

**§ 1385. Omitted**

## CODIFICATION

Section, act Aug. 14, 1935, ch. 531, title XVI, §1605, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 204; amended July 30, 1965, Pub. L. 89-97, title II, §§221(d)(1), (2), 222(b), title IV, §402(b), 79 Stat. 358, 360, 416, defined “aid to the aged, blind, or disabled” and “medical assistance for the aged”, prior to the general revision of this subchapter by Pub. L. 92-603, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974.

## PUERTO RICO, GUAM, AND VIRGIN ISLANDS

Enactment of subchapter XVI of the Social Security Act [this subchapter] by section 301 of Pub. L. 92-603, eff. Jan. 1, 1974, was not applicable to Puerto Rico, Guam, and the Virgin Islands. See section 303(b) of Pub. L. 92-603, set out as a note under section 301 of this title. Therefore, as to Puerto Rico, Guam, and the Virgin Islands, section 1605 of the Social Security Act [this section] as it existed prior to reenactment of this subchapter by Pub. L. 92-603, and as amended, continues to apply and to read as follows:

**§ 1385. Definitions**

(a) For purposes of this subchapter, the term “aid to the aged, blind, or disabled” means money payments to needy individuals who are 65 years of age or older, are blind, or are 18 years of age or over and permanently and totally disabled, but such term does not include—

(1) any such payments to or care in behalf of any individual who is an inmate of a public institution (except as a patient in a medical institution); or

(2) any such payments to or care in behalf of any individual who has not attained 65 years of age and who is a patient in an institution for tuberculosis or mental diseases.

Such term also includes payments which are not included within the meaning of such term under the preceding sentence, but which would be so included except that they are made on behalf of such a needy individual to another individual who (as determined in accordance with standards prescribed by the Commissioner of Social Security) is interested in or concerned with the welfare of such needy individual, but only with respect to a State whose State plan approved under section 1382 of this title includes provision for—

(A) determination by the State agency that such needy individual has, by reason of his physical or mental condition, such inability to manage funds that making payments to him would be contrary to his welfare and, therefore, it is necessary to provide such aid through payments described in this sentence;

(B) making such payments only in cases in which such payments will, under the rules otherwise applicable under the State plan for determining need and the amount of aid to the aged, blind, or disabled to be paid (and in conjunction with other income and resources), meet all the need [sic] of the individuals with respect to whom such payments are made;

(C) undertaking and continuing special efforts to protect the welfare of such individual and to improve, to the extent possible, his capacity for self-care and to manage funds;

(D) periodic review by such State agency of the determination under clause (A) of this subsection to ascertain whether conditions justifying such determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1311 of this title, if and when it appears that such action will best serve the interests of such needy individual; and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) of this subsection for any individual with respect to whom it is made.

At the option of a State (if its plan approved under this subchapter so provides), such term (i) need not include

money payments to an individual who has been absent from such State for a period in excess of ninety consecutive days (regardless of whether he has maintained his residence in such State during such period) until he has been present in such State for thirty consecutive days in the case of such an individual who has maintained his residence in such State during such period or ninety consecutive days in the case of any other such individual, and (ii) may include rent payments made directly to a public housing agency on behalf of a recipient or a group or groups of recipients of aid under such plan.

(b) Repealed. Pub. L. 97-35, title XXI, §2184(d)(6)(B), Aug. 13, 1981, 95 Stat. 818.

(Aug. 14, 1935, ch. 531, title XVI, §1605, as added July 25, 1962, Pub. L. 87-543, title I, §141(a), 76 Stat. 204; amended July 30, 1965, Pub. L. 89-97, title II, §§221(d)(1), (2), 222(b), title IV, §402(b), 79 Stat. 358, 360, 416; Oct. 30, 1972, Pub. L. 92-603, title IV, §§408(d), 409(d), 86 Stat. 1490, 1491; Aug. 13, 1981, Pub. L. 97-35, title XXI, §2184(d)(6), 95 Stat. 818; Aug. 15, 1994, Pub. L. 103-296, title I, §107(a)(4), 108 Stat. 1478.)

[Amendment by section 107(a)(4) of Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as an Effective Date of 1994 Amendment note under section 401 of this title.]

## SUBCHAPTER XVII—GRANTS FOR PLANNING COMPREHENSIVE ACTION TO COMBAT MENTAL RETARDATION

**§ 1391. Authorization of appropriations**

For the purpose of assisting the States (including the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa) to plan for and take other steps leading to comprehensive State and community action to combat mental retardation, there is authorized to be appropriated the sum of \$2,200,000. There are also authorized to be appropriated, for assisting such States in initiating the implementation and carrying out of planning and other steps to combat mental retardation, \$2,750,000 for the fiscal year ending June 30, 1966, and \$2,750,000 for the fiscal year ending June 30, 1967.

(Aug. 14, 1935, ch. 531, title XVII, §1701, as added Pub. L. 88-156, §5, Oct. 24, 1963, 77 Stat. 275; amended Pub. L. 89-97, title II, §211(a), July 30, 1965, 79 Stat. 356.)

## AMENDMENTS

1965—Pub. L. 89-97 authorized appropriations of \$2,750,000 for fiscal years ending June 30, 1966 and 1967 for implementation of mental retardation planning.

## SHORT TITLE

For short title of Pub. L. 88-156, which enacted this subchapter, as the “Maternal and Child Health and Mental Retardation Planning Amendments of 1963”, see section 1 of Pub. L. 88-156, set out as a Short Title of 1963 Amendment note under section 1305 of this title.

