

555; amended 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, §314(a), 70 Stat. 849; Pub. L. 87-543, title I, §104(c)(4), July 25, 1962, 76 Stat. 186; Pub. L. 97-35, title XXI, §2184(c)(1), 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 L. 92-603, title III, §303(a), (b), Oct. 30, 1972, 86 Stat. 1484, provided that this section is repealed effective Jan. 1, 1974, except with respect to Puerto Rico, Guam, and the Virgin Islands.*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 “and of encouraging each State, as far as practicable under such conditions, to furnish rehabilitation and other services to help such individuals attain and retain capability for self-support or self-care” after “and totally disabled”.

1962—Pub. L. 87-543 inserted “to furnish rehabilitation and other services” before “to help such individuals” and “or retain capability for” after “attain”.

1956—Act Aug. 1, 1956, restated purpose to include assistance to individuals to attain self-support of self-care.

#### 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.

#### § 1352. State plans for aid to permanently and totally disabled

(a) A State plan for aid to the permanently and totally disabled 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 aid to the permanently and totally disabled 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 establishment 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 subprofessional 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 that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 302 of this title, assistance under a State program funded under part A of subchapter IV, or aid to the blind under the State plan approved under section 1202 of this title; (8) provide that the State agency shall, in determining need, take into consideration any other income and resources of an individual claiming aid to the permanently and totally disabled, as well as any expenses reasonably attributable to the earning of any such income; except that, in making such determination, (A) the State agency may disregard not more than \$7.50 of any income, (B) 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, and (C) the State agency may, for a period not in excess of 36 months, disregard such additional amounts of other income and resources, in the case of an individual who has a plan for achieving self-support approved by the State agency, as may be necessary for the fulfillment of such plan, but only with respect to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation; (9) 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; (10) provide that all individuals wishing to make application for aid to the permanently and totally disabled shall have opportunity to do so, and that aid to the permanently and totally disabled shall be furnished with reasonable promptness to all eligible individuals; (11) effective July 1, 1953, provide, if the plan includes payments to 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; (12) 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

aid to the permanently and totally disabled to help them attain self-support or 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 (13) 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) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes, as a condition of eligibility for aid to the permanently and totally disabled under the plan—

(1) Any residence requirement which excludes any resident of the State who has resided therein five years during the nine years immediately preceding the application for aid to the permanently and totally disabled and has resided therein continuously for one year immediately preceding the application;

(2) 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.

(Aug. 14, 1935, ch. 531, title XIV, §1402, as added Aug. 28, 1950, ch. 809, title III, pt. 5, §351, 64 Stat. 555; amended 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, §314(b), 70 Stat. 850; Pub. L. 87-543, title I, §§104(a)(3)(I), 106(a)(3), July 25, 1962, 76 Stat. 185, 188; Pub. L. 89-97, title IV, §403(d) July 30, 1965, 79 Stat. 418; Pub. L. 90-248, title II, §§210(a)(4), 213(a)(3), Jan. 2, 1968, 81 Stat. 896, 898; Pub. L. 92-603, title IV, §§405(c), 406(c), 407(c), 410(c), 413(c), Oct. 30, 1972, 86 Stat. 1488, 1489, 1491, 1492; Pub. L. 98-369, div. B, title VI, §2651(g), July 18, 1984, 98 Stat. 1150; Pub. L. 104-193, title I, §108(h), Aug. 22, 1996, 110 Stat. 2169.)

#### 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

1996—Subsec. (a)(7). Pub. L. 104-193 substituted “assistance under a State program funded under part A of subchapter IV” for “aid to families with dependent children under the State plan approved under section 602 of this title”.

1984—Subsec. (a)(13). Pub. L. 98-369 added cl. (13).

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

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

Subsec. (a)(9). Pub. L. 92-603, §413(c), substituted provisions permitting the 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 the administration of the State plan, for provisions restricting the use or disclosure of such information to purposes directly connected with the administration of aid to the permanently and totally disabled.

