

Par. (7). Pub. L. 94-460, §117(b)(2), substituted "State health planning and development agency which" for "section 314(a) State health planning agency whose section 314(a) plan" and "health systems agency designated for a health service area which" for "section 314(b) areawide health planning agency whose section 314(b) plan".

Par. (8). Pub. L. 94-460, §105(b), (c), substituted "to reflect differences in marketing costs and the different administrative costs" for "to reflect the different administrative costs" in subpar. (A) preceding cl. (i), added subpar. (B), and redesignated former subpar. (B) as (C).

#### EFFECTIVE AND TERMINATION DATES OF 1986 AMENDMENT

Pub. L. 99-660, title VIII, §812(b)(1), Nov. 14, 1986, 100 Stat. 3801, which provided that amendment by subsection (a), amending this section, was to take effect on Oct. 1, 1985, and was to cease to be in effect on Apr. 1, 1988, was repealed by Pub. L. 100-517, §6(a), Oct. 24, 1988, 102 Stat. 2579.

Pub. L. 99-660, title VIII, §815, Nov. 14, 1986, 100 Stat. 3802, provided that:

"(a) Except as provided in subsection (b) and section 812(b) [enacting provisions set out as notes above and below], this title and the amendments made by this title [amending this section and sections 300e-4, 300e-5 to 300e-10, 300e-16, and 300e-17 of this title, repealing sections 300e-2, 300e-3, and 300e-4a of this title, and enacting provisions set out as notes under this section and sections 201, 300e, 300e-4, and 300e-5 of this title] shall take effect on October 1, 1985.

"(b) Section 813 [enacting provisions set out as a note under section 300e of this title] shall take effect on the date of enactment of this Act [Nov. 14, 1986]."

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that amendment of pars. (1) and (2) of this section by section 104 of Pub. L. 94-460 and the amendment of pars. (4)(C) and (5)(B) of this section by sections 102 and 106 of Pub. L. 94-460 applicable with respect to grants, contracts, loans, and loan guarantees made under sections 300e-2, 300e-3, and 300e-4 of this title for fiscal years beginning after Sept. 30, 1976, applicable with respect to health benefit plans offered under section 300e-9 of this title after Sept. 30, 1976, and effective for purposes of section 300e-11 of this title on Oct. 1, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of this title.

#### CONSTRUCTION

Pub. L. 99-660, title VIII, §816, Nov. 14, 1986, 100 Stat. 3802, provided that: "The provisions of this title and of the amendments made by this title [amending this section and sections 300e-4, 300e-5 to 300e-10, 300e-16, and 300e-17 of this title, repealing sections 300e-2, 300e-3, and 300e-4a of this title, and enacting provisions set out as notes under this section and sections 201, 300e, 300e-4, and 300e-5 of this title] do not authorize the appropriation of any funds for fiscal year 1986."

#### BASIC HEALTH SERVICE STATUS OF CERTAIN ORGAN TRANSPLANT SERVICES AFTER APRIL 1, 1988

Pub. L. 99-660, title VIII, §812(b)(2), Nov. 14, 1986, 100 Stat. 3801, which provided that after Apr. 1, 1988, for purposes of this subchapter, no health service directly associated with an organ transplant was to be considered to be a basic health service if such service would otherwise have been added as a basic health service between Apr. 15, 1985, and Apr. 1, 1988, was repealed by Pub. L. 100-517, §6(a), Oct. 24, 1988, 102 Stat. 2579.

#### REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

Pub. L. 93-222, §5, Dec. 29, 1973, 87 Stat. 935, directed Secretary of Health, Education, and Welfare to report

to Congress the criteria used in the designation of medically underserved areas and population groups for purposes of par. (7) of this section by Dec. 29, 1973, and report to Congress the areas and population groups designated under par. (7) of this section, the comments of State and areawide health planning agencies, and areas which meet the definitional standards of par. (9) of this section for non-metropolitan areas by Dec. 29, 1974, and that the Office of Management and Budget may review such reports before their submission to Congress.