**§ 1392. Availability of funds during certain fiscal years; limitation on amount; utilization of grant**

The sums appropriated pursuant to the first sentence of section 1391 of this title shall be available for grants to States by the Secretary during the fiscal year ending June 30, 1964, and the succeeding fiscal year; and the sums appropriated pursuant to the second sentence of such section for the fiscal year ending June 30, 1966, shall be available for such grants during such

year and the next two fiscal years, and sums appropriated pursuant thereto for the fiscal year ending June 30, 1967, shall be available for such grants during such year and the succeeding fiscal year. Any such grant to a State, which shall not exceed 75 per centum of the cost of the planning and related activities involved, may be used by it to determine what action is needed to combat mental retardation in the State and the resources available for this purpose, to develop public awareness of the mental retardation problem and of the need for combating it, to coordinate State and local activities relating to the various aspects of mental retardation and its prevention, treatment, or amelioration, and to plan other activities leading to comprehensive State and community action to combat mental retardation.

(Aug. 14, 1935, ch. 531, title XVII, §1702, as added Pub. L. 88-156, §5, Oct. 24, 1963, 77 Stat. 275; amended Pub. L. 89-97, title II, §211(b), July 30, 1965, 79 Stat. 356.)

#### AMENDMENTS

1965—Pub. L. 89-97 inserted provision making appropriations for fiscal year ending June 30, 1966, available for grants during such fiscal year and the next two fiscal years and the appropriation for fiscal year ending June 30, 1967, available for grants during such fiscal year and the succeeding fiscal year.

### § 1393. Applications; single State agency designation; essential planning services; plans for expenditure; final activities report and other necessary reports; records; accounting

In order to be eligible for a grant under section 1392 of this title, a State must submit an application therefor which—

(1) designates or establishes a single State agency, which may be an interdepartmental agency, as the sole agency for carrying out the purposes of this subchapter;

(2) indicates the manner in which provision will be made to assure full consideration of all aspects of services essential to planning for comprehensive State and community action to combat mental retardation, including services in the fields of education, employment, rehabilitation, welfare, health, and the law, and services provided through community programs for and institutions for the mentally retarded;

(3) sets forth its plans for expenditure of such grant, which plans provide reasonable assurance of carrying out the purposes of this subchapter;

(4) provides for submission of a final report of the activities of the State agency in carrying out the purposes of this subchapter, and for submission of such other reports, in such form and containing such information, as the Secretary may from time to time find necessary for carrying out the purposes of this subchapter and for keeping such records and affording such access thereto as he may find necessary to assure the correctness and verification of such reports; and

(5) provides for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of and accounting for funds paid to the State under this subchapter.

(Aug. 14, 1935, ch. 531, title XVII, §1703, as added Pub. L. 88-156, §5, Oct. 24, 1963, 77 Stat. 275.)

### § 1394. Payments to States; adjustments; advances or reimbursement; installments; conditions

Payment of grants under this subchapter may be made (after necessary adjustment on account of previously made underpayments or overpayments) in advance or by way of reimbursement, and in such installments and on such conditions, as the Secretary may determine.

(Aug. 14, 1935, ch. 531, title XVII, §1704, as added Pub. L. 88-156, §5, Oct. 24, 1963, 77 Stat. 276.)

#### SUBCHAPTER XVIII—HEALTH INSURANCE FOR AGED AND DISABLED

### § 1395. Prohibition against any Federal interference

Nothing in this subchapter shall be construed to authorize any Federal officer or employee to exercise any supervision or control over the practice of medicine or the manner in which medical services are provided, or over the selection, tenure, or compensation of any officer or employee of any institution, agency, or person providing health services; or to exercise any supervision or control over the administration or operation of any such institution, agency, or person.

(Aug. 14, 1935, ch. 531, title XVIII, §1801, as added Pub. L. 89-97, title I, §102(a), July 30, 1965, 79 Stat. 291.)

#### SHORT TITLE

For short title of title I of Pub. L. 89-97, which enacted this subchapter as the "Health Insurance for the Aged Act", see section 100 of Pub. L. 89-97, set out as a Short Title of 1965 Amendment note under section 1305 of this title.

#### PROTECTING AND IMPROVING GUARANTEED MEDICARE BENEFITS

Pub. L. 111-148, title III, §3601, Mar. 23, 2010, 124 Stat. 538, provided that:

"(a) PROTECTING GUARANTEED MEDICARE BENEFITS.—Nothing in the provisions of, or amendments made by, this Act [see Short Title note set out under section 1801 of this title] shall result in a reduction of guaranteed benefits under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.].

"(b) ENSURING THAT MEDICARE SAVINGS BENEFIT THE MEDICARE PROGRAM AND MEDICARE BENEFICIARIES.—Savings generated for the Medicare program under title XVIII of the Social Security Act under the provisions of, and amendments made by, this Act shall extend the solvency of the Medicare trust funds, reduce Medicare premiums and other cost-sharing for beneficiaries, and improve or expand guaranteed Medicare benefits and protect access to Medicare providers."

### § 1395a. Free choice by patient guaranteed

#### (a) Basic freedom of choice

Any individual entitled to insurance benefits under this subchapter may obtain health services from any institution, agency, or person qualified to participate under this subchapter if such institution, agency, or person undertakes to provide him such services.