

Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the disbursement and a copy of the written determination made with respect to it and the reasons for the determination) through September 30, 1979, and \$2,000,000 thereafter” after “\$1,000,000” and substituted “any twelve-month period” for “any fiscal year”.

Subsec. (d). Pub. L. 95-559, §2(b), substituted “September 30, 1981” for “September 30, 1980”.

1976—Subsec. (a)(1), (2). Pub. L. 94-460, §§107(c), 109(a)(1), substituted “during a period not to exceed the first sixty months” for “in the period of the first thirty-six months”.

Subsec. (a)(3). Pub. L. 94-460, §108(c), substituted reference to loans made to nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or to other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population for reference to loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

Subsec. (b)(1). Pub. L. 94-460, §109(a)(2), substituted “In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed \$1,000,000” for “In any fiscal year, the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed \$1,000,000,000”.

Subsec. (d). Pub. L. 94-460, §113(b), substituted “No loan may be made or guaranteed under this section after September 30, 1980” for “A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978”.

Pub. L. 94-273 substituted “September” for “June”.

Subsec. (f). Pub. L. 94-460, §108(d)(2), added subsec. (f). 1975—Subsec. (b)(1). Pub. L. 93-641 substituted provisions that amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed \$1,000,000,000 for provisions that principal amount of any loan made or guaranteed under subsec. (a) of this section for a health maintenance organization may not exceed \$1,000,000.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-660, title VIII, §804(b), Nov. 14, 1986, 100 Stat. 3800, provided that: “The amendment made by subsection (a) [amending this section] does not apply to any loan or loan guarantee for the initial costs of operation of a health maintenance organization made under title XIII of the Public Health Service Act [42 U.S.C. 300e et seq.] before October 1, 1985.”

Amendment by Pub. L. 99-660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99-660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e-1 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-559, §4(d), Nov. 1, 1978, 92 Stat. 2133, provided that: “The amendments made by this section [amending this section and section 300e-7 of this title] shall only be effective for fiscal years beginning on or after October 1, 1978.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that the amendment of subsec. (a)(1), (2) of this section by section 107(c) of Pub. L. 94-460 applicable with respect to grants, contracts, loans, and loan guarantees made under this section and sections 300e-2 and 300e-3 of this title for fiscal years beginning after Sept.

30, 1976, and except that the amendment of subsec. (a)(1), (2) of this section by section 109(a)(1) of Pub. L. 94-460 applicable with respect to loan guarantees made under this section after Sept. 30, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of this title.

§ 300e-4a. Repealed. Pub. L. 99-660, title VIII, § 805(a), Nov. 14, 1986, 100 Stat. 3800

Section, act July 1, 1944, ch. 373, title XIII, §1305A, as added Nov. 1, 1978, Pub. L. 95-559, §5(a), 92 Stat. 2133; amended July 10, 1979, Pub. L. 96-32, §2(e), 93 Stat. 82; Aug. 13, 1981, Pub. L. 97-35, title IX, §944, 95 Stat. 576, related to loans and loan guarantees for acquisition and construction of ambulatory health care facilities.

EFFECTIVE DATE OF REPEAL

Repeal not applicable to any loan or loan guarantee made under this section before Oct. 1, 1985, see section 805(c) of Pub. L. 99-660, set out as an Effective Date of 1986 Amendment note under section 300e-5 of this title.

Repeal effective Oct. 1, 1985, see section 815(a) of Pub. L. 99-660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e-1 of this title.

§ 300e-5. Application requirements

(a) Submission to and approval by Secretary required for making loans and loan guarantees

No loan or loan guarantee may be made under this subchapter unless an application therefor has been submitted to, and approved by, the Secretary.

(b) Application contents

The Secretary may not approve an application for a loan or loan guarantee under this subchapter unless—

(1) such application meets the requirements of section 300e-7 of this title;

(2) in the case of an application for assistance under section 300e-4 of this title, he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 300e(c) of this title, (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administrative, managerial, and fi-

financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

(5) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this subchapter, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this subchapter and with the plans contained in previous applications for such assistance;

(6) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 300e(b) of this title respecting the fixing of basic health services payments and supplemental health services payments under a community rating system; and

(7) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one loan or loan guarantee under this subchapter, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe. In determining, for purposes of paragraph (2), whether an applicant would be able to complete a project or undertaking without the assistance applied for, the Secretary shall not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant.

(c) Regulations

The Secretary shall by regulation establish standards and procedures for health systems agencies to follow in reviewing and commenting on applications for loans and loan guarantees under this subchapter.

(July 1, 1944, ch. 373, title XIII, §1306, as added Pub. L. 93-222, §2, Dec. 29, 1973, 87 Stat. 925; amended Pub. L. 94-460, title I, §§105(a)(3),

117(b)(5), (6), Oct. 8, 1976, 90 Stat. 1948, 1955; Pub. L. 95-559, §12(b), (c), Nov. 1, 1978, 92 Stat. 2140; Pub. L. 99-660, title VIII, §§803(b)(1), 805(b), 806, Nov. 14, 1986, 100 Stat. 3799, 3800.)

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-660, §803(b)(1)(A), substituted “loan” for “grant, contract, loan.”

Subsec. (b). Pub. L. 99-660, §803(b)(1)(A), substituted “loan” for “grant, contract, loan,” in introductory text and in second sentence.

Subsec. (b)(1). Pub. L. 99-660, §803(b)(1)(B), struck out “in the case of an application for assistance under section 300e-2 or 300e-3 of this title, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee,” before “such application”.

