

State, to furnish financial assistance to aged needy individuals, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this subchapter. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health and Human Services (hereinafter referred to as the "Secretary"), State plans for old-age assistance.

(Aug. 14, 1935, ch. 531, title I, § 1, 49 Stat. 620; Aug. 28, 1950, ch. 809, title III, pt. 6, § 361(a), 64 Stat. 558; Aug. 1, 1956, ch. 836, title III, § 311(a), 70 Stat. 848; Pub. L. 86-778, title VI, § 601(b), Sept. 13, 1960, 74 Stat. 987; Pub. L. 87-543, title I, § 104(c)(1), July 25, 1962, 76 Stat. 185; Pub. L. 96-88, title V, § 509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97-35, title XXI, § 2184(a)(2), Aug. 13, 1981, 95 Stat. 816.)

#### REPEAL OF SECTION

*Pub. L. 92-603, title III, § 303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.*

#### AMENDMENTS

1981—Pub. L. 97-35 substituted "purpose of enabling" for "purpose (a) of enabling", struck out provisions designated as cls. (b) and (c) which authorized appropriations for the purpose of enabling each State to furnish medical assistance to aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the cost of necessary medical care and of encouraging each State to furnish rehabilitation and other services to individuals to attain and retain capability for self-care, and struck out ", or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged" after "plans for old-age assistance".

1962—Pub. L. 87-543 amended first sentence generally, striking from cl. (a) provision relating to the purpose of encouraging each State, as far as practicable under the conditions in the State, to help aged needy individuals attain self-care, and adding cl. (c) incorporating the struck out provision.

1960—Pub. L. 86-778 amended section generally, authorizing appropriations for the purpose of enabling each State, as far as practicable under the conditions in such State, to furnish medical assistance on behalf of aged individuals who are not recipients of old-age assistance but whose income and resources are insufficient to meet the costs of necessary medical services.

1956—Act Aug. 1, 1956, struck out specific appropriation for fiscal year ending June 30, 1956, and inserted provisions relating to attainment of self-care by individuals.

1950—Act Aug. 28, 1950, § 361(a), substituted "Federal Security Administrator (hereinafter referred to as the 'Administrator')" for "Social Security Board established by subchapter I of this chapter (hereinafter referred to as the 'Board')".

#### EFFECTIVE DATE OF 1960 AMENDMENT

Pub. L. 86-778, title VI, § 604, Sept. 13, 1960, 74 Stat. 992, provided that: "The amendments made by section 601 of this Act [amending this section and sections 302, 303, 304, and 306 of this title] shall take effect October 1, 1960, and the amendments made by section 602 [amending section 1308 of this title] shall be effective with respect to fiscal years ending after 1960."

#### CHANGE OF NAME

Secretary of Health and Human Services substituted in text for Secretary of Health, Education, and Welfare

pursuant to section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

#### SHORT TITLE

For short title of this chapter and of amendments thereto, see section 1305 of this title and Short Title notes set out thereunder.

#### DECLARATION OF PURPOSE OF TITLE III OF ACT AUGUST 1, 1956

Act Aug. 1, 1956, ch. 836, title III, § 300, 70 Stat. 846, provided that: "It is the purpose of this title [enacting sections 906 and 1310 of this title and amending this section and sections 302, 303, 601, 602, 603, 606, 1201, 1202, 1203, 1301, 1308, 1351, 1352, and 1353 of this title] (a) to promote the health of the Nation by assisting States to extend and broaden their provisions for meeting the costs of medical care for persons eligible for public assistance by providing for separate matching of assistance expenditures for medical care, (b) to promote the well-being of the Nation by encouraging the States to place greater emphasis on helping to strengthen family life and helping needy families and individuals attain the maximum economic and personal independence of which they are capable, (c) to assist in improving the administration of public assistance programs (1) through making grants and contracts, and entering into jointly financed cooperative arrangements, for research or demonstration projects and (2) through Federal-State programs of grants to institutions and traineeships and fellowships so as to provide training of public welfare personnel, thereby securing more adequately trained personnel, and (d) to improve aid to dependent children."

#### PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Pub. L. 92-603, title III, § 303(b), Oct. 30, 1972, 86 Stat. 1484, provided that: "The amendments made by sections 301 [enacting sections 1381 to 1383c of this title] and 302 [enacting sections 801 to 805 of this title] and the repeals made by subsection (a) [repealing this section and sections 302 to 306, 1201 to 1206, and 1351 to 1355 of this title] shall not be applicable in the case of Puerto Rico, Guam, and the Virgin Islands."

### § 302. State old-age plans

#### (a) Contents

A State plan for old-age assistance must—

(1) except to the extent permitted by the Secretary with respect to services, provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide (A) for granting an opportunity for a fair hearing before the State agency to any individual whose claim for assistance under the plan is denied or is not acted upon with reasonable promptness, and (B) that if the State plan is administered in each of the political subdivisions of the State by a local agency and such local agency provides a hearing at which evidence may be presented prior to a hearing before the State agency, such local agency may put into effect immediately upon issuance its decision upon the matter considered at such hearing;

(5) provide (A) such methods of administration (including methods relating to the estab-

lishment and maintenance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan, and (B) for the training and effective use of paid sub-professional staff, with particular emphasis on the full-time or part-time employment of recipients and other persons of low income, as community service aides, in the administration of the plan and for the use of nonpaid or partially paid volunteers in a social service volunteer program in providing services to applicants and recipients and in assisting any advisory committees established by the State agency;

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) provide safeguards which permit the use or disclosure of information concerning applicants or recipients only (A) to public officials who require such information in connection with their official duties, or (B) to other persons for purposes directly connected with the administration of the State plan;

(8) provide that all individuals wishing to make application for assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals;

(9) provide, if the plan includes assistance for or on behalf of individuals in private or public institutions, for the establishment or designation of a State authority or authorities which shall be responsible for establishing and maintaining standards for such institutions;

(10) if the State plan includes old-age assistance—

(A) provide that the State agency shall, in determining need for such assistance, take into consideration any other income and resources of an individual claiming old-age assistance, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (i) the State agency may disregard not more than \$7.50 per month of any income and (ii) of the first \$80 per month of additional income which is earned the State agency may disregard not more than the first \$20 thereof plus one-half of the remainder;

(B) include reasonable standards, consistent with the objectives of this subchapter, for determining eligibility for and the extent of such assistance; and

(C) provide a description of the services (if any) which the State agency makes available (using whatever internal organizational arrangement it finds appropriate for this purpose) to applicants for and recipients of such assistance to help them attain self-care, including a description of the steps

taken to assure, in the provision of such services, maximum utilization of other agencies providing similar or related services; and

(11) provide that information is requested and exchanged for purposes of income and eligibility verification in accordance with a State system which meets the requirements of section 1320b-7 of this title.

**(b) Approval by Secretary**

The Secretary shall approve any plan which fulfills the conditions specified in subsection (a) of this section, except that he shall not approve any plan which imposes, as a condition of eligibility for assistance under the plan—

(1) an age requirement of more than sixty-five years; or

(2) any residence requirement which (A) in the case of applicants for old-age assistance, excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for old-age assistance and has resided therein continuously for one year immediately preceding the application, and (B) in the case of applicants for medical assistance for the aged, excludes any individual who resides in the State; or

(3) any citizenship requirement which excludes any citizen of the United States.

At the option of the State, the plan may provide that manuals and other policy issuances will be furnished to persons without charge for the reasonable cost of such materials, but such provision shall not be required by the Secretary as a condition for the approval of such plan under this subchapter.

**(c) Limitation on number of plans**

Nothing in this subchapter shall be construed to permit a State to have in effect with respect to any period more than one State plan approved under this subchapter.

