (24) read as follows: "The plan shall provide assurances that the State agency will require outreach efforts that will—

"(A) identify older individuals who are eligible for assistance under this subchapter, with special emphasis on older individuals with greatest economic need (with particular attention to low-income minority individuals), older individuals with greatest social need (with particular attention to low-income minority individuals), and older individuals who reside in rural areas; and

"(B) inform such individuals of the availability of such assistance."

Subsec. (a)(30). Pub. L. 102-375, §307(m), amended par. (30) generally. Prior to amendment, par. (30) read as follows: "The plan shall provide assurances that if the State receives funds appropriated under section 3023(g) of this title, the State agency and area agencies on aging will expend such funds to carry out part G of this subchapter."

Subsec. (a)(31). Pub. L. 102-375, §307(n), amended par. (31) generally, substituting provisions relating to an area or State volunteer services coordinator for provisions that State agency make funds available to eligible area agencies on aging based on number of older individuals with greatest economic need and inadequacy of outreach activities and application assistance, that State agency require area agency to submit application describing and evaluating activities for which funds were sought, that State agency distribute to area agencies certain eligibility information, and that State agency submit to Commissioner a report on evaluations required to be submitted to it by area agencies.

Subsec. (a)(32) to (44). Pub. L. 102-375, §307(n), added pars. (32) to (44).

Subsec. (b)(1). Pub. L. 102-375, §307(o), inserted before period at end ", except the Commissioner may not approve such plan unless the Commissioner determines that the formula submitted under section 3025(a)(2)(D) of this title complies with the guidelines in effect under section 3025(a)(2)(C) of this title".

Subsec. (b)(2). Pub. L. 102-375, §904(a)(13)(B), substituted "described in paragraph" for "described in clause".

Subsec. (c). Pub. L. 102-375, §307(p), designated existing provisions as par. (1) and added pars. (2) and (3).

Subsec. (f). Pub. L. 102-375, §307(q), (r), redesignated subsec. (g) as subsec. (f)(1), added subsec. (f)(2), and struck out former subsec. (f) which related to demonstration projects for health and nutrition education.

Subsec. (g). Pub. L. 102-375, §307(r)(1), redesignated subsec. (g) as subsec. (f)(1).

1988—Subsec. (a)(3)(A). Pub. L. 100-628 substituted a period for "; and" at end.

1987—Subsec. (a). Pub. L. 100-175, §182(k)(1), substituted "Each such plan shall comply with all of the following requirements:" for "Each such plan shall—".

Subsec. (a)(1), (2). Pub. L. 100-175, §182(k)(2), (3), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(3)(A). Pub. L. 100-175, §182(k)(4)(A), inserted "The plan shall".

Subsec. (a)(3)(B), (4) to (7). Pub. L. 100-175, §182(k)(4)(B), (5)–(8), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(8). Pub. L. 100-175, §182(k)(9), inserted "The plan shall" and substituted a period for semicolon.

Pub. L. 100-175, §132(c)(1), inserted ", including an evaluation of the effectiveness of the State agency in reaching older individuals with the greatest economic or social needs, with particular attention to low-income minority individuals" before semicolon.

Pub. L. 100-175, §128, inserted ", and public hearings on," after "evaluations of".

Subsec. (a)(9). Pub. L. 100-175, §182(k)(10), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(10). Pub. L. 100-175, §182(k)(11), inserted "The plan shall" and substituted a period for semicolon.

Pub. L. 100-175, §140(c)(1), which directed that par. (10) be amended by substituting "nutrition services, or in-home services (as defined in section 3030i(1) of this title)" for "including nutrition services," was executed by making the substitution for "or nutrition services," to reflect the probable intent of Congress and a previous amendment made by Pub. L. 98-459, §307(a)(2). See 1984 Amendment note below.

Subsec. (a)(11). Pub. L. 100-175, §182(k)(12), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(12). Pub. L. 100-175, §129(d), amended par. (12) generally, revising and restating as subpars. (A) to (K) provisions of former subpars. (A) to (E).

Subsec. (a)(13). Pub. L. 100-175, §182(k)(13), inserted "The plan shall", and in subpar. (I) substituted a period for semicolon.

Subsec. (a)(13)(I). Pub. L. 100-175, §136(c)(1), inserted ", and to individuals with disabilities who reside at home with and accompany older individuals who are eligible under this chapter" before semicolon.

Subsec. (a)(14). Pub. L. 100-175, §182(k)(14), inserted "The plan shall", and in subpar. (E) substituted a period for semicolon.

Subsec. (a)(15). Pub. L. 100-175, §182(k)(15), inserted "The plan shall", and in subpar. (D) substituted a period for semicolon.

