

Stat. 4225; Pub. L. 102-396, title IX, §9168, Oct. 6, 1992, 106 Stat. 1948.)

CODIFICATION

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted substantially identical sections. The text of this section is based on section 5 of Pub. L. 100-579, as subsequently amended.

AMENDMENTS

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to administrative grant for Papa Ola Lokahi.

§ 11705. Native Hawaiian health care systems

(a) Comprehensive health promotion, disease prevention, and primary health services

(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians.

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health care systems and Native Hawaiian organizations and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health care systems.

(2) In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health care systems to serve the health needs of Native Hawaiian communities on each of the islands of O’ahu, Molo-ka’i, Maui, Hawai’i, Lana’i, Kaua’i, and Ni’ihau in the State of Hawaii.

(b) Qualified entity

An entity is a qualified entity for purposes of subsection (a)(1) if the entity is a Native Hawaiian health care system.

(c) Services to be provided

(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

(A) outreach services to inform Native Hawaiians of the availability of health services;

(B) education in health promotion and disease prevention of the Native Hawaiian population by, wherever possible, Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators;

(C) services of physicians, physicians’ assistants, nurse practitioners or other health professionals;

(D) immunizations;

(E) prevention and control of diabetes, high blood pressure, and otitis media;

(F) pregnancy and infant care; and

(G) improvement of nutrition.

(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

(A) identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians;

(B) collection of data related to the prevention of diseases and illnesses among Native Hawaiians; and

(C) services within the meaning of the terms “health promotion”, “disease prevention”, and “primary health services”, as such terms are defined in section 11711 of this title, which are not specifically referred to in paragraph (1) of this subsection.

(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

(4) HEALTH AND EDUCATION.—In order to enable privately funded organizations to continue to supplement public efforts to provide educational programs designed to improve the health, capability, and well-being of Native Hawaiians and to continue to provide health services to Native Hawaiians, notwithstanding any other provision of Federal or State law, it shall be lawful for the private educational organization identified in section 7512(16) of title 20 (as such section was in effect on the day before December 10, 2015) to continue to offer its educational programs and services to Native Hawaiians (as defined in section 7517 of title 20) first and to others only after the need for such programs and services by Native Hawaiians has been met.

(d) Limitation of number of entities

During a fiscal year, the Secretary under this chapter may make a grant to, or hold a contract with, not more than 5 Native Hawaiian health care systems.

(e) Matching funds

(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to a Native Hawaiian health care system—

(A) in an amount exceeding 83.3 percent of the costs of providing health services under the grant or contract; and

(B) unless the Native Hawaiian health care system agrees that the Native Hawaiian health care system or the State of Hawaii will make available, directly or through donations to the Native Hawaiian health care system, non-Federal contributions toward such costs in an amount equal to not less than \$1 (in cash or in kind under paragraph (2)) for each \$5 of Federal funds provided in such grant or contract.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

(3) The Secretary may waive the requirement established in paragraph (1) if—

(A) the Native Hawaiian health care system involved is a nonprofit private entity described in subsection (b); and

(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the Native Hawaiian health care system to comply with such requirement.

(f) Restriction on use of grant and contract funds

The Secretary may not make a grant to, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, amounts received pursuant to such subsection will not, directly or through contract, be expended—

- (1) for any purpose other than the purposes described in subsection (c);
- (2) to provide inpatient services;
- (3) to make cash payments to intended recipients of health services; or
- (4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

(g) Limitation on charges for services

The Secretary may not make a grant, or enter into a contract with, any entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

- (1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and
- (2) the entity will impose a charge for the delivery of health services, and such charge—
 - (A) will be made according to a schedule of charges that is made available to the public, and
 - (B) will be adjusted to reflect the income of the individual involved.

(h) Authorization of appropriations

- (1) There are authorized to be appropriated such sums as may be necessary for fiscal years 1993 through 2019 to carry out subsection (a)(1).
- (2) There are authorized to be appropriated such sums as may be necessary to carry out subsection (a)(2).