(Aug. 14, 1935, ch. 531, title I, §2, 49 Stat. 620; Aug. 10, 1939, ch. 666, title I, §101, 53 Stat. 1360; Aug. 28, 1950, ch. 809, title III, pt. 1, §301(a), (b), pt. 6, §361(c), (d), 64 Stat. 548, 558; Aug. 1, 1956, ch. 836, title III, §311(b), 70 Stat. 848; Pub. L. 85-840, title V, §510, Aug. 28, 1958, 72 Stat. 1051; Pub. L. 86-778, title VI, §601(b), Sept. 13, 1960, 74 Stat. 987; Pub. L. 87-543, title I, §§106(a)(1), 157, July 25, 1962, 76 Stat. 188, 207; Pub. L. 89-97, title II, §221(a)(3), title IV, §403(a), July 30, 1965, 79 Stat. 357, 418; Pub. L. 90-248, title II, §§210(a)(1), 213(a)(1), Jan. 2, 1968, 81 Stat. 895, 898; Pub. L. 92-603, title IV, §§405(a), 406(a), 407(a), 410(a), 413(a), Oct. 30, 1972, 86 Stat. 1488, 1489, 1491, 1492; Pub. L. 97-35, title XXI, §2184(a)(3), Aug. 13, 1981, 95 Stat. 816; Pub. L. 98-369, div. B, title VI, §2651(e), July 18, 1984, 98 Stat. 1149.)

REPEAL OF SECTION

*Pub. L. 92-603, title III, §303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.*

AMENDMENTS

1984—Subsec. (a)(11). Pub. L. 98-369 added par. (11).

1981—Subsec. (a). Pub. L. 97-35 struck out in provision preceding par. (1) “, or for medical assistance for the aged, or for old-age assistance and medical assistance for the aged” par. (11) which specified the contents the State plan must contain if it includes medical assistance for the aged, par. (12) which specified the contents the State plan must contain if it includes assistance to or in behalf of individuals who are patients in institutions for mental diseases, and par. (13) which provided that if the State plan includes assistance to or in behalf of patients in public institutions for mental diseases, it show that the State is making satisfactory progress towards developing and implementing a comprehensive mental health program.

1972—Subsec. (a)(1). Pub. L. 92-603, § 410(a), inserted “except to the extent permitted by the Secretary with respect to services” before “provide”.

Subsec. (a)(4). Pub. L. 92-603, § 407(a), designated existing provisions as cl. (A) and added cl. (B).

Subsec. (a)(7). Pub. L. 92-603, § 413(a), substituted provisions permitting use or disclosure of information concerning applicants or recipients to public officials requiring such information in connection with their official duties and to other persons for purposes directly connected with administration of the State plan, for provisions restricting use or disclosure of such information to purposes directly connected with administration of the State plan.

Subsec. (a)(10)(C). Pub. L. 92-603, § 405(a), inserted provision relating to use of whatever internal organizational arrangement found appropriate.

Subsec. (b). Pub. L. 92-603, § 406(a), inserted provision relating to furnishing of manuals and other policy issuances to persons without charge and at option of the State.

1968—Subsec. (a)(5). Pub. L. 90-248, § 210(a)(1), designated existing provisions as subpar. (A) and added subpar. (B).

Subsec. (a)(10)(A)(i). Pub. L. 90-248, § 213(a)(1), increased from \$5 to \$7.50 limitation on amount of any income which the State may disregard in making its determination of need.

1965—Subsec. (a)(10)(A). Pub. L. 89-97, § 403(a), placed a ceiling of \$5 on amount of any income which the State may disregard in making its determination of need and substituted “\$80” and “\$20” for “\$50” and “\$10” respectively.

Subsec. (a)(12), (13). Pub. L. 89-97, § 221(a)(3), added pars. (12) and (13).

1962—Subsec. (a)(10)(A). Pub. L. 87-543 inserted “as well as any expenses reasonably attributable to the earning of any such income” and exception provision.

1960—Subsec. (a). Pub. L. 86-778 amended subsec. (a) generally, inserting provisions relating to plans for medical assistance, and required plans that include old-age assistance to include reasonable standards, consistent with objectives of this subchapter, for determining eligibility for and extent of such assistance.

Subsec. (b). Pub. L. 86-778 amended subsec. (b) generally, substituting “eligibility for assistance under the plan” for “eligibility for old-age assistance under the plan” in opening provisions, struck out provisions from par. (1) which permitted plan to impose an age requirement of as much as 70 years until Jan. 1, 1940, and inserted provisions in par. (2) requiring the Secretary to disapprove any plan, in the case of applicants for medical assistance for the aged, which excludes any individual who resides in the State.

Subsec. (c). Pub. L. 86-778 added subsec. (c).

