

(2) Duties

A condition under paragraph (1) for a State is that the duties of the Committee are—

(A) to hold public hearings on the State plan required in subsection (a)(2) of this section; and

(B) to make recommendations pursuant to subsection (b)(1) of this section regarding the development and implementation of such plan, including recommendations on—

(i) the conduct of assessments of the public health;

(ii) which of the activities authorized in section 300w-3 of this title should be carried out in the State;

(iii) the allocation of payments made to the State under section 300w-2 of this title;

(iv) the coordination of activities carried out under such plan with relevant programs of other entities; and

(v) the collection and reporting of data in accordance with section 300w-5(a) of this title.

(3) Composition

(A) A condition under paragraph (1) for a State is that the Committee is composed of such members of the general public, and such officials of the health departments of political subdivisions of the State, as may be necessary to provide adequate representation of the general public and of such health departments.

(B) With respect to compliance with subparagraph (A), the membership of advisory committees established pursuant to subsection (c)(2) of this section may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized in section 300w-3 of this title.

(4) Chair; meetings

A condition under paragraph (1) for a State is that the State public health officer serves as the chair of the Committee, and that the Committee meets not less than twice each fiscal year.

(July 1, 1944, ch. 373, title XIX, §1905, as added Pub. L. 97-35, title IX, §901, Aug. 13, 1981, 95 Stat. 538; amended Pub. L. 98-555, §5(a), (d), Oct. 30, 1984, 98 Stat. 2855, 2856; Pub. L. 99-646, §87(d)(1)(B), Nov. 10, 1986, 100 Stat. 3624; Pub. L. 99-654, §3(b)(1)(B), Nov. 14, 1986, 100 Stat. 3663; Pub. L. 100-607, title III, §301(c), Nov. 4, 1988, 102 Stat. 3112; Pub. L. 101-590, §4, Nov. 16, 1990, 104 Stat. 2928; Pub. L. 102-531, title I, §103(a), Oct. 27, 1992, 106 Stat. 3470.)

AMENDMENTS

1992—Pub. L. 102-531 amended section generally, substituting present provisions for provisions relating to submission and form of application for assistance under this part as well as required assurances, public hearings on proposed use and distribution of funds, certifications by chief executive officer of State, and a description of intended use of funds as well as public access to and revision of such description.

1990—Subsec. (c). Pub. L. 101-590, which directed amendment of subsec. (c) by adding at the end thereof a new par. (7), was executed by adding par. (7) after par.

(6) and before the last sentence to reflect the probable intent of Congress.

1988—Subsec. (d). Pub. L. 100-607 inserted at end “The description shall include a statement of the public health objectives expected to be achieved by the State through the use of the payments the State will receive under section 300w-2 of this title.”

1986—Subsec. (c)(6). Pub. L. 99-646 and Pub. L. 99-654 amended par. (6) identically, substituting “sex offense” for “rape”.

1984—Subsec. (c)(2). Pub. L. 98-555, §5(a), redesignated par. (3) as (2). Former par. (2), which related to grants for fiscal year 1982, was struck out.

Subsec. (c)(3). Pub. L. 98-555, §5(a), redesignated par. (5) as (3). Former par. (3) redesignated (2).

Subsec. (c)(4). Pub. L. 98-555, §5(a), redesignated par. (6) as (4). Former par. (4), which related to grants for preventive health service programs for hypertension, was struck out.

Subsec. (c)(5) to (8). Pub. L. 98-555, §5(a), redesignated pars. (7) and (8) as (5) and (6), respectively. Former pars. (5) and (6) redesignated (3) and (4), respectively.

Subsec. (e). Pub. L. 98-555, §5(d), struck out subsec. (e) which related to grants by States.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendments by Pub. L. 99-646 and Pub. L. 99-654 effective 30 days after Nov. 10, 1986, and 30 days after Nov. 14, 1986, respectively, see section 87(e) of Pub. L. 99-646 and section 4 of Pub. L. 99-654, set out as an Effective Date note under section 2241 of Title 18, Crimes and Criminal Procedure.

DELAYED APPLICABILITY OF REQUIREMENT REGARDING ADVISORY COMMITTEES

Pub. L. 102-531, title I, §103(b), Oct. 27, 1992, 106 Stat. 3473, provided that: “With respect to compliance with the requirement established in subsection (c)(2) of section 1905 of the Public Health Service Act [42 U.S.C. 300w-4(c)(2)] (as amended by subsection (a) of this section), a State is deemed, notwithstanding such section, to be in compliance with such requirement if the State establishes an advisory committee in accordance with subsection (d) of such section not later than 180 days after the date of the enactment of this Act [Oct. 27, 1992].”

§ 300w-5. Reports, data, and audits**(a) Annual reports; contents; data collection; copies**

(1) For purposes of section 300w-4(c)(5)(B)(i) of this title, a State is collecting and reporting data for a fiscal year in accordance with this subsection if the State submits to the Secretary, not later than February 1 of the succeeding fiscal year, a report that—

(A) describes the purposes for which the State expended payments made to the State under section 300w-2 of this title;

(B) pursuant to section 300w-4(c)(5)(A) of this title, describes the extent of progress made by the State for purposes of such section;

(C) meets the conditions described in the subsequent paragraphs of this subsection; and

(D) contains such additional information regarding activities authorized in section 300w-3 of this title, and is submitted in such form, as the Secretary may require.

(2)(A) The Secretary, in consultation with the States, shall develop sets of data for uniformly defining health status for purposes of the year 2000 health objectives (which sets are in this subsection referred to as “uniform data sets”). Each of such sets shall consist of one or more

categories of information (in this subsection individually referred to as a “uniform data item”). The Secretary shall develop formats for the uniform collecting and reporting of information on such items.

