

assistance for violation of section and for termination of Federal assistance on failure to comply, now incorporated in regulation authorization of subsec. (b) of this section.

Subsec. (b). Pub. L. 93-282 substituted provisions respecting issuance of regulations by the Secretary concerning enforcement procedures and suspension or revocation of Federal support and by the Administrator concerning applicable regulations for veterans, and for coordination of the respective regulations for former provisions respecting judicial review.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102-321, set out as a note under section 236 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-581 effective Oct. 21, 1976, see section 211 of Pub. L. 94-581, set out as a note under section 111 of Title 38, Veterans' Benefits.

REPORT OF ADMINISTRATOR OF VETERANS' AFFAIRS TO CONGRESSIONAL COMMITTEES; PUBLICATION IN FEDERAL REGISTER

Pub. L. 93-282, title I, §121(b), May 14, 1974, 88 Stat. 131, which directed Administrator of Veterans' Affairs to submit to appropriate committees of House of Representatives and Senate a full report (1) on regulations (including guidelines, policies, and procedures thereunder) he had prescribed pursuant to section 321(b)(2) of Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 [former 42 U.S.C. 290dd-2(b)(2)], (2) explaining bases for any inconsistency between such regulations and regulations of Secretary under section 321(b)(1) of such Act [42 U.S.C. 290dd-2(b)(1)], (3) on extent, substance, and results of his consultations with Secretary respecting prescribing and implementation of Administrator's regulations, and (4) containing such recommendations for legislation and administrative actions as he determined were necessary and desirable, with Administrator to submit report not later than sixty days after effective date of regulations prescribed by Secretary under such section 321(b)(1) [42 U.S.C. 290dd-2(b)(1)], and to publish such report in Federal Register, was characterized by section 111(c)(5) of Pub. L. 94-581 as having been superseded by section 4134 [now 7334] of Title 38, Veterans' Benefits.

§§ 290dd-3 to 290ee-3. Omitted

CODIFICATION

Sections 290dd-3 to 290ee-3 were omitted in the general revision of this part by Pub. L. 102-321.

Section 290dd-3, act July 1, 1944, ch. 373, title V, §544, formerly Pub. L. 91-616, title III, §333, Dec. 31, 1970, 84 Stat. 1853, as amended Pub. L. 93-282, title I, §122(a), May 14, 1974, 88 Stat. 131; Pub. L. 94-581, title I, §111(c)(4), Oct. 21, 1976, 90 Stat. 2852; renumbered §523 of act July 1, 1944, Apr. 26, 1983, Pub. L. 98-24, §2(b)(13), 97 Stat. 181; Aug. 27, 1986, Pub. L. 99-401, title I, §106(a), 100 Stat. 907; renumbered §544, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; June 13, 1991, Pub. L. 102-54, §13(q)(1)(A)(ii), 105 Stat. 278, related to confidentiality of patient records for alcohol abuse and alcoholism programs. See section 290dd-2 of this title.

Section 290ee, act July 1, 1944, ch. 373, title V, §545, formerly Pub. L. 92-255, title V, §502, as added Pub. L. 94-237, §12(b)(1), Mar. 19, 1976, 90 Stat. 247, and amended Pub. L. 95-461, §5, Oct. 14, 1978, 92 Stat. 1269; Pub. L. 96-181, §11, Jan. 2, 1980, 93 Stat. 1315; renumbered §524 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(15), 97 Stat. 181; renumbered §545, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; Nov. 4, 1988, Pub. L. 100-607, title VIII, §813(3), 102 Stat. 3170; Nov. 7, 1988, Pub. L. 100-628, title VI, §613(3), 102 Stat. 3243; Aug. 16, 1989, Pub. L. 101-93, §5(t)(1), 103 Stat. 615,

related to technical assistance to State and local agencies by National Institute on Drug Abuse.

Section 290ee-1, act July 1, 1944, ch. 373, title V, §546, formerly Pub. L. 92-255, title IV, §413, Mar. 21, 1972, 86 Stat. 84, as amended Pub. L. 96-181, §8(a), (b)(1), Jan. 2, 1980, 93 Stat. 1313, 1314; Pub. L. 97-35, title IX, §973(e), Aug. 13, 1981, 95 Stat. 598; renumbered §525 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(16)(A), 97 Stat. 182; Oct. 27, 1986, Pub. L. 99-570, title VI, §6002(b)(2), 100 Stat. 3207-159; renumbered §546, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; Nov. 4, 1988, Pub. L. 100-607, title VIII, §813(4), 102 Stat. 3171; Nov. 7, 1988, Pub. L. 100-628, title VI, §613(4), 102 Stat. 3243; Aug. 16, 1989, Pub. L. 101-93, §5(t)(1), 103 Stat. 615, related to drug abuse among government and other employees.

Section 290ee-2, act July 1, 1944, ch. 373, title V, §547, formerly Pub. L. 92-255, title IV, §407, Mar. 21, 1972, 86 Stat. 78, as amended Pub. L. 94-237, §6(a), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-581, title I, §111(c)(2), Oct. 21, 1976, 90 Stat. 2852; renumbered §526 of act July 1, 1944, Apr. 26, 1983, Pub. L. 98-24, §2(b)(16)(B), 97 Stat. 182; renumbered §547, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516, related to admission of drug abusers to private and public hospitals.

