

(A) who is a disabled beneficiary as defined in section 1320b-19(k)(2) of this title;

(B) who is receiving a cash payment described in section 1382e(a) of this title or a supplementary payment described in section 212(a)(3) of Public Law 93-66 (without regard to whether such payment is paid by the Commissioner pursuant to an agreement under section 1382e(a) of this title or under section 212(b) of Public Law 93-66);

(C) who, pursuant to section 1382h(b) of this title, is considered to be receiving benefits under subchapter XVI of this chapter; or

(D) who is entitled to benefits under part A of subchapter XVIII of this chapter by reason of the penultimate sentence of section 426(b) of this title.

(3) Protection and advocacy system

The term “protection and advocacy system” means a protection and advocacy system established pursuant to part C of title I of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.).¹

(h) Authorization of appropriations

There are authorized to be appropriated to carry out this section \$7,000,000 for each of the fiscal years 2000 through 2011.

(Aug. 14, 1935, ch. 531, title XI, §1150, as added Pub. L. 106-170, title I, §122, Dec. 17, 1999, 113 Stat. 1890; amended Pub. L. 108-203, title IV, §§404(b)(1), (2), 407(b), Mar. 2, 2004, 118 Stat. 526, 527; Pub. L. 111-63, §3, Sept. 18, 2009, 123 Stat. 2001; Pub. L. 111-280, §2(b), Oct. 13, 2010, 124 Stat. 2903.)

REFERENCES IN TEXT

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in subsecs. (a) and (g)(3), is title I of Pub. L. 88-164, Oct. 31, 1963, 77 Stat. 282, as amended generally by Pub. L. 98-527, §2, Oct. 19, 1984, 98 Stat. 2662, and as further amended, which was repealed by Pub. L. 106-402, title IV, §401(a), Oct. 30, 2000, 114 Stat. 1737. Part C of the Act was classified generally to subchapter III (§6041 et seq.) of chapter 75 of this title. For complete classification of this Act to the Code, see Tables.

Section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, referred to in subsec. (e), is section 101(f) of Pub. L. 106-170, which is set out as a note under section 1320b-19 of this title.

Section 212 of Public Law 93-66, referred to in subsec. (g)(2)(B), is set out as a note under section 1382 of this title.

AMENDMENTS

2010—Subsec. (h). Pub. L. 111-280 substituted “2011” for “2010”.

2009—Subsec. (h). Pub. L. 111-63 substituted “2010” for “2009”.

2004—Subsec. (b)(2). Pub. L. 108-203, §404(b)(2), substituted “secure, maintain, or regain” for “secure or regain”.

Subsec. (g)(2). Pub. L. 108-203, §404(b)(1), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “The term ‘disabled beneficiary’ has the meaning given that term in section 1320b-19(k)(2) of this title.”

Subsec. (h). Pub. L. 108-203, §407(b), substituted “2009” for “2004”.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-203, title IV, §404(b)(3), Mar. 2, 2004, 118 Stat. 526, provided that: “The amendments made by

this subsection [amending this section] shall apply with respect to payments provided after the date of the enactment of this Act [Mar. 2, 2004].”

§ 1320b-22. Grants to develop and establish State infrastructures to support working individuals with disabilities

(a) Establishment

(1) In general

The Secretary of Health and Human Services (in this section referred to as the “Secretary”) shall award grants described in subsection (b) to States to support the design, establishment, and operation of State infrastructures that provide items and services to support working individuals with disabilities.

(2) Application

In order to be eligible for an award of a grant under this section, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary shall require.

(3) Definition of State

In this section, the term “State” means each of the 50 States, the District of Columbia, Puerto Rico, Guam, the United States Virgin Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(b) Grants for infrastructure and outreach

(1) In general

Out of the funds appropriated under subsection (e), the Secretary shall award grants to States to—

(A) support the establishment, implementation, and operation of the State infrastructures described in subsection (a); and

(B) conduct outreach campaigns regarding the existence of such infrastructures.

(2) Eligibility for grants

(A) In general

No State may receive a grant under this subsection unless the State demonstrates to the satisfaction of the Secretary that the State makes personal assistance services available under the State plan under subchapter XIX of this chapter to the extent necessary to enable individuals with disabilities to remain employed, including individuals described in section 1396a(a)(10)(A)(ii)(XIII) of this title if the State has elected to provide medical assistance under such plan to such individuals.