1958—Subsec. (a)(11). Pub. L. 85-840 inserted provisions in par. (11) requiring the State plan to include a description of the steps taken to assure, in provision of such services, maximum utilization of other agencies providing similar or related services.

1956—Subsec. (a)(11). Act Aug. 1, 1956, added par. (11).

1950—Subsec. (a). Act Aug. 28, 1950, substituted “provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for old-age assistance is denied or is not acted upon with reasonable promptness” for “provide for granting to

any individual, whose claim for old-age assistance is denied, an opportunity for a fair hearing before such State agency” in par. (4), “Administrator” for “Board” wherever appearing, and “he”, “him”, or “his” for “it” or “its” wherever appearing, and added pars. (9) and (10).

1939—Subsec. (a). Act Aug. 10, 1939, amended subsec. (a) generally commencing with par. (5).

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Apr. 1, 1985, except as otherwise provided, see section 2651(l)(2) of Pub. L. 98-369, set out as an Effective Date note under section 1320b-7 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Pub. L. 90-248, title II, § 210(b), Jan. 2, 1968, 81 Stat. 896, provided that: “Each of the amendments made by subsection (a) [amending this section and sections 602, 1202, 1352, 1382, and 1396a of this title] shall become effective July 1, 1969, or, if earlier (with respect to a State’s plan approved under title I, X, XIV, XVI, or XIX, or part A of title IV [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq., 1396 et seq., 601 et seq.]) on the date as of which the modification of the State plan to comply with such amendment is approved.”

#### EFFECTIVE DATE OF 1965 AMENDMENT

Pub. L. 89-97, title II, § 221(e), July 30, 1965, 79 Stat. 359, provided that: “The amendments made by this section [amending this section and sections 303, 306, 1206, 1355, 1382, 1383, and 1385 of this title] shall apply in the case of expenditures made after December 31, 1965, under a State plan approved under title I, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.]”

Pub. L. 89-97, title IV, § 403(a), July 30, 1965, 79 Stat. 418, provided that the amendment made by that section is effective Oct. 1, 1965.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Pub. L. 87-543, title II, § 202(a), July 25, 1962, 76 Stat. 208, provided that: “The amendments made by sections 102(b)(1), 103, 106, and 134 [amending this section and sections 602, 607, 723, 1202, and 1352 of this title] shall become effective July 1, 1963.”

#### EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-778 effective Oct. 1, 1960, see section 604 of Pub. L. 86-778, set out as a note under section 301 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-840 effective Oct. 1, 1958, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 1, 1956, ch. 836, title III, § 314 [315], 70 Stat. 850, provided that: “The amendments made by sections 311(b), 312(b), 313(b), and 314(b) [amending this section and sections 602, 1202, and 1352 of this title] shall become effective July 1, 1957.”

#### EFFECTIVE DATE OF 1950 AMENDMENT

Act Aug. 28, 1950, ch. 809, title III, § 301(c), 64 Stat. 548, provided that: “The amendments made by subsections (a) and (b) [amending this section] shall take effect July 1, 1951.”

#### TRANSFER OF FUNCTIONS

Functions, powers, and duties of Secretary under subsec. (a)(5)(A) of this section, insofar as relates to the prescription of personnel standards on a merit basis, transferred to Office of Personnel Management, see section 4728(a)(3)(D) of this title.

#### REGARDING INCOME OF OASDI RECIPIENTS IN DETERMINING NEED FOR PUBLIC ASSISTANCE

Pub. L. 92-603, title III, § 306, Oct. 30, 1972, 86 Stat. 1485, provided that: “In addition to the requirements

imposed by law as a condition of approval of a State plan to provide aid or assistance in the form of money payments to individuals under title I, X, XIV, or XVI of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1381 et seq.], there is hereby imposed the requirement (and the plan shall be deemed to require) that, in the case of any individual receiving aid or assistance for any month after October 1972, or, at the option of the State, September 1972, and before January 1974 who also receives in such month a monthly insurance benefit under title II of such Act [42 U.S.C. 401 et seq.] which was increased as a result of the enactment of Public Law 92-336, the sum of the aid or assistance received by him for such month, plus the monthly insurance benefit received by him in such month (not including any part of such benefit which is disregarded under such plan), shall exceed the sum of the aid or assistance which would have been received by him for such month under such plan as in effect for October 1972, plus the monthly insurance benefit which would have been received by him in such month, by an amount equal to \$4 or (if less) to such increase in his monthly insurance benefit under such title II (whether such excess is brought about by disregarding a portion of such monthly insurance benefit or otherwise)."