Subsec. (a)(16). Pub. L. 100-175, §182(k)(16), inserted "The plan shall", and in subpar. (C) substituted a period for semicolon.

Pub. L. 100-175, §144(d)(1), substituted ", if funds are not appropriated under section 3023(g) of this title for a fiscal year, provide that for such fiscal year" for second reference to "provide".

Subsec. (a)(17) to (19). Pub. L. 100-175, §182(k)(17)–(19), inserted "The plan shall" and substituted a period for semicolon.

Subsec. (a)(20). Pub. L. 100-175, §182(k)(20), inserted "The plan shall", and in subpar. (B)(ii) substituted a period for "; and".

Subsec. (a)(20)(A). Pub. L. 100-175, §155(e)(2)(A), substituted "sections 3026(a)(2)(A) and 3026(a)(6)(P) of this title" for "section 3026(a)(2)(A) of this title".

Subsec. (a)(21). Pub. L. 100-175, §129(e), amended par. (21) generally. Prior to amendment, par. (21) read as follows: "provide that the State agency, from funds allotted under section 3024(a) of this title for part B will use an amount equal to an amount not less than 1 percent of such allotment or \$20,000, whichever is greater, for the purpose of carrying out the provisions of clause (12), except that (A) the requirement of this clause shall not apply in any fiscal year in which a State spends from State or local sources an amount equal to the amount required to be spent by this clause; and (B) the provisions of this clause shall not apply to American Samoa, Guam, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands."

Subsec. (a)(22). Pub. L. 100-175, §130(b), added par. (22).

Subsec. (a)(23). Pub. L. 100-175, §131(b), added par. (23).

Subsec. (a)(24). Pub. L. 100-175, §132(c)(2), added par. (24).

Subsec. (a)(25). Pub. L. 100-175, §136(c)(2), added par. (25).

Subsec. (a)(26). Pub. L. 100-175, §138, added par. (26).

Subsec. (a)(27). Pub. L. 100-175, §140(c)(2), added par. (27).

Subsec. (a)(28). Pub. L. 100-175, §141(c), added par. (28).

Subsec. (a)(29). Pub. L. 100-175, §142, added par. (29).

Subsec. (a)(30). Pub. L. 100-175, §144(d)(2), added par. (30).

Subsec. (a)(31). Pub. L. 100-175, §155(e)(2)(B), added par. (31).

Subsec. (g). Pub. L. 100-175, §137(b), added subsec. (g). 1984—Subsec. (a)(3)(A). Pub. L. 98-459, §307(a)(1), substituted “legal assistance” for “legal services”.

Subsec. (a)(10). Pub. L. 98-459, §307(a)(2), substituted “supportive services or nutrition services” for “supportive services, including nutrition services”, and inserted “, or where such services are directly related to such State or area agency on aging’s administrative functions, or where such services of comparable quality can be provided more economically by such State or area agency on aging”.

Subsec. (a)(12)(A). Pub. L. 98-459, §307(a)(3)(A)–(C), substituted “, other than an agency or organization which is responsible” for “which is not responsible”, “which is an association” for “which is not an association”, and “which provides an individual who will, on a full-time basis—” for “which will—”, in provision preceding cl. (i).

Subsec. (a)(12)(A)(iv). Pub. L. 98-459, §307(a)(3)(D), substituted “training staff and volunteers” for “training volunteers”.

Subsec. (a)(12)(E). Pub. L. 98-459, §307(a)(3)(E)–(G), added subpar. (E).

Subsec. (a)(13)(B). Pub. L. 98-459, §307(a)(4)(A), substituted “subclause (H)” for “subparagraph (H)”.

Subsec. (a)(13)(C)(i). Pub. L. 98-459, §307(a)(4)(B), substituted “solicit voluntary contributions” for “charge participating individuals”.

Subsec. (a)(13)(C)(ii). Pub. L. 98-459, §307(a)(4)(C), substituted “voluntary contributions” for “charges”.

Subsec. (a)(15). Pub. L. 98-459, §307(a)(5), substituted “legal assistance” for “legal services” in provision preceding subpar. (A).

Subsec. (a)(15)(A). Pub. L. 98-459, §307(a)(5), substituted “legal assistance” for “legal services” wherever appearing.

Subsec. (a)(15)(B). Pub. L. 98-459, §307(a)(6), in amending subpar. (B) generally, substituted provisions requiring assurances regarding the furnishing of legal assistance by grantees administering programs designed to provide legal assistance to older individuals with social or economic need for provisions requiring assurances regarding the furnishing of legal services by grantees who were either recipients of funds under the Legal Services Corporation Act or who administered programs designed to provide legal services to all older individuals with social or economic need.

Subsec. (a)(16) to (18). Pub. L. 98-459, §307(a)(10), added pars. (16) to (18). Former pars. (16) to (18) redesignated (19) to (21), respectively.