(B) A condition under paragraph (1)(C) for a fiscal year is that the State involved will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for one uniform data item from each of the uniform data sets, which items are selected for the State by the Secretary.

(C) In the case of fiscal year 1995 and each subsequent fiscal year, a condition under paragraph (1) for a State is that the State will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for each of the uniform data sets appropriate to the year 2000 health objectives that the State has, in the State plan submitted under section 300w-4 of this title for the fiscal year, specified as a purpose for which payments under section 300w-2 of this title are to be expended.

(3) The Secretary, in consultation with the States, shall establish criteria for the uniform collection and reporting of data on activities authorized in section 300w-3 of this title with respect to which no uniform data items exist.

(4) A condition under paragraph (1) for a fiscal year is that the State involved will make copies of the report submitted under such paragraph for the fiscal year available for public inspection, and will upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(b) Fiscal control; accounting procedures; annual audits; repayments and offsets; public inspection; Comptroller General evaluations; report to Congress

(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under section 300w-2 of this title and funds transferred under section 300w-3(c) of this title for use under this part.

(2) Each State shall annually audit its expenditures from payments received under section 300w-2 of this title. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, in so far as practical, in accordance with the Comptroller General’s standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certification provided by the State under section 300w-4 of this title. If such repayment is not made, the Secretary shall, after providing the State with adequate

notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this part.

(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part and the certification provided by the State under section 300w-4 of this title.

(6) Not later than October 1, 1990, the Secretary shall report to the Congress on the activities of the States that have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

(c) Inapplicability of title XVII of Omnibus Budget Reconciliation Act of 1981

Title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to audits of funds allotted under this part.

(July 1, 1944, ch. 373, title XIX, § 1906, as added Pub. L. 97-35, title IX, § 901, Aug. 13, 1981, 95 Stat. 540; amended Pub. L. 98-555, § 5(b), (c), Oct. 30, 1984, 98 Stat. 2855, 2856; Pub. L. 100-607, title III, § 301(d), Nov. 4, 1988, 102 Stat. 3112; Pub. L. 102-531, title I, § 104, Oct. 27, 1992, 106 Stat. 3473.)

REFERENCES IN TEXT

The Omnibus Budget Reconciliation Act of 1981, referred to in subsec. (c), is Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 357, as amended. Title XVII of the Omnibus Budget Reconciliation Act of 1981 enacted sections 3595, and 4511 to 4514 of Title 5, Government Organization and Employees, amended sections 3393, 3593, 3596, 4501, 4502, 4505, 4506, 7542, 7543, 8340, and 8345 of Title 5, and sections 2003 and 2401 of Title 39, Postal Service, and enacted provisions set out as notes under sections 3595, 4501, 5303, 5343, 8340, and 8345 of Title 5, section 1243 of former Title 31, Money and Finance, and sections 403, 2003, 2004, and 2401 of Title 39. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1992—Pub. L. 102-531, § 104(b)(1), substituted “Reports, data, and audits” for “Reports and audits” in section catchline.

Subsec. (a). Pub. L. 102-531, § 104(a), amended subsec. (a) generally, substituting present provisions for provisions requiring an annual report by each State of its activities under this part, outlining the contents of such report, and for providing copies of the report to interested persons.

Subsec. (d). Pub. L. 102-531, § 104(b)(2), struck out subsec. (d) which provided for development of model criteria and forms for collection of data and information on services provided under this part.

1988—Subsec. (a)(3). Pub. L. 100-607, § 301(d)(1), added par. (3).

Subsec. (b)(6). Pub. L. 100-607, § 301(d)(2), substituted “1990” for “1983”.

1984—Subsec. (a)(1)(B). Pub. L. 98-555, § 5(b), substituted “preventive health and preventive health services programs in the State assisted by funds from allotments under this part, including a summary of the services which were provided, the providers of such services, and the individuals who received such services” for “activities of the State under this part”.

Subsec. (d). Pub. L. 98-555, § 5(c), added subsec. (d).

§ 300w-6. Withholding of funds**(a) Prerequisites**

(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certification provided under section 300w-4 of this title. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certification provided under section 300w-4 of this title. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 300w-4 of this title.

(4) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this part or certifications provided under section 300w-4 of this title.

(b) Investigations

(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part and certifications provided under section 300w-4 of this title.

(2) The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 300w-4 of this title.

(c) Availability of books, documents, papers, and records

Each State, and each entity which has received funds from an allotment made to a State under this part, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

(d) Information not readily available

(1) In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

(July 1, 1944, ch. 373, title XIX, § 1907, as added Pub. L. 97-35, title IX, § 901, Aug. 13, 1981, 95 Stat. 541.)

§ 300w-7. Nondiscrimination provisions**(a) Programs and activities receiving Federal financial assistance**

(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], on the basis of handicap under section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], on the basis of sex under title IX of the Education Amendments of 1972 [20 U.S.C. 1681 et seq.], or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part.

(b) Failure to comply

Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 300w-1 of this title, has failed to comply with a provision of law referred to in subsection (a)(1) of this section, with subsection (a)(2) of this section, or with an applicable regulation (including one prescribed to carry out subsection (a)(2) of this section), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 [42 U.S.C. 2000d et seq.], the Age Discrimination Act of 1975 [42 U.S.C. 6101 et seq.], or section 504 of the Rehabilitation Act of 1973 [29 U.S.C. 794], as may be applicable, or

(3) take such other action as may be provided by law.

(c) Civil actions by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b)(1) of this section, or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) of this section or in violation of subsection (a)(2) of this section, the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief.