

plan developed as provided in part 3 of this subchapter as in effect prior to Jan. 2, 1968, sections 721 to 728 of this title, “any overpayment or underpayment which the Secretary determines was made to the State under section 523 of the Social Security Act [42 U.S.C. 723] and with respect to which adjustment has not then already been made under subsection (b) of such section shall, for purposes of section 422 of such Act [42 U.S.C. 622], be considered an overpayment or underpayment (as the case may be) made under section 422 of such Act.”

### § 623. Allotments to States

#### (a) In general

The sum appropriated pursuant to section 625 of this title for each fiscal year shall be allotted by the Secretary for use by cooperating State public welfare agencies which have plans developed jointly by the State agency and the Secretary as follows: The Secretary shall first allot \$70,000 to each State, and shall then allot to each State an amount which bears the same ratio to the remainder of such sum as the product of (1) the population of the State under the age of twenty-one and (2) the allotment percentage of the State (as determined under this section) bears to the sum of the corresponding products of all the States.

#### (b) Determination of State allotment percentages

The “allotment percentage” for any State shall be 100 percent less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 percent as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 percent or more than 70 percent, and (2) the allotment percentage shall be 70 percent in the case of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

#### (c) Promulgation of State allotment percentages

The allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October 1 next succeeding such promulgation.

#### (d) United States defined

For purposes of this section, the term “United States” means the 50 States and the District of Columbia.

#### (e) Reallocation of funds

##### (1) In general

The amount of any allotment to a State for a fiscal year under the preceding provisions of this section which the State certifies to the Secretary will not be required for carrying out the State plan developed as provided in section 622 of this title shall be available for reallocation from time to time, on such dates as the Secretary may fix, to other States which the Secretary determines—

(A) need sums in excess of the amounts allotted to such other States under the preced-

ing provisions of this section, in carrying out their State plans so developed; and

(B) will be able to so use such excess sums during the fiscal year.

#### (2) Considerations

The Secretary shall make the reallocations on the basis of the State plans so developed, after taking into consideration—

(A) the population under 21 years of age;

(B) the per capita income of each of such other States as compared with the population under 21 years of age; and

(C) the per capita income of all such other States with respect to which such a determination by the Secretary has been made.

#### (3) Amounts reallocated to a State deemed part of State allotment

Any amount so reallocated to a State is deemed part of the allotment of the State under this section.

(Aug. 14, 1935, ch. 531, title IV, §423, formerly §421, as added Pub. L. 90-248, title II, §240(c), Jan. 2, 1968, 81 Stat. 912; amended Pub. L. 96-272, title I, §103(a), June 17, 1980, 94 Stat. 516; Pub. L. 100-203, title IX, §9135(b)(2), Dec. 22, 1987, 101 Stat. 1330-315; renumbered §423 and amended Pub. L. 109-288, §§6(b)(2), (d), 11(a)(1), Sept. 28, 2006, 120 Stat. 1244, 1246, 1255; Pub. L. 112-34, title I, §101(d), Sept. 30, 2011, 125 Stat. 371.)

#### CODIFICATION

Section was formerly classified to section 621 of this title prior to renumbering by Pub. L. 109-288.

#### PRIOR PROVISIONS

A prior section 623, act Aug. 14, 1935, ch. 531, title IV, §423, as added Pub. L. 90-248, title II, §240(c), Jan. 2, 1968, 81 Stat. 913, and amended, which related to payment to States, was renumbered section 424 of act Aug. 14, 1935, by Pub. L. 109-288, §6(b)(2), Sept. 28, 2006, 120 Stat. 1244, and transferred to section 624 of this title.

#### AMENDMENTS

2011—Subsec. (b). Pub. L. 112-34, which directed substitution of “percent” for “per centum” wherever appearing, was not executed due to prior amendment by Pub. L. 109-288, §11(a)(1)(A). See 2006 Amendment note below.