Subsec. (a)(19), (20). Pub. L. 98-459, §307(a)(9), redesignated former pars. (16) and (17) as (19) and (20), respectively.

Subsec. (a)(20)(B)(ii). Pub. L. 98-459, §307(a)(7), substituted “; and” for the period at the end.

Subsec. (a)(21). Pub. L. 98-459, §307(a)(9), redesignated former par. (18) as (21).

Subsec. (a)(21)(B). Pub. L. 98-459, §307(a)(8), substituted “Commonwealth of the Northern Mariana Islands” for “Northern Mariana Islands”.

Subsec. (b)(1). Pub. L. 98-459, §307(b), substituted “the Commissioner finds” for “he finds”.

Subsec. (d). Pub. L. 98-459, §307(c), substituted “in the Commissioner’s discretion” for “in his discretion”, “until the Commissioner is satisfied” for “until he is satisfied”, “Until the Commissioner is so satisfied” for “Until he is so satisfied”, “the Commissioner shall prescribe” for “he shall prescribe”, and “the provisions of this section” for “the provisions of section 307”.

Subsec. (e)(1). Pub. L. 98-459, §307(d)(1), substituted “designated by the Commissioner” for “designated by him” and “the Commissioner’s action is based” for “he based his action”.

Subsec. (e)(2). Pub. L. 98-459, §307(d)(2), substituted “set aside the Commissioner’s order” for “set aside his order”.

Subsec. (f). Pub. L. 98-459, §307(e), added subsec. (f).

1981—Subsec. (a). Pub. L. 97-115, §7(a), substituted “for a two-, three-, or four-year period determined by the State agency” for “for a 3-year period” in provisions preceding par. (1).

Subsec. (a)(3)(A), (10). Pub. L. 97-115, §3(d), substituted “supportive services” for “social services”.

Subsec. (a)(13)(A). Pub. L. 97-115, §7(b), substituted “aged 60 or older and to their spouses, and may be made available to handicapped or disabled individuals who have not attained 60 years of age but who reside in housing facilities occupied primarily by the elderly at which congregate nutrition services are provided” for “aged 60 or older, and to their spouses”.

Subsec. (a)(13)(B). Pub. L. 97-115, §7(c), substituted “primary consideration shall be given to the provision of meals in a congregate setting, except that each area agency (i) may award funds made available under this subchapter to organizations for the provision of home delivered meals to older individuals in accordance with the provisions of subpart II of part C, based upon a determination of need made by the recipient of a grant or contract entered into under this subchapter, without requiring that such organizations also provide meals to older individuals in a congregate setting; and (ii) shall, in awarding such funds, select such organizations in a manner which complies with the provisions of subparagraph (H)” for “each project will provide meals in a congregate setting, except that each such project may provide home delivered meals based upon a determination of need made by the recipient of a grant or contract entered into under this subchapter”.

Subsec. (a)(13)(C)(ii). Pub. L. 97-115, §7(d), inserted “, to facilitate access to such meals, and to provide other supportive services directly related to nutrition services” after “the project involved”.

Subsec. (a)(13)(D). Pub. L. 97-115, §§3(d), 7(e), inserted “in the case of meals served in a congregate setting,” before “a site for such services”, substituted “supportive services” for “social services”, and struck out “or home delivered meals are furnished to eligible individuals who are homebound” after “transportation to such site is furnished”.

Subsec. (a)(13)(I). Pub. L. 97-115, §7(f), substituted “each area agency shall establish procedures that will allow nutrition project administrators the option to offer a meal, on the same basis as meals are provided to elderly participants, to individuals providing volunteer services during the meal hours” for “each State agency may only for fiscal years 1979 and 1980, use not to exceed 20 percent for the amounts allotted under part C to the State for supportive services, including recreational activities, informational services, health and welfare counseling, and referral services, directly related to the delivery of congregate or home delivered meals, except that the Commissioner may approve an application from a State to use not to exceed 50 percent of its amount allotted under part C in areas with unusually high supportive services costs”.

Subsec. (a)(16) to (18). Pub. L. 97-115, §7(g), added pars. (16) and (17) and redesignated former par. (16) as (18).

Subsec. (b)(2), (3). Pub. L. 97-115, §7(h), redesignated par. (3) as (2). Former par. (2), which related to the authority of the Commissioner to waive particular requirements of State plans for fiscal years 1979 and 1980, was struck out.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by sections 307 and 708(c)(4) of Pub. L. 102-375 inapplicable with respect to fiscal year 1993, see section 4(b) of Pub. L. 103-171, set out as a note under section 3001 of this title.