#### §§ 300e-2, 300e-3. Repealed. Pub. L. 99-660, title VIII, §803(a), Nov. 14, 1986, 100 Stat. 3799

Section 300e-2, act July 1, 1944, ch. 373, title XIII, §1303, as added Dec. 29, 1973, Pub. L. 93-222, §2, 87 Stat. 920; amended Oct. 8, 1976, Pub. L. 94-460, title I, §§107(a), 109(d)(1), 117(b)(3), 90 Stat. 1948, 1950, 1955; Aug. 13, 1981, Pub. L. 97-35, title IX, §947(a), 95 Stat. 577, provided for grants and contracts for feasibility surveys.

Section 300e-3, act July 1, 1944, ch. 373, title XIII, §1304, as added Dec. 29, 1973, Pub. L. 93-222, §2, 87 Stat. 921; amended Apr. 21, 1976, Pub. L. 94-273, §40, 90 Stat. 381; Oct. 8, 1976, Pub. L. 94-460, title I, §§107(b), 108(a), (b), (d)(1), 109(d)(2), (3), (e), 113(a), 117(b)(4), 90 Stat. 1948-1950, 1953, 1955; Nov. 1, 1978, Pub. L. 95-559, §§2(a), 3(a)-(c), 6, 92 Stat. 2131, 2134; July 10, 1979, Pub. L. 96-32, §2(a), 93 Stat. 82; Aug. 13, 1981, Pub. L. 97-35, title IX, §§941(c), 947(b), 95 Stat. 573, 577, provided for grants, contracts, and loan guarantees for planning and for initial development costs.

#### EFFECTIVE DATE OF REPEAL

Repeal not applicable to any grant made or contract entered into under this subchapter before Oct. 1, 1985, see section 803(c) of Pub. L. 99-660, set out as an Effective Date of 1986 Amendment note under section 300e-5 of this title.

Repeal effective Oct. 1, 1985, see section 815(a) of Pub. L. 99-660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e-1 of this title.

#### §300e-4. Loans and loan guarantees for initial operation costs

##### (a) Authority

The Secretary may—

(1) make loans to public or private health maintenance organizations to assist them in meeting the amount by which their costs of operation during a period not to exceed the first sixty months of their operation exceed their revenues in that period;

(2) make loans to public or private health maintenance organizations to assist them in meeting the amount by which their costs of operation, which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred during a period not to exceed the first sixty months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private health maintenance organizations for the amounts referred to in paragraphs (1) and (2).

No loan or loan guarantee may be made under this subsection for the costs of operation of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such

costs, and unless the Secretary has made a grant or loan to, entered into a contract with, or guaranteed a loan for, the organization in fiscal year 1981, 1982, 1983, 1984, or 1985 under this section or section 300e-3(b)<sup>1</sup> of this title (as in effect before October 1, 1985).

**(b) Limitations**

(1) Except as provided in paragraph (2), the aggregate amount of principal of loans made or guaranteed, or both, under subsection (a) for a health maintenance organization may not exceed \$7,000,000. In any twelve-month period the amount disbursed to a health maintenance organization under this section (either directly by the Secretary, by an escrow agent under the terms of an escrow agreement, or by a lender under a guaranteed loan) may not exceed \$3,000,000.

(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

**(c) Source of loan funds**

Loans under this section shall be made from the fund established under section 300e-7(e) of this title.

**(d) Time limit on loans and loan guarantees**

No loan may be made or guaranteed under this section after September 30, 1986.

**(e) Repealed. Pub. L. 97-35, title IX, § 947(c), Aug. 13, 1981, 95 Stat. 577**

**(f) Medically underserved populations**

In considering applications for loan guarantees under this section, the Secretary shall give special consideration to applications for health maintenance organizations which will serve medically underserved populations.