(B) Definitions

In this section:

(i) Employed

The term “employed” means—

(I) earning at least the applicable minimum wage requirement under section 206 of title 29 and working at least 40 hours per month; or

(II) being engaged in a work effort that meets substantial and reasonable threshold criteria for hours of work, wages, or other measures, as defined and approved by the Secretary.

(ii) Personal assistance services

The term “personal assistance services” means a range of services, provided by 1 or

more persons, designed to assist an individual with a disability to perform daily activities on and off the job that the individual would typically perform if the individual did not have a disability. Such services shall be designed to increase the individual's control in life and ability to perform everyday activities on or off the job.

(3) Determination of awards

(A) In general

Subject to subparagraph (B), the Secretary shall develop a methodology for awarding grants to States under this section for a fiscal year in a manner that—

(i) rewards States for their efforts in encouraging individuals described in paragraph (2)(A) to be employed; and

(ii) does not provide a State that has not elected to provide medical assistance under subchapter XIX of this chapter to individuals described in section 1396a(a)(10)(A)(ii)(XIII) of this title with proportionally more funds for a fiscal year than a State that has exercised such election.

(B) Award limits

(i) Minimum awards

(I) In general

Subject to subclause (II), no State with an approved application under this section shall receive a grant for a fiscal year that is less than \$500,000.

(II) Pro rata reductions

If the funds appropriated under subsection (e) for a fiscal year are not sufficient to pay each State with an application approved under this section the minimum amount described in subclause (I), the Secretary shall pay each such State an amount equal to the pro rata share of the amount made available.

(ii) Maximum awards

(I) States that elected optional medicaid eligibility

No State that has an application that has been approved under this section and that has elected to provide medical assistance under subchapter XIX of this chapter to individuals described in section 1396a(a)(10)(A)(ii)(XIII) of this title shall receive a grant for a fiscal year that exceeds 10 percent of the total expenditures by the State (including the reimbursed Federal share of such expenditures) for medical assistance provided under such subchapter for such individuals, as estimated by the State and approved by the Secretary.

(II) Other States

The Secretary shall determine, consistent with the limit described in subclause (I), a maximum award limit for a grant for a fiscal year for a State that has an application that has been approved under this section but that has not elected to provide medical assistance

under subchapter XIX of this chapter to individuals described in section 1396a(a)(10)(A)(ii)(XIII) of this title.

(c) Availability of funds

(1) Funds awarded to States

Funds awarded to a State under a grant made under this section for a fiscal year shall remain available until expended.

(2) Funds not awarded to States

Funds not awarded to States in the fiscal year for which they are appropriated shall remain available in succeeding fiscal years for awarding by the Secretary.

(d) Annual report

A State that is awarded a grant under this section shall submit an annual report to the Secretary on the use of funds provided under the grant. Each report shall include the percentage increase in the number of title II disability beneficiaries, as defined in section 1320b-19(k)(3) of this title (as added by section 101(a) of this Act) in the State, and title XVI disability beneficiaries, as defined in section 1320b-19(k)(4) of this title (as so added) in the State who return to work.

(e) Appropriation

(1) In general

Out of any funds in the Treasury not otherwise appropriated, there is appropriated to make grants under this section—

(A) for fiscal year 2001, \$20,000,000;

(B) for fiscal year 2002, \$25,000,000;

(C) for fiscal year 2003, \$30,000,000;

(D) for fiscal year 2004, \$35,000,000;

(E) for fiscal year 2005, \$40,000,000; and

(F) for each of fiscal years 2006 through 2011, the amount appropriated for the preceding fiscal year increased by the percentage increase (if any) in the Consumer Price Index for All Urban Consumers (United States city average) for the preceding fiscal year.

(2) Budget authority

This subsection constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment of the amounts appropriated under paragraph (1).

(f) Recommendation

Not later than October 1, 2010, the Secretary, in consultation with the Ticket to Work and Work Incentives Advisory Panel established by section 101(f) of this Act, shall submit a recommendation to the Committee on Commerce of the House of Representatives and the Committee on Finance of the Senate regarding whether the grant program established under this section should be continued after fiscal year 2011.

(Pub. L. 106-170, title II, §203, Dec. 17, 1999, 113 Stat. 1894.)

REFERENCES IN TEXT

Section 101(a) of this Act, referred to in subsec. (d), is section 101(a) of the Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. 106-170, which enacted section 1320b-19 of this title.

Section 101(f) of this Act, referred to in subsec. (f), is section 101(f) of the Ticket to Work and Work Incentives Improvement Act of 1999, Pub. L. 106-170, which is set out as a note under section 1320b-19 of this title.

CODIFICATION

Section was enacted as part of the Ticket to Work and Work Incentives Improvement Act of 1999, and not as part of the Social Security Act which comprises this chapter.

CHANGE OF NAME

Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 1320b-23. Pharmacy benefit managers transparency requirements

(a) Provision of information

A health benefits plan or any entity that provides pharmacy benefits management services on behalf of a health benefits plan (in this section referred to as a “PBM”) that manages prescription drug coverage under a contract with—

- (1) a PDP sponsor of a prescription drug plan or an MA organization offering an MA-PD plan under part D of subchapter XVIII; or
- (2) a qualified health benefits plan offered through an exchange established by a State under section 18031 of this title,

shall provide the information described in subsection (b) to the Secretary and, in the case of a PBM, to the plan with which the PBM is under contract with, at such times, and in such form and manner, as the Secretary shall specify.

(b) Information described

The information described in this subsection is the following with respect to services provided by a health benefits plan or PBM for a contract year:

- (1) The percentage of all prescriptions that were provided through retail pharmacies compared to mail order pharmacies, and the percentage of prescriptions for which a generic drug was available and dispensed (generic dispensing rate), by pharmacy type (which includes an independent pharmacy, chain pharmacy, supermarket pharmacy, or mass merchandiser pharmacy that is licensed as a pharmacy by the State and that dispenses medication to the general public), that is paid by the health benefits plan or PBM under the contract.
- (2) The aggregate amount, and the type of rebates, discounts, or price concessions (excluding bona fide service fees, which include but are not limited to distribution service fees, inventory management fees, product stocking allowances, and fees associated with administrative services agreements and patient care programs (such as medication compliance programs and patient education programs)) that the PBM negotiates that are attributable to patient utilization under the plan, and the aggregate amount of the rebates, discounts, or price concessions that are passed through to the plan sponsor, and the total number of prescriptions that were dispensed.

- (3) The aggregate amount of the difference between the amount the health benefits plan pays the PBM and the amount that the PBM pays retail pharmacies, and mail order pharmacies, and the total number of prescriptions that were dispensed.

(c) Confidentiality

Information disclosed by a health benefits plan or PBM under this section is confidential and shall not be disclosed by the Secretary or by a plan receiving the information, except that the Secretary may disclose the information in a form which does not disclose the identity of a specific PBM, plan, or prices charged for drugs, for the following purposes:

- (1) As the Secretary determines to be necessary to carry out this section or part D of subchapter XVIII.
- (2) To permit the Comptroller General to review the information provided.
- (3) To permit the Director of the Congressional Budget Office to review the information provided.
- (4) To States to carry out section 18031 of this title.

(d) Penalties

The provisions of subsection (b)(3)(C) of section 1396r-8 of this title shall apply to a health benefits plan or PBM that fails to provide information required under subsection (a) on a timely basis or that knowingly provides false information in the same manner as such provisions apply to a manufacturer with an agreement under that section.

(Aug. 14, 1935, ch. 531, title XI, § 1150A, as added Pub. L. 111-148, title VI, § 6005, Mar. 23, 2010, 124 Stat. 698.)

PRIOR PROVISIONS

A prior section 1320b-23 of this title, act Aug. 14, 1935, ch. 531, title XI, § 1150A, as added Pub. L. 106-553, § 1(a)(2) [title VI, § 635(c)(1)], Dec. 21, 2000, 114 Stat. 2762, 2762A-115, which related to prohibition of certain misuses of social security numbers, was repealed by Pub. L. 106-554, § 1(a)(4) [div. A, § 213(a)(6), (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-180, effective as if included in Pub. L. 106-553 on Dec. 21, 2000.

§ 1320b-24. Consultation with Tribal Technical Advisory Group

The Secretary of Health and Human Services shall maintain within the Centers for Medicaid & Medicare Services¹ (CMS) a Tribal Technical Advisory Group (TTAG), which was first established in accordance with requirements of the charter dated September 30, 2003, and the Secretary of Health and Human Services shall include in such Group a representative of a national urban Indian health organization and a representative of the Indian Health Service. The inclusion of a representative of a national urban Indian health organization in such Group shall not affect the nonapplication of the Federal Advisory Committee Act (5 U.S.C. App.) to such Group.

(Pub. L. 111-5, div. B, title V, § 5006(e)(1), Feb. 17, 2009, 123 Stat. 510.)

¹ So in original. Probably should be “Centers for Medicare & Medicaid Services”.