

thorized to be appropriated \$20,000,000 for each of the fiscal years 1990 and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994”.

1990—Pub. L. 101-501 substituted “are authorized” for “is authorized”, struck out “1987, 1988, 1989, and” before “1990”, and inserted “and 1991, and such sums as may be necessary for fiscal years 1992, 1993, and 1994” after “1990”.

1986—Pub. L. 99-425 amended section generally. Prior to amendment, section read as follows: “For the purpose of allotments to States to carry out the activities described in section 9874 of this title, there are authorized to be appropriated \$20,000,000 for each of the fiscal years 1985 and 1986.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-252 effective May 18, 1994, but not applicable to Head Start agencies and other recipients of financial assistance under the Head Start Act (42 U.S.C. 9831 et seq.) until Oct. 1, 1994, see section 127 of Pub. L. 103-252, set out as a note under section 9832 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

SHORT TITLE

For short title of this subchapter as the “State Dependent Care Development Grants Act”, see section 670H of Pub. L. 97-35, set out as a note under section 9801 of this title.

§ 9872. Allotments

(a) From the amounts appropriated under section 9871 of this title for each fiscal year, the Secretary shall allot to each State an amount which bears the same ratio to the total amount appropriated under such section for such fiscal year as the population of the State bears to the population of all States, except that no State may receive less than \$50,000 in each fiscal year.

(b) For the purpose of the exception contained in subsection (a), the term “State” does not include Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

(Pub. L. 97-35, title VI, §670B, as added Pub. L. 98-558, title I, §109, Oct. 30, 1984, 98 Stat. 2880.)

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 9873. Payments under allotments to States

The Secretary shall make payments, as provided by section 6503(a) of title 31, to each State from its allotments under section 9872 of this title from amounts appropriated under section 9871 of this title.

(Pub. L. 97-35, title VI, §670C, as added Pub. L. 98-558, title I, §109, Oct. 30, 1984, 98 Stat. 2880.)

§ 9874. Use of allotments

(a) Referral systems; information; contents

(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 9873 of this title from its allotment under section 9872 of this title may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services. The information provided by any such system may include—

(A) the types of dependent care services available, including services provided by individual homes, religious organizations, community organizations, employers, private industry, and public and private institutions;

(B) the costs of available dependent care services;

(C) the locations in which dependent care services are provided;

(D) the forms of transportation available to such locations;

(E) the hours during which such dependent care services are available;

(F) the dependents eligible to enroll for such dependent care services; and

(G) any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under this subchapter.

(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

(A) provide assurances that no information will be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided; and

(B) provide assurances that the information provided will be the latest information available and will be kept up to date.

(b) School-age child care services; assurances; estimates

(1) Subject to the provisions of subsections (c) and (d), amounts paid to a State under section 9873 of this title from its allotment under section 9872 of this title may be used for the planning, development, establishment, operation, expansion, or improvement by the States, directly, or by grant or contract, with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school. Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs.

(2) The State, with respect to the uses of funds described in paragraph (1) of this subsection shall—

(A) provide assurances, in the case of an applicant that is not a State or local educational agency, that the applicant has or will enter into an agreement with the State or local educational agency, institution of higher edu-

cation or community center containing provisions for—

(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

(ii) the restrictions, if any, on the use of such space, and

(iii) the times when the space will be available for the use of the applicant;

(B) provide an estimate of the costs of the establishment of the child care service program in the facilities;

(C) provide assurances that the parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under this Act;¹

(D) provide assurances that the applicant is able and willing to seek to enroll racially, ethnically, and economically diverse school-age children, as well as handicapped school-age children, in the child care service program for which assistance is sought under this Act;¹

(E) provide assurances that the child care program is in compliance with State and local child care licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served; and

(F) provide such other assurances as the chief executive officer of the State may reasonably require to carry out this Act.¹

(c) Percentage of allotment; waiver

(1) Except as provided in paragraph (2), of the allotment to each State in each fiscal year—

(A) 40 percent shall be available for the activities described in subsection (a);

(B) 60 percent shall be available for the activities described in subsection (b).