(July 1, 1944, ch. 373, title XIII, §1305, as added Pub. L. 93-222, §2, Dec. 29, 1973, 87 Stat. 924; amended Pub. L. 93-641, §8, Jan. 4, 1975, 88 Stat. 2276; Pub. L. 94-273, §2(21), Apr. 21, 1976, 90 Stat. 376; Pub. L. 94-460, title I, §§107(c), 108(c), (d)(2), 109(a)(1), (2), 113(b), Oct. 8, 1976, 90 Stat. 1949, 1953; Pub. L. 95-559, §§2(b), 4(a), (b), Nov. 1, 1978, 92 Stat. 2131, 2132; Pub. L. 96-32, §2(d), July 10, 1979, 93 Stat. 82; Pub. L. 97-35, title IX, §§943(a)-(c), 947(c), Aug. 13, 1981, 95 Stat. 576, 577; Pub. L. 99-660, title VIII, §804(a), Nov. 14, 1986, 100 Stat. 3800.)

REFERENCES IN TEXT

Section 300e-3(b) of this title, referred to in subsec. (a), was repealed by Pub. L. 99-660, title VIII, §803(a), Nov. 14, 1986, 100 Stat. 3799.

AMENDMENTS

1986—Subsec. (a). Pub. L. 99-660 inserted “, and unless the Secretary has made a grant or loan to, entered into a contract with, or guaranteed a loan for, the organization in fiscal year 1981, 1982, 1983, 1984, or 1985 under this section or section 300e-3(b) of this title (as in effect before October 1, 1985)” at end of last sentence.

1981—Subsec. (a). Pub. L. 97-35, §943(a), in pars. (1) and (2) struck out “nonprofit” before “private”, and in

par. (3) substituted provisions respecting guarantees for private health maintenance organizations, for guarantees for nonprofit private health maintenance organizations.

Subsec. (b)(1). Pub. L. 97-35, §943(b), generally revised limitations and, among many changes, increased amounts subject to coverage, and struck out requirements respecting Congressional oversight for increases in amounts.

Subsec. (d). Pub. L. 97-35, §943(c), substituted “1986” for “1981”.

Subsec. (e). Pub. L. 97-35, §947(c), struck out subsec. (e) which related to projects in nonmetropolitan areas. 1979—Subsec. (b)(1). Pub. L. 96-32 substituted “\$4,500,000” for “\$4,000,000” in two places.

1978—Subsec. (a). Pub. L. 95-559, §4(b)(1), substituted “costs of operation” for “operating costs” wherever appearing.

Subsec. (b)(1). Pub. L. 95-559, §4(a), (b)(2), inserted “(or \$4,000,000 if the Secretary makes a written determination that such loans or loan guarantees are necessary to preserve the fiscally sound operation of the health maintenance organization and to protect against the risk of insolvency of the health maintenance organization and, within 30 days of the making of such loans or loan guarantees, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the loans or loan guarantees and a copy of the written determination made with respect to the loans or loan guarantees and the reasons for the determination) through September 30, 1979, and \$4,000,000 thereafter” after “\$2,500,000” and “(or \$2,000,000 if the Secretary makes a written determination that such disbursements are necessary to preserve the fiscally sound operation of the health maintenance organization and protect against the risk of insolvency of the health maintenance organization and, within 30 days of such disbursement, furnishes the Committee on Human Resources of the Senate and the Committee on Interstate and Foreign Commerce of the House of Representatives with written notification of the making of the disbursement and a copy of the written determination made with respect to it and the reasons for the determination) through September 30, 1979, and \$2,000,000 thereafter” after “\$1,000,000” and substituted “any twelve-month period” for “any fiscal year”.

Subsec. (d). Pub. L. 95-559, §2(b), substituted “September 30, 1981” for “September 30, 1980”.

1976—Subsec. (a)(1), (2). Pub. L. 94-460, §§107(c), 109(a)(1), substituted “during a period not to exceed the first sixty months” for “in the period of the first thirty-six months”.

Subsec. (a)(3). Pub. L. 94-460, §108(c), substituted reference to loans made to nonprofit private health maintenance organizations for the amounts referred to in paragraph (1) or (2), or to other private health maintenance organizations for such amounts but only if the health maintenance organization will serve a medically underserved population for reference to loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

Subsec. (b)(1). Pub. L. 94-460, §109(a)(2), substituted “In any fiscal year the amount disbursed to a health maintenance organization under this section (either directly by the Secretary or by an escrow agent under the terms of an escrow agreement or by a lender under a loan guaranteed under this section) may not exceed \$1,000,000” for “In any fiscal year, the amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed \$1,000,000,000”.