Amendment by sections 307 and 708(c)(4) of Pub. L. 102-375 inapplicable with respect to fiscal year 1992, see section 905(b)(2), (6) of Pub. L. 102-375, set out as a note under section 3001 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Amendment by Pub. L. 100-175 effective Oct. 1, 1987, except not applicable with respect to any area plan submitted under section 3026(a) of this title or any State plan submitted under section 3027(a) of this title and approved for any fiscal year beginning before Nov. 29, 1987, see section 701(a), (b) of Pub. L. 100-175, set out as a note under section 3001 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by Pub. L. 98-459 effective Oct. 9, 1984, see section 803(a) of Pub. L. 98-459, set out as a note under section 3001 of this title.

**ASSESSMENT OF UNSATISFIED DEMAND FOR SUPPORTIVE SERVICES PROVIDED AT SENIOR CENTERS AND OTHER SITES**

Pub. L. 100-175, title I, §111, Nov. 29, 1987, 101 Stat. 932, directed Commissioner on Aging, not later than Sept. 30, 1989, to submit to Congress a report assessing national unmet need for supportive services, nutrition services, and multipurpose senior centers by summarizing in detail for each State the results of the most recent evaluation conducted by the State agency under the then current plan submitted under 42 U.S.C. 3027(a)(3)(A) and containing recommendations of the Secretary with respect to need for administrative action and legislation relating to satisfying the demand for supportive services provided at senior centers and other sites.

**STUDY OF OMBUDSMAN PROGRAM**

Pub. L. 100-175, title I, §129(b), Nov. 29, 1987, 101 Stat. 934, directed Commissioner on Aging, not later than Dec. 31, 1989, to conduct a study and submit a report to Congress concerning involvement in the ombudsman program established under 42 U.S.C. 3027(a)(12) and its impact upon issues and problems affecting residents of board and care facilities and other similar adult care homes who are older individuals as defined in 42 U.S.C. 3022(10), and the effectiveness of recruiting, supervising, and retaining volunteer ombudsmen.

**§ 3028. Cost of administration of State plans**

**(a) Activities constituting administration; use of excess funds to supplement cost of administration of area plans; election to pay costs from sums received for administration of area plans**

(1) Amounts available to States under subsection (b)(1) of this section may be used to make grants to States for paying such percentages as each State agency determines, but not more than 75 percent, of the cost of the administration of its State plan, including the preparation of the State plan, the evaluation of activities carried out under such plan, the collection of data and the carrying out of analyses related to the need for supportive services, nutrition services, and multipurpose senior centers within the State, and dissemination of information so obtained, the provision of short-term training to personnel of public or nonprofit private agencies and organizations engaged in the operation of programs authorized by this chapter, and the carrying out of demonstration projects of statewide significance relating to the initiation, expansion, or improvement of services assisted under this subchapter.

(2) Any sums available to a State under subsection (b)(1) of this section for part of the cost

of the administration of its State plan which the State determines is not needed for such purpose may be used by the State to supplement the amount available under section 3024(d)(1)(A) of this title to cover part of the cost of the administration of area plans.

(3) Any State which has been designated a single planning and service area under section 3025(a)(1)(E) of this title covering all, or substantially all, of the older individuals in such State, as determined by the Assistant Secretary, may elect to pay part of the costs of the administration of State and area plans either out of sums received under this section or out of sums made available for the administration of area plans under section 3024(d)(1)(A) of this title, but shall not pay such costs out of sums received or allotted under both such sections.

**(b) Formula for computation of allotment; application for additional funds; approval of application by Assistant Secretary; limitation on amount of additional funds; transfer of funds**

(1) If for any fiscal year the aggregate amount appropriated under section 3023 of this title does not exceed \$800,000,000, then—

(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 3024(a)(1) of this title or \$300,000; and

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$75,000;

shall be available to such State to carry out the purposes of this section.

(2) If for any fiscal year the aggregate amount appropriated under section 3023 of this title exceeds \$800,000,000, then—

(A) except as provided in clause (ii), the greater of 5 percent of the allotment to a State under section 3024(a)(1) of this title or \$500,000; and

(B) in the case of Guam, American Samoa, the United States Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, the greater of 5 percent of such allotment or \$100,000;

shall be available to such State to carry out the purposes of this section.

(3)(A) If the aggregate amount appropriated under section 3023 of this title for a fiscal year does not exceed \$800,000,000, then any State which desires to receive amounts, in addition to amounts allotted to such State under paragraph (1), to be used in the administration of its State plan in accordance with subsection (a) of this section may transmit an application to the Assistant Secretary in accordance with this paragraph. Any such application shall be transmitted in such form, and according to such procedures, as the Assistant Secretary may require, except that such application may not be made as part of, or as an amendment to, the State plan.

(B) The Assistant Secretary may approve any application transmitted by a State under sub-