(2) For any fiscal year the Secretary may waive the percentage requirements specified in paragraph (1) on the request of a State if such State demonstrates to the satisfaction of the Secretary—

(A) that the amount of funds available as a result of one of such percentage requirements is not needed in such fiscal year for the activities for which such amount is so made available; and

(B) the adequacy of the alternative percentages, relative to need, the State specifies the State will apply with respect to all of the activities referred to in paragraph (1) if such waiver is granted.

(d) Prohibition; use of amounts

A State may not use amounts paid to it under this subchapter to—

(1) make cash payments to intended recipients of dependent care services including child care services;

(2) pay for construction or renovation; or

(3) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

(e) Federal share; cost of administration

(1) The Federal share of any project supported under this subchapter shall be not more than 75 percent.

(2) Not more than 10 percent of the allotment of each State under this subchapter may be available for the cost of administration.

(f) Duplication of services

Projects supported under this section to plan, develop, establish, expand, operate, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which are provided before October 30, 1984, by the State or locality which will be served by such system.

(g) Technical assistance to States; planning and operational activities

The Secretary may provide technical assistance to States in planning and carrying out activities under this subchapter.

(Pub. L. 97-35, title VI, §670D, as added Pub. L. 98-558, title I, §109, Oct. 30, 1984, 98 Stat. 2880; amended Pub. L. 99-425, title III, §302, Sept. 30, 1986, 100 Stat. 967; Pub. L. 101-501, title III, §§302, 303, 305(a), Nov. 3, 1990, 104 Stat. 1249, 1250.)

REFERENCES IN TEXT

This Act, referred to in subsec. (b)(2)(C), (D), (F), is Pub. L. 97-35, known as the Omnibus Budget Reconciliation Act of 1981, but probably should have been "this subchapter", meaning subchapter E of chapter 8 of title A of title VI of Pub. L. 97-35, known as the State Dependent Care Development Grants Act, which is classified to this subchapter.

AMENDMENTS

1990—Subsec. (a)(1). Pub. L. 101-501, §§303(a)(1), 305(a)(1), inserted "operation," after "establishment," and struck out "for fiscal year 1985 and fiscal year 1986" before "may be used".

Subsec. (b)(1). Pub. L. 101-501, §§303(a)(2), (3), 305(a)(2), struck out "for fiscal year 1985 and fiscal year 1986" before "may be used", inserted "operation," after "establishment," struck out "in public or private school facilities or in community centers in communities" after "before and after school", and inserted at end "Amounts so paid to a State and used for the operation of such child care services shall be designed to enable children, whose families lack adequate financial resources, to participate in before or after school child care programs."

Subsec. (b)(2)(D). Pub. L. 101-501, §305(a)(3)(A), inserted "school-age children," after "diverse" and inserted comma after last reference to "children".

Subsec. (b)(2)(F). Pub. L. 101-501, §305(a)(3)(B), substituted "chief executive officer of the State" for "Governor" and struck out "the provisions of" before "this Act".

Subsec. (c). Pub. L. 101-501, §302, designated existing provision as par. (1), redesignated pars. (1) and (2) as subpars. (A) and (B), respectively, substituted "Except as provided in paragraph (2), of" for "Of", and added par. (2).

Subsec. (d). Pub. L. 101-501, §303(b), redesignated pars. (2), (4), and (5) as (1), (2), and (3), respectively, and struck out former pars. (1) and (3) which read as follows:

"(1) pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved under subsection (a) of this section;

"(3) subsidize the direct provision of dependent care services including child care services;"

Subsec. (d)(1). Pub. L. 101-501, §305(a)(4), which directed the substitution of "subsections (a) and (b) of this section" for "subsection (a) of this section", could not be executed because of the intervening amendment by Pub. L. 101-501, §303(b), see above.

Subsec. (f). Pub. L. 101-501, §§303(a)(4), 305(a)(5), inserted "operate," after "expand," and substituted

¹ So in original. Probably should be "subchapter".

“which are provided before October 30, 1984,” for “, which prior to October 30, 1984, are provided”.