Subsec. (d). Pub. L. 94-460, §113(b), substituted “No loan may be made or guaranteed under this section after September 30, 1980” for “A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978”.

<sup>1</sup> See References in Text note below.

Pub. L. 94-273 substituted "September" for "June".  
 Subsec. (f). Pub. L. 94-460, §108(d)(2), added subsec. (f).  
 1975—Subsec. (b)(1). Pub. L. 93-641 substituted provisions that amount disbursed under a loan or loans made or guaranteed under this section for a health maintenance organization may not exceed \$1,000,000,000 for provisions that principal amount of any loan made or guaranteed under subsec. (a) of this section for a health maintenance organization may not exceed \$1,000,000.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-660, title VIII, §804(b), Nov. 14, 1986, 100 Stat. 3800, provided that: "The amendment made by subsection (a) [amending this section] does not apply to any loan or loan guarantee for the initial costs of operation of a health maintenance organization made under title XIII of the Public Health Service Act [42 U.S.C. 300e et seq.] before October 1, 1985."

Amendment by Pub. L. 99-660 effective Oct. 1, 1985, see section 815(a) of Pub. L. 99-660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e-1 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-559, §4(d), Nov. 1, 1978, 92 Stat. 2133, provided that: "The amendments made by this section [amending this section and section 300e-7 of this title] shall only be effective for fiscal years beginning on or after October 1, 1978."

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, except that the amendment of subsec. (a)(1), (2) of this section by section 107(c) of Pub. L. 94-460 applicable with respect to grants, contracts, loans, and loan guarantees made under this section and sections 300e-2 and 300e-3 of this title for fiscal years beginning after Sept. 30, 1976, and except that the amendment of subsec. (a)(1), (2) of this section by section 109(a)(1) of Pub. L. 94-460 applicable with respect to loan guarantees made under this section after Sept. 30, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of this title.

### **§ 300e-4a. Repealed. Pub. L. 99-660, title VIII, § 805(a), Nov. 14, 1986, 100 Stat. 3800**

Section, act July 1, 1944, ch. 373, title XIII, §1305A, as added Nov. 1, 1978, Pub. L. 95-559, §5(a), 92 Stat. 2133; amended July 10, 1979, Pub. L. 96-32, §2(e), 93 Stat. 82; Aug. 13, 1981, Pub. L. 97-35, title IX, §944, 95 Stat. 576, related to loans and loan guarantees for acquisition and construction of ambulatory health care facilities.

#### EFFECTIVE DATE OF REPEAL

Repeal not applicable to any loan or loan guarantee made under this section before Oct. 1, 1985, see section 805(c) of Pub. L. 99-660, set out as an Effective Date of 1986 Amendment note under section 300e-5 of this title.

Repeal effective Oct. 1, 1985, see section 815(a) of Pub. L. 99-660, set out as an Effective and Termination Dates of 1986 Amendment note under section 300e-1 of this title.

### **§ 300e-5. Application requirements**

#### **(a) Submission to and approval by Secretary required for making loans and loan guarantees**

No loan or loan guarantee may be made under this subchapter unless an application therefor has been submitted to, and approved by, the Secretary.

#### **(b) Application contents**

The Secretary may not approve an application for a loan or loan guarantee under this subchapter unless—

(1) such application meets the requirements of section 300e-7 of this title;

(2) in the case of an application for assistance under section 300e-4 of this title, he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 300e(c) of this title, (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

(5) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this subchapter, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this subchapter and with the plans contained in previous applications for such assistance;

(6) the application contains such assurances as the Secretary may require respecting the intent and the ability of the applicant to meet the requirements of paragraphs (1) and (2) of section 300e(b) of this title respecting the fixing of basic health services payments and sup-