

§ 300e-11. Continued regulation of health maintenance organizations

(a) Determination of deficiency

If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this subchapter as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 300e-9 of this title—

(1) fails to provide basic and supplemental services to its members,

(2) fails to provide such services in the manner prescribed by section 300e(b) of this title, or

(3) is not organized or operated in the manner prescribed by section 300e(c) of this title,

the Secretary may take the action authorized by subsection (b) of this section.

(b) Action by Secretary upon determination

(1) If the Secretary makes, with respect to any entity which provided assurances to the Secretary under section 300e-9(d)(1)¹ of this title, a determination described in subsection (a) of this section, the Secretary shall notify the entity in writing of the determination. Such notice shall specify the manner in which the entity has not complied with such assurances and direct that the entity initiate (within 30 days of the date the notice is issued by the Secretary or within such longer period as the Secretary determines is reasonable) such action as may be necessary to bring (within such period as the Secretary shall prescribe) the entity into compliance with the assurances. If the entity fails to initiate corrective action within the period prescribed by the notice or fails to comply with the assurances within such period as the Secretary prescribes, then after the Secretary provides the entity a reasonable opportunity for reconsideration of his determination, including, at the entity's election, a fair hearing (A) the entity shall not be a qualified health maintenance organization for purposes of section 300e-9 of this title until such date as the Secretary determines that it is in compliance with the assurances, and (B) each employer which has offered membership in the entity in compliance with section 300e-9 of this title, each lawfully recognized collective bargaining representative or other employee representative which represents the employees of each such employer, and the members of such entity shall be notified by the entity that the entity is not a qualified health maintenance organization for purposes of such section. The notice required by clause (B) of the preceding sentence shall contain, in readily understandable language, the reasons for the determination that the entity is not a qualified health maintenance organization. The Secretary shall publish in the Federal Register each determination referred to in this paragraph.

(2) If the Secretary makes, with respect to an entity which has received a grant, contract, loan, or loan guarantee under this subchapter, a determination described in subsection (a) of this section, the Secretary may, in addition to any other remedies available to him, bring a civil

action in the United States district court for the district in which such entity is located to enforce its compliance with the assurances it furnished respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made in connection with its application under this subchapter for the grant, contract, loan, or loan guarantee.

(July 1, 1944, ch. 373, title XIII, §1312, as added Pub. L. 93-222, §2, Dec. 29, 1973, 87 Stat. 931; amended Pub. L. 94-460, title I, §111, Oct. 8, 1976, 90 Stat. 1952; Pub. L. 95-559, §12(a)(2), Nov. 1, 1978, 92 Stat. 2140; Pub. L. 97-35, title IX, §949(a), Aug. 13, 1981, 95 Stat. 578.)

REFERENCES IN TEXT

Section 300e-9(d)(1) of this title, referred to in subsec. (b)(1), was redesignated section 300e-9(c)(1) of this title by Pub. L. 100-517, §7(b), Oct. 24, 1988, 102 Stat. 2580.

PRIOR PROVISIONS

A prior section 1312 of act July 1, 1944, was classified to section 212a of this title prior to repeal by Pub. L. 93-222, §7(b).

AMENDMENTS

1981—Subsec. (b)(1). Pub. L. 97-35 inserted provisions relating to opportunity for reconsideration of determination of Secretary.

1978—Subsec. (c). Pub. L. 95-559 struck out subsec. (c) which provided that the Secretary, acting through the Assistant Secretary for Health, administer subsections (a) and (b) of this section in the Office of the Assistant Secretary for Health.

1976—Subsec. (a). Pub. L. 94-460, §111(a), substituted “the Secretary may take the action authorized by subsection (b) of this section” for “the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 300e-9 of this title or when application was made under this subchapter for a grant, contract, loan, or loan guarantee”.

Subsecs. (b), (c). Pub. L. 94-460, §111(b), (c), added subsec. (b), redesignated former subsec. (b) as (c), and substituted “acting through the Assistant Secretary for Health, shall administer subsections (a) and (b) of this section” for “through the Assistant Secretary for Health, shall administer subsection (a) of this section”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 applicable with respect to determinations of the Secretary of Health, Education, and Welfare described in subsec. (a) of this section and made after Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of this title.

§ 300e-12. Limitation on source of funding for health maintenance organizations

No funds appropriated under any provision of this chapter (except as provided in sections 254b¹ and 254b of this title) other than this subchapter may be used—

(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance

¹ See References in Text note below.

¹ See References in Text note below.