Subsec. (a)(12). Pub. L. 92-603, §405(c), inserted provision relating to the use of whatever internal organizational arrangement found appropriate.

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

1968—Subsec. (a)(5). Pub. L. 90-248, §210(a)(4), designated existing provisions as subcl. (A) and added subcl. (B).

Subsec. (a)(8)(A). Pub. L. 90-248 §213(a)(3), 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)(8). Pub. L. 89-97 inserted exception prohibiting disregard by State in making its determination of need of more than \$5 of any income or of more than the first \$20 of the first \$80 per month of additional income which is earned and allowing disregard, for a period not in excess of 36 months, of such additional amounts of other income and resources as may be necessary to the fulfillment of approved plan for achieving self-support but only as to the part or parts of such period during substantially all of which he is actually undergoing vocational rehabilitation.

1962—Subsec. (a)(7). Pub. L. 87-543, §104(a)(3)(I), substituted “aid to families with dependent children” for “aid to dependent children”.

Subsec. (a)(8). Pub. L. 87-543, §106(a)(3), inserted “, as well as any expenses reasonably attributable to the earning of any such income”.

1956—Subsec. (a)(12). Act Aug. 1, 1956, added cl. (12).

#### EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accelerate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Apr. 1, 1985, except as otherwise provided, see section 2651(f)(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

Amendment by section 210(a)(4) of Pub. L. 90-248 effective July 1, 1969, or, if earlier (with respect to a State's plan approved under this subchapter) on the date as of which the modification of the State plan to comply with such amendment is approved, see section 210(b) of Pub. L. 90-248, set out as a note under section 302 of this title.

#### EFFECTIVE DATE OF 1965 AMENDMENT

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

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 106(a)(3) of Pub. L. 87-543 effective July 1, 1963, see section 202(a) of Pub. L. 87-543, set out as a note under section 302 of this title.

#### EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Aug. 1, 1956, effective July 1, 1957, see section 314 [315] of act Aug. 1, 1956, set out as a note under section 302 of this title.

## 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.

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.

## PUBLIC ACCESS TO STATE DISBURSEMENT RECORDS

Public access to State records of disbursements of funds and payments under this subchapter, see note set out under section 302 of this title.

## § 1353. Payments to States

(a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) Repealed. Pub. L. 97-35, title XXI, §2184(c)(2)(A), Aug. 13, 1981, 95 Stat. 817.

(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 aid to the permanently and totally disabled 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 aid to the permanently and totally disabled for such month; and

(3) 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) 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), 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 subsection (a), 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 permanently and totally disabled individuals 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) 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 a prior quarter by the State or any political subdivision thereof with respect to aid to the permanently and totally disabled 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 XIV, §1403, as added Aug. 28, 1950, ch. 809, title III, pt. 5, §351, 64 Stat. 556; amended July 18, 1952, ch. 945, §8(d), 66 Stat. 779; 1953 Reorg. Plan No. 1, §§5, 8, eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631; Aug. 1, 1956, ch. 836, title III, §§304, 314(c), 344, 70 Stat. 847, 850, 854; Pub. L. 85-840, title V, §504, Aug. 28, 1958, 72 Stat. 1049; Pub. L. 87-64, title III, §303(c), June 30, 1961, 75 Stat. 143; Pub. L. 87-543, title I, §§101(a)(4), (b)(4), 132(c), July 25, 1962, 76 Stat. 178, 181, 195; Pub. L. 89-97, title I, §122, title IV, §401(e), July 30, 1965, 79 Stat. 353, 415; Pub. L. 90-248, title II, §212(c), 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(d), 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(c)(2), title XXV, §2353(l), Aug. 13, 1981, 95 Stat. 817, 873; 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.)

## 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

2004—Subsec. (b)(3). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

1993—Subsec. (a)(3). Pub. L. 103-66 substituted “50 percent of the total amounts expended during such quarter