(Pub. L. 100-579, § 6, Oct. 31, 1988, 102 Stat. 2919; Pub. L. 100-690, title II, § 2306, Nov. 18, 1988, 102 Stat. 4226; Pub. L. 102-396, title IX, § 9168, Oct. 6, 1992, 106 Stat. 1948; Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935; Pub. L. 114-95, title IX, § 9215(jjj), Dec. 10, 2015, 129 Stat. 2187.)

REFERENCES IN TEXT

Section 7512(16) of title 20 (as such section was in effect on the day before December 10, 2015), referred to in subsec. (c)(4), means section 7512(16) of title 20 prior to amendment by Pub. L. 114-95, title VI, §§ 6001(a), (b)(1), 6003(a), Dec. 10, 2015, 129 Stat. 2046, 2063.

CODIFICATION

Amendments by Pub. L. 111-148 are based on section 202(a), (b)(1), of title II of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by section 10221(a) of Pub. L. 111-148.

The 1992 amendment is based on section 1 of S. 2681, One Hundred Second Congress, as passed by the Senate on Aug. 7, 1992, and enacted into law by section 9168 of Pub. L. 102-396. Section 9168, which referred to S. 2681, as passed by the Senate on “September 12, 1992”, has been treated as referring to S. 2681, as passed by the

Senate on Aug. 7, 1992, to reflect the probable intent of Congress.

Pub. L. 100-579 and Pub. L. 100-690 enacted identical sections. The text of this section is based on section 6 of Pub. L. 100-579, as subsequently amended.

AMENDMENTS

2015—Subsec. (c)(4). Pub. L. 114-95 substituted “private educational organization identified in section 7512(16) of title 20 (as such section was in effect on the day before December 10, 2015) to continue to offer its educational programs and services to Native Hawaiians (as defined in section 7517 of title 20) first and to others” for “private educational organization identified in section 7512(16) of title 20 to continue to offer its educational programs and services to Native Hawaiians (as defined in section 7517 of title 20) first and to others”.

2010—Subsec. (c)(4). Pub. L. 111-148, which directed the amendment of section 6(c) of the Native Hawaiian Health Care Act of 1988 by adding par. (4), was executed by making the amendment to this section, which is section 6 of the Native Hawaiian Health Care Improvement Act, to reflect the probable intent of Congress.

Subsec. (h)(1). Pub. L. 111-148, which directed the amendment of section 6(h)(1) of the Native Hawaiian Health Care Act of 1988 by substituting “2019” for “2001”, was executed by making the amendment to this section, which is section 6 of the Native Hawaiian Health Care Improvement Act, to reflect the probable intent of Congress.

1992—Pub. L. 102-396 amended section generally. Prior to amendment, section related to administration of grants and contracts.

EFFECTIVE DATE OF 2015 AMENDMENT

Amendment by Pub. L. 114-95 effective Dec. 10, 2015, except with respect to certain noncompetitive programs and competitive programs, see section 5 of Pub. L. 114-95, set out as a note under section 6301 of Title 20, Education.

EFFECTIVE DATE OF 2010 AMENDMENT

Section 202(b)(2) of title II of S. 1790, One Hundred Eleventh Congress, as reported by the Committee on Indian Affairs of the Senate in Dec. 2009, which was enacted into law by Pub. L. 111-148, title X, § 10221(a), Mar. 23, 2010, 124 Stat. 935, provided that: “The amendment made by paragraph (1) [amending this section] takes effect on December 5, 2006.”

§ 11706. Administrative grant for Papa Ola Lokahi

(a) In general

In addition to any other grant or contract under this chapter, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for—

- (1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 11703 of this title;
- (2) training for the persons described in section 11705(c)(1)(B) of this title;
- (3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services;
- (4) the development of an action plan outlining the contributions that each member organization of Papa Ola Lokahi will make in carrying out the policy of this chapter;
- (5) a clearinghouse function for—

(A) the collection and maintenance of data associated with the health status of Native Hawaiians;