Subsec. (g). Pub. L. 101-501, §305(a)(6), substituted “carrying out activities” for “operating activities to be carried out”.

1986—Subsec. (a). Pub. L. 99-425, §302(a), designated existing provisions as par. (1), substituted “system may include” for “system shall include”, redesignated cls. (1) to (7) as (A) to (G), respectively, struck out last sentence which read as follows: “In carrying out clause (7) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided”, and added par. (2).

Subsec. (b)(1). Pub. L. 99-425, §302(b)(1), struck out “where school facilities are not available” after “centers in communities”.

Subsec. (b)(2)(E). Pub. L. 99-425, §302(b)(2), inserted “child care” before “licensing laws”.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-501 effective Oct. 1, 1990, see section 1001(a) of Pub. L. 101-501, set out as a note under section 8621 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-425 effective Oct. 1, 1986, see section 1001 of Pub. L. 99-425, set out as a note under section 8621 of this title.

§ 9875. Application and description of activities; requirements

(a) Applications

(1) In order to receive an allotment under section 9872 of this title, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require.

(2) Each application required under paragraph (1) for an allotment under section 9872 of this title shall contain assurances that the State will meet the requirements of subsection (b).

(b) Certifications

As part of the annual application required by subsection (a), the chief executive officer of each State shall—

(1) certify that the State agrees to use the funds allotted to it under section 9872 of this title in accordance with the requirements of this subchapter; and

(2) certify that the State agrees that Federal funds made available under section 9873 of this title for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds.

The Secretary may not prescribe for a State the manner of compliance with the requirements of this subsection.

(c) Description; intended use of payments; comments; revision

(1) The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended

use of the payments the State will receive under section 9873 of this title, including information on the programs and activities to be supported. The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with this section) until September 30, 1991, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence.

(2) The chief executive officer of each State shall include in such a description of—

(A) the number of children who participated in before and after school child care programs assisted under this subchapter;

(B) the characteristics of the children so served including age levels, handicapped condition, income level of families in such programs;

(C) the salary level and benefits paid to employees in such child care programs; and

(D) the number of clients served in resource and referral systems assisted under this subchapter, and the types of assistance they requested.

(d) Application to Public Health Service Act

Except where inconsistent with the provisions of this subchapter, the provisions of section 1903(b) [42 U.S.C. 300w-2(b)], paragraphs (1) through (5) of section 1906(a)¹ [42 U.S.C. 300w-5(a)], and sections 1906(b), 1907, 1908, and 1909 [42 U.S.C. 300w-5(b), 300w-6, 300w-7, 300w-8] of the Public Health Service Act shall apply to this subchapter in the same manner as such provisions apply to part A of title XIX of such Act [42 U.S.C. 300w et seq.].

(Pub. L. 97-35, title VI, §670E, as added Pub. L. 98-558, title I, §109, Oct. 30, 1984, 98 Stat. 2882; amended Pub. L. 101-501, title III, §§304, 305(b), Nov. 3, 1990, 104 Stat. 1249, 1250.)

REFERENCES IN TEXT

The Public Health Service Act, referred to in subsec. (d), is act July 1, 1944, ch. 373, 58 Stat. 682, as amended. Part A of title XIX of the Public Health Service Act is classified generally to part A (§300w et seq.) of subchapter XVII of chapter 6A of this title. Section 1906(a) of the Act, which is classified to section 300w-5(a) of this title, was amended generally by Pub. L. 102-531, title I, §104(a), Oct. 27, 1992, 106 Stat. 3473, and, as so amended, consists of pars. (1) to (4) rather than pars. (1) to (5). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

AMENDMENTS

1990—Subsec. (c). Pub. L. 101-501, §305(b), which directed that “until September 30, 1987,” be struck out, could not be executed, because of the intervening amendment by Pub. L. 101-501, §304, see below.

Pub. L. 101-501, §304, designated existing provisions as par. (1), substituted “September 30, 1991” for “September 30, 1987”, and added par. (2).

¹ See References in Text note below.