Section 290ee-3, act July 1, 1944, ch. 373, title V, §548, formerly Pub. L. 92-255, title IV, §408, Mar. 21, 1972, 86 Stat. 79, as amended Pub. L. 93-282, title III, §303(a), (b), May 14, 1974, 88 Stat. 137, 138; Pub. L. 94-237, §4(c)(5)(A), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-581, title I, §111(c)(3), Oct. 21, 1976, 90 Stat. 2852; Pub. L. 97-35, title IX, §973(d), Aug. 13, 1981, 95 Stat. 598; renumbered §527 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(16)(B), 97 Stat. 182; Aug. 27, 1986, Pub. L. 99-401, title I, §106(b), 100 Stat. 907; renumbered §548, July 22, 1987, Pub. L. 100-77, title VI, §611(2), 101 Stat. 516; June 13, 1991, Pub. L. 102-54, §13(q)(1)(A)(iii), (B)(ii), 105 Stat. 278, related to confidentiality of patient records for drug abuse programs. See section 290dd-2 of this title.

PART E—CHILDREN WITH SERIOUS EMOTIONAL DISTURBANCES

§ 290ff. Comprehensive community mental health services for children with serious emotional disturbances

(a) Grants to certain public entities

(1) In general

The Secretary, acting through the Director of the Center for Mental Health Services, shall make grants to public entities for the purpose of providing comprehensive community mental health services to children with a serious emotional disturbance.

(2) "Public entity" defined

For purposes of this part, the term "public entity" means any State, any political subdivision of a State, and any Indian tribe or tribal organization (as defined in section 450b(b) and section 450b(c)<sup>1</sup> of title 25).

(b) Considerations in making grants

(1) Requirement of status as grantee under part B of subchapter XVII

The Secretary may make a grant under subsection (a) of this section to a public entity only if—

(A) in the case of a public entity that is a State, the State is a grantee under section 300x of this title;

(B) in the case of a public entity that is a political subdivision of a State, the State in

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

which the political subdivision is located is such a grantee; and

(C) in the case of a public entity that is an Indian tribe or tribal organization, the State in which the tribe or tribal organization is located is such a grantee.

**(2) Requirement of status as medicaid provider**

(A) Subject to subparagraph (B), the Secretary may make a grant under subsection (a) of this section only if, in the case of any service under such subsection that is covered in the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved—

(i) the public entity involved will provide the service directly, and the entity has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the public entity will enter into an agreement with an organization under which the organization will provide the service, and the organization has entered into such a participation agreement and is qualified to receive such payments.

(B)(i) In the case of an organization making an agreement under subparagraph (A)(ii) regarding the provision of services under subsection (a) of this section, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Secretary if the organization does not, in providing health or mental health services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(ii) A determination by the Secretary of whether an organization referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the organization accepts voluntary donations regarding the provision of services to the public.

**(3) Certain considerations**

In making grants under subsection (a) of this section, the Secretary shall—

(A) equitably allocate such assistance among the principal geographic regions of the United States;

(B) consider the extent to which the public entity involved has a need for the grant; and

(C) in the case of any public entity that is a political subdivision of a State or that is an Indian tribe or tribal organization—

(i) shall consider any comments regarding the application of the entity for such a grant that are received by the Secretary from the State in which the entity is located; and

(ii) shall give special consideration to the entity if the State agrees to provide a portion of the non-Federal contributions required in subsection (c) of this section regarding such a grant.

**(c) Matching funds**

**(1) In general**

A funding agreement for a grant under subsection (a) of this section is that the public en-

tity involved will, with respect to the costs to be incurred by the entity in carrying out the purpose described in such subsection, make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that—

(A) for the first fiscal year for which the entity receives payments from a grant under such subsection, is not less than \$1 for each \$3 of Federal funds provided in the grant;

(B) for any second or third such fiscal year, is not less than \$1 for each \$3 of Federal funds provided in the grant;

(C) for any fourth such fiscal year, is not less than \$1 for each \$1 of Federal funds provided in the grant; and

(D) for any fifth and sixth such fiscal year,<sup>2</sup> is not less than \$2 for each \$1 of Federal funds provided in the grant.

**(2) Determination of amount contributed**

(A) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(B) In making a determination of the amount of non-Federal contributions for purposes of subparagraph (A), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the public entity involved toward the purpose described in subsection (a) of this section for the 2-year period preceding the first fiscal year for which the entity receives a grant under such section.

(July 1, 1944, ch. 373, title V, § 561, as added Pub. L. 102-321, title I, § 119, July 10, 1992, 106 Stat. 349; amended Pub. L. 103-43, title XX, § 2017(1), June 10, 1993, 107 Stat. 218; Pub. L. 106-310, div. B, title XXXI, § 3105(a), Oct. 17, 2000, 114 Stat. 1175.)