**§ 303. Payments to States and certain territories; computation of amount; eligibility of State to receive payment**

**(a) Computation of amounts**

From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this subchapter, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) Repealed. Pub. L. 97-35, title XXI, §2184(a)(4)(A), Aug. 13, 1981, 95 Stat. 816.

(2) in the case of Puerto Rico, the Virgin Islands, and Guam, an amount equal to one-half of the total of the sums expended during such quarter as old-age assistance under the State plan, not counting so much of any expenditure with respect to any month as exceeds \$37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(3) Repealed. Pub. L. 97-35, title XXI, §2184(a)(4)(A), Aug. 13, 1981, 95 Stat. 816.

(4) in the case of any State, an amount equal to 50 percent of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan.

**(b) Method of computing and paying amounts**

The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health and Human Services shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a) of this section, such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of aged individ-

uals in the State, and (C) such other investigation as the Secretary of Health and Human Services may find necessary.

(2) The Secretary of Health and Human Services shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health and Human Services, (A) reduced or increased, as the case may be, by any sum by which he finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State under subsection (a) of this section for such quarter, and (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health and Human Services, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to assistance furnished under the State plan; except that such increases or reductions shall not be made to the extent that such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health and Human Services for such prior quarter: *Provided*, That any part of the amount recovered from the estate of a deceased recipient which is not in excess of the amount expended by the State or any political subdivision thereof for the funeral expenses of the deceased shall not be considered as a basis for reduction under clause (B) of this paragraph.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the Government Accountability Office, pay to the State, at the time or times fixed by the Secretary of Health and Human Services, the amount so certified.

(Aug. 14, 1935, ch. 531, title I, §3, 49 Stat. 621; Aug. 10, 1939, ch. 666, title I, §102, 53 Stat. 1361; 1940 Reorg. Plan No. III, §1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; Aug. 10, 1946, ch. 951, title V, §501, 60 Stat. 991; June 14, 1948, ch. 468, §3(a), 62 Stat. 439; Aug. 28, 1950, ch. 809, title III, pt. 1, §302(a), pt. 6, §361(c), (d), 64 Stat. 548, 558; July 18, 1952, ch. 945, §8(a), 66 Stat. 778; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Sept. 1, 1954, ch. 1206, title III, §303, 68 Stat. 1097; Aug. 1, 1956, ch. 836, title III, §§301, 311(c), 341, 70 Stat. 846, 848, 852; Pub. L. 85-840, title V, §501, Aug. 28, 1958, 72 Stat. 1047; Pub. L. 86-778, title VI, §601(c), (d), Sept. 13, 1960, 74 Stat. 989, 990; Pub. L. 87-31, §5(a), (b), May 8, 1961, 75 Stat. 77; Pub. L. 87-64, title III, §303(a), June 30, 1961, 75 Stat. 143; Pub. L. 87-543, title I, §§101(a)(1), (b)(1), 132(a), July 25, 1962, 76 Stat. 173, 179, 193; Pub. L. 89-97, title I, §122, title II, §221(a)(4), title IV, §401(a), July 30, 1965, 79 Stat. 353, 357, 414; Pub. L. 90-248, title II, §212(a), Jan. 2, 1968, 81 Stat. 897; Pub. L. 92-512, title III, §301(b), (d), Oct. 20, 1972, 86 Stat. 946, 947; Pub. L. 93-647, §§3(e)(2), 5(a), Jan. 4, 1975, 88 Stat. 2349, 2350; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97-35, title XXI, §2184(a)(4), title XXIII, §2353(a), Aug. 13, 1981, 95 Stat. 816, 871; Pub. L. 99-603, title I, §121(b)(4), Nov. 6, 1986, 100 Stat. 3391; Pub. L. 103-66, title XIII, §13741(b), Aug. 10, 1993, 107 Stat. 663; Pub. L. 108-271, §8(b), July 7, 2004, 118 Stat. 814.)