Subsec. (b)(2). Pub. L. 99-660, §805(b), struck out reference to section 300e-4a.

Pub. L. 99-660, §803(b)(1)(C), struck out reference to section 300e-3.

Subsec. (b)(5) to (8). Pub. L. 99-660, §806, redesignated pars. (6), (7), and (8) as (5), (6), and (7), respectively, and struck out former par. (5) which read as follows: “each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted;”.

Subsec. (c). Pub. L. 99-660, §803(b)(1)(D), substituted “loans” for “grants, contracts, loans.”

1978—Subsec. (b). Pub. L. 95-559 in par. (2) inserted “in the case of an application for assistance under section 300e-3, 300e-4, or 300e-4a of this title,” before “he determines” and in provisions following par. (8) inserted provision that in determining, for purposes of par. (2), whether an applicant would be able to complete a project or undertaking without the assistance applied for, the Secretary not consider any asset of the applicant the obligation of which for such undertaking or project would jeopardize the fiscal soundness of the applicant.

1976—Subsec. (b)(5). Pub. L. 94-460, §117(b)(5), substituted “each health systems agency designated for a health service area which covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted;” for “the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;”.

Subsec. (b)(7), (8). Pub. L. 94-460, §105(a)(3), added par. (7) and redesignated former par. (7) as (8).

Subsec. (c). Pub. L. 94-460, §117(b)(6), substituted “health systems agencies” for “section 314(b) areawide health planning agencies and section 314(a) State health planning agencies”.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-660, title VIII, §803(c), Nov. 14, 1986, 100 Stat. 3800, provided that: “The amendments made by this section [amending this section and sections 300e-6, 300e-8, and 300e-16 of this title and repealing sections 300e-2 and 300e-3 of this title] do not apply to any grant made or contract entered into under title XIII of the Public Health Service Act [42 U.S.C. 300e et seq.] before October 1, 1985.”

Pub. L. 99-660, title VIII, §805(c), Nov. 14, 1986, 100 Stat. 3800, provided that: “The amendments made by

this section [amending this section and repealing section 300e-4a of this title] do not apply to any loan or loan guarantee made under section 1305A of the Public Health Service Act [former 42 U.S.C. 300e-4a] before October 1, 1985.”

Amendment by Pub. L. 99-660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99-660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e-1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of this title.

§ 300e-6. Administration of assistance programs

(a) Recordkeeping; audit and examination

(1) Each recipient of a loan or loan guarantee under this subchapter shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the loan (directly made or guaranteed), the total cost of the undertaking in connection with which the loan was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a loan or loan guarantee under this subchapter which relate to such assistance.

(b) Report upon expiration of period

Upon expiration of the period for which a loan or loan guarantee was provided an entity under this subchapter, such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in section 300e-5(b)(3) of this title.

(c) Repealed. Pub. L. 99-660, title VIII, § 803(a), Nov. 14, 1986, 100 Stat. 3799

(d) Other entities considered health maintenance organizations

An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] or to medical assistance under a State plan approved under title XIX of such Act [42 U.S.C. 1396 et seq.] may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if—

(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 300e(b) of this title, except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII [42 U.S.C. 1395 et seq.] or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a commu-

nity rating system, and (B) is organized and operated in the manner prescribed by section 300e(c) of this title, except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

(2) with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

An entity which provides health services to a defined population on a prepaid basis and which has members who are enrolled under the health benefits program authorized by chapter 89 of title 5, may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter if with respect to its other members it provides health services in accordance with section 300e(b) of this title and is organized and operated in the manner prescribed by section 300e(c) of this title.

(July 1, 1944, ch. 373, title XIII, §1307, as added Pub. L. 93-222, §2, Dec. 29, 1973, 87 Stat. 926; amended Pub. L. 94-460, title I, §§109(b)(1), 112, Oct. 8, 1976, 90 Stat. 1950, 1953; Pub. L. 97-35, title IX, §943(d), Aug. 13, 1981, 95 Stat. 576; Pub. L. 99-660, title VIII, §803(a), (b)(2), Nov. 14, 1986, 100 Stat. 3799, 3800.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1986—Subsec. (a)(1). Pub. L. 99-660, §803(b)(2), substituted “loan or loan guarantee” for “grant, contract, loan, or loan guarantee”, “proceeds of the loan” for “proceeds of the grant, contract, or loan”, and “with which the loan was given” for “with which such assistance was given”.

Subsecs. (a)(2), (b). Pub. L. 99-660, §803(b)(2)(A), substituted “loan or loan guarantee” for “grant, contract, loan, or loan guarantee”.

Subsec. (c). Pub. L. 99-660, §803(a), struck out subsec. (c) which read as follows: “If in any fiscal year the funds appropriated under section 300e-3 of this title are insufficient to fund all applications approved under this subchapter for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 300e-2 and 300e-3 of this title, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.”

1981—Subsec. (e). Pub. L. 97-35 struck out subsec. (e) which related to limitation on cumulative total of loan guarantees in any fiscal year.

1976—Subsec. (d). Pub. L. 94-460, §112, inserted sentence at end setting conditions upon which an entity providing health services to a defined population on a prepaid basis may be considered as a health maintenance organization for purposes of receiving assistance under this subchapter.

Subsec. (e). Pub. L. 94-460, §109(b)(1), inserted “for a private health maintenance organization (other than a private nonprofit health maintenance organization)”