

vided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

#### EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by section 3(e)(2) of Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, and amendment by section 5(d) of Pub. L. 93-647 effective with respect to payments for quarters commencing after Sept. 30, 1975, see section 7(a), (b) of Pub. L. 93-647, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendments by Pub. L. 92-512 effective July 1, 1972, and Jan. 1, 1973, respectively, see section 301(e) of Pub. L. 92-512, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-248 effective Jan. 1, 1968, see section 212(e) of Pub. L. 90-248, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by section 401(e) of Pub. L. 89-97 applicable in the case of expenditures made after December 31, 1965, under a State plan approved under subchapter I, IV, X, XIV, or XVI of this chapter, see section 401(f) of Pub. L. 89-97, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 101(a)(4) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Aug. 31, 1962, amendment by section 101(b)(4) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after June 30, 1963, and amendment by section 132(c) of Pub. L. 87-543 applicable in the case of expenditures, under a State plan approved under subchapter I, IV, X, or XIV of this chapter, as the case may be, made after Sept. 30, 1962, see section 202(d), (f) of Pub. L. 87-543, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87-64 applicable only in the case of expenditures made after Sept. 30, 1961, and before July 1, 1962, under a State plan approved under subchapters I, X, or XIV of this chapter, see section 303(e) of Pub. L. 87-64, set out as a note under section 303 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

For effective date of amendment by Pub. L. 85-840, see section 512 of Pub. L. 85-840, set out as a note under section 303 of this title.

#### EFFECTIVE AND TERMINATION DATE OF 1956 AMENDMENT

Amendment by section 304 of act Aug. 1, 1956, effective July 1, 1957, see section 305 of act Aug. 1, 1956, set out as a note under section 303 of this title.

Amendment by section 344 of act Aug. 1, 1956, effective only for period beginning Oct. 1, 1956, and ending with close of June 30, 1959, see section 345 of such act Aug. 1, 1956, set out as a note under section 303 of this title.

#### EFFECTIVE AND TERMINATION DATE OF 1952 AMENDMENT

Amendment by act July 18, 1952, effective for period beginning Oct. 1, 1952, and ending Sept. 30, 1956, see section 8(e) of act July 18, 1952, set out as a note set out under section 303 of this title.

#### TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and Office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

#### NONDUPLICATION OF PAYMENTS TO STATES: PROHIBITION OF PAYMENTS AFTER DECEMBER 31, 1969

Prohibition of payments under this subchapter to States with respect to aid or assistance in form of medical or other type of remedial care for any period for which States received payments under subchapter XIX of this chapter or for any period after Dec. 31, 1969, see section 121(b) of Pub. L. 89-97, set out as a note under section 1396b of this title.

#### ELECTION OF PAYMENTS UNDER COMBINED STATE PLAN RATHER THAN SEPARATE PLANS

Payments to States under combined State plan under subchapter XVI or this chapter as precluding payment under State plan conforming to this subchapter, see section 141(b) of Pub. L. 87-543, set out as a note under section 1382e of this title.

### § 1354. Operation of State plans

In the case of any State plan for aid to the permanently and totally disabled which has been approved by the Secretary of Health and Human Services, if the Secretary after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence or citizenship requirement prohibited by section 1352(b) of this title, or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 1352(a) of this title to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until he is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(Aug. 14, 1935, ch. 531, title XIV, §1404, as added Aug. 28, 1950, ch. 809, title III, pt. 5, §351, 64 Stat. 557; amended 1953 Reorg. Plan No. 1, §§5, 8 eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Pub. L. 90-248, title II, §245, Jan. 2, 1968, 81 Stat. 918; Pub. L. 96-88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695.)

#### 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

1968—Pub. L. 90-248 inserted “(or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure)” after “further payments will not be made to the State” and substituted in last sentence “further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure)” for “further certification to the Secretary of the Treasury with respect to such State”.

#### TRANSFER OF FUNCTIONS

Functions of Federal Security Administrator transferred to Secretary of Health, Education, and Welfare and all agencies of Federal Security Agency transferred to Department of Health, Education, and Welfare by section 5 of Reorg. Plan No. 1 of 1953, set out as a note under section 3501 of this title. Federal Security Agency and office of Administrator abolished by section 8 of Reorg. Plan No. 1 of 1953. Secretary and Department of Health, Education, and Welfare redesignated Secretary and Department of Health and Human Services by section 509(b) of Pub. L. 96-88 which is classified to section 3508(b) of Title 20, Education.

#### § 1355. Definitions

For the purposes of this subchapter, the term “aid to the permanently and totally disabled” means money payments to needy individuals eighteen years of age or older who are permanently and totally disabled, but does not include any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution) or any individual who is a patient in an institution for tuberculosis or mental diseases. Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1352 of this title includes provision for—

(1) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(2) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the permanently and totally disabled to be paid (and in conjunction with other income and resources), meet all the need<sup>1</sup> of the individuals with respect to whom such payments are made;

(3) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(4) periodic review by such State agency of the determination under paragraph (1) to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(5) opportunity for a fair hearing before the State agency on the determination referred to in paragraph (1) for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(Aug. 14, 1935, ch. 531, title XIV, §1405, as added Aug. 28, 1950, ch. 809, title III, pt. 5, §351, 64 Stat. 557; amended Pub. L. 87-543, title I, §156(d), July 25, 1962, 76 Stat. 207; Pub. L. 89-97, title II, §221(c), title IV, §402(d), July 30, 1965, 79 Stat. 358, 417; Pub. L. 92-603, title IV, §§408(c), 409(c), Oct. 30, 1972, 86 Stat. 1490, 1491; Pub. L. 97-35, title XXI, §2184(c)(3), Aug. 13, 1981, 95 Stat. 817.)

#### 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 struck out in provision preceding par. (1) “, or (if provided on or after the third month before the month in which the recipient makes application for aid) medical care in behalf of, or any type of remedial care recognized under State law in behalf of,” after “money payments to”.

1972—Pub. L. 92-603 authorized the State, at its option, to include within “aid to the permanently and totally disabled” provisions relating to money payments to an individual absent from such State for more than 90 consecutive days, and provisions relating to rent payments made directly to a public housing agency.

1965—Pub. L. 89-97 struck out from definition of “aid to the permanently and totally disabled” the exclusion of payments to or medical care in behalf of any individual who has been diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result thereof; and extended definition of “aid to the permanently and totally disabled” to include payments made on behalf of the needy individual to another individual who (as determined in accordance with standards determined by the Secretary) is interested in or concerned with the welfare of such needy individual and enumerated the five characteristics required of state plans under which such payments can be made, including provision for finding of inability to manage

<sup>1</sup> So in original. Probably should be “needs”.