REFERENCES IN TEXT

Subsections (b) and (c) of section 450b of title 25, referred to in subsec. (a)(2), do not contain definitions of the terms "Indian tribe" and "tribal organization". However, such terms are defined elsewhere in section 450b of Title 25, Indians.

The Social Security Act, referred to in subsec. (b)(2)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§ 1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

PRIOR PROVISIONS

A prior section 290ff, act July 1, 1944, ch. 373, title V, § 561, as added Nov. 18, 1988, Pub. L. 100-690, title II, § 2081(a), 102 Stat. 4216, which related to action by National Institute on Drug Abuse and States concerning military facilities, was renumbered section 513 of act July 1, 1944, by Pub. L. 102-321 and transferred to section 290bb-6 of this title.

AMENDMENTS

2000—Subsec. (c)(1)(D). Pub. L. 106-310 substituted "fifth and sixth such fiscal year" for "fifth such fiscal year".

<sup>2</sup> So in original. Probably should be "years,".

1993—Subsec. (a)(2). Pub. L. 103-43, §2017(1)(A), substituted “this part” for “this subpart”.

Subsec. (b)(1)(B), (C). Pub. L. 103-43, §2017(1)(B), substituted “is such a grantee” for “is receiving such payments”.

#### EFFECTIVE DATE

Part effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102-321, set out as an Effective Date of 1992 Amendment note under section 236 of this title.

#### CURRENT GRANTEES

Pub. L. 106-310, div. B, title XXXI, §3105(e), Oct. 17, 2000, 114 Stat. 1175, provided that:

“(1) IN GENERAL.—Entities with active grants under section 561 of the Public Health Service Act (42 U.S.C. 290ff) on the date of the enactment of this Act [Oct. 17, 2000] shall be eligible to receive a sixth year of funding under the grant in an amount not to exceed the amount that such grantee received in the fifth year of funding under such grant. Such sixth year may be funded without requiring peer and Advisory Council review as required under section 504 of such Act (42 U.S.C. 290aa-3).

“(2) LIMITATION.—Paragraph (1) shall apply with respect to a grantee only if the grantee agrees to comply with the provisions of section 561 as amended by subsection (a).”

### § 290ff-1. Requirements with respect to carrying out purpose of grants

#### (a) Systems of comprehensive care

##### (1) In general

A funding agreement for a grant under section 290ff(a) of this title is that, with respect to children with a serious emotional disturbance, the public entity involved will carry out the purpose described in such section only through establishing and operating 1 or more systems of care for making each of the mental health services specified in subsection (c) of this section available to each child provided access to the system. In providing for such a system, the public entity may make grants to, and enter into contracts with, public and nonprofit private entities.

##### (2) Structure of system

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under paragraph (1) will—

(A) be established in a community selected by the public entity involved;

(B) consist of such public agencies and nonprofit private entities in the community as are necessary to ensure that each of the services specified in subsection (c) of this section is available to each child provided access to the system;

(C) be established pursuant to agreements that the public entity enters into with the agencies and entities described in subparagraph (B);

(D) coordinate the provision of the services of the system; and

(E) establish an office whose functions are to serve as the location through which children are provided access to the system, to coordinate the provision of services of the system, and to provide information to the public regarding the system.

##### (3) Collaboration of local public entities

A funding agreement for a grant under section 290ff(a) of this title is that, for purposes

of the establishment and operation of a system of care under paragraph (1), the public entity involved will seek collaboration among all public agencies that provide human services in the community in which the system is established, including but not limited to those providing mental health services, educational services, child welfare services, or juvenile justice services.

#### (b) Limitation on age of children provided access to system

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under subsection (a) of this section will not provide an individual with access to the system if the individual is more than 21 years of age.

#### (c) Required mental health services of system

A funding agreement for a grant under section 290ff(a) of this title is that mental health services provided by a system of care under subsection (a) of this section will include, with respect to a serious emotional disturbance in a child—

(1) diagnostic and evaluation services;

(2) outpatient services provided in a clinic, office, school or other appropriate location, including individual, group and family counseling services, professional consultation, and review and management of medications;

(3) emergency services, available 24-hours a day, 7 days a week;

(4) intensive home-based services for children and their families when the child is at imminent risk of out-of-home placement;

(5) intensive day-treatment services;

(6) respite care;

(7) therapeutic foster care services, and services in therapeutic foster family homes or individual therapeutic residential homes, and groups homes caring for not more than 10 children; and

(8) assisting the child in making the transition from the services received as a child to the services to be received as an adult.

#### (d) Required arrangements regarding other appropriate services

##### (1) In general

A funding agreement for a grant under section 290ff(a) of this title is that—

(A) a system of care under subsection (a) of this section will enter into a memorandum of understanding with each of the providers specified in paragraph (2) in order to facilitate the availability of the services of the provider involved to each child provided access to the system; and

(B) the grant under such section 290ff(a) of this title, and the non-Federal contributions made with respect to the grant, will not be expended to pay the costs of providing such non-mental health services to any individual.

##### (2) Specification of non-mental health services

The providers referred to in paragraph (1) are providers of medical services other than mental health services, providers of educational services, providers of vocational counseling and vocational rehabilitation serv-