2006—Subsec. (a). Pub. L. 109-288, §11(a)(1)(B), substituted “The Secretary” for “He”.

Pub. L. 109-288, §6(d)(1), inserted heading and substituted “section 625” for “section 620”.

Subsec. (b). Pub. L. 109-288, §11(a)(1)(A), which directed amendment of section by substituting “percent” for “per centum”, was executed by making the substitution wherever appearing in subsec. (b), to reflect the probable intent of Congress.

Pub. L. 109-288, §6(d)(2), inserted heading.

Subsec. (c). Pub. L. 109-288, §6(d)(3), inserted heading.

Subsec. (d). Pub. L. 109-288, §6(d)(4), inserted heading and substituted “50” for “fifty”.

Subsec. (e). Pub. L. 109-288, §6(d)(5), added subsec. (e). 1987—Subsec. (b). Pub. L. 100-203 substituted “Guam, and American Samoa” for “and Guam”.

1980—Pub. L. 96-272 designated existing provisions as subsec. (a) and added subsecs. (b) to (d).

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-34 effective Oct. 1, 2011, and applicable to payments under this part and part E of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with

delay permitted if State legislation is required to meet additional requirements, see section 107 of Pub. L. 112-34, set out as a note under section 622 of this title.

**EFFECTIVE DATE OF 2006 AMENDMENT**

Amendment by Pub. L. 109-288 effective Oct. 1, 2006, and applicable to payments under this part and part E of this subchapter for calendar quarters beginning on or after such date, without regard to whether implementing regulations have been promulgated, and with delay permitted if State legislation is required to meet additional requirements, see section 12(a), (b) of Pub. L. 109-288, set out as a note under section 621 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Pub. L. 100-203, title IX, §9135(c), Dec. 22, 1987, 101 Stat. 1330-315, provided that: "The amendments made by this section [amending this section and sections 1301 and 1397b of this title] shall apply with respect to fiscal years beginning on or after October 1, 1988."

**§ 624. Payment to States**

**(a) Payment schedule**

From the sums appropriated therefor and the allotment under this subpart, subject to the conditions set forth in this section, the Secretary shall from time to time pay to each State that has a plan developed in accordance with section 622 of this title an amount equal to 75 percent of the total sum expended under the plan (including the cost of administration of the plan) in meeting the costs of State, district, county, or other local child welfare services.

**(b) Computation and method of payment**

The method of computing and making payments under this section shall be as follows:

(1) The Secretary shall, prior to the beginning of each period for which a payment is to be made, estimate the amount to be paid to the State for such period under the provisions of this section.

(2) From the allotment available therefor, the Secretary shall pay the amount so estimated, reduced or increased, as the case may be, by any sum (not previously adjusted under this section) by which he finds that his estimate of the amount to be paid the State for any prior period under this section was greater or less than the amount which should have been paid to the State for such prior period under this section.

**(c) Limitation on use of Federal funds for child care, foster care maintenance payments, or adoption assistance payments**

The total amount of Federal payments under this subpart for a fiscal year beginning after September 30, 2007, that may be used by a State for expenditures for child care, foster care maintenance payments, or adoption assistance payments shall not exceed the total amount of such payments for fiscal year 2005 that were so used by the State.

**(d) Limitation on use by States of non-Federal funds for foster care maintenance payments to match Federal funds**

For any fiscal year beginning after September 30, 2007, State expenditures of non-Federal funds for foster care maintenance payments shall not be considered to be expenditures under the State plan developed under this subpart for the fiscal

year to the extent that the total of such expenditures for the fiscal year exceeds the total of such expenditures under the State plan developed under this subpart for fiscal year 2005.

**(e) Limitation on reimbursement for administrative costs**

A payment may not be made to a State under this section with respect to expenditures during a fiscal year for administrative costs, to the extent that the total amount of the expenditures exceeds 10 percent of the total expenditures of the State during the fiscal year for activities funded from amounts provided under this subpart.

**(f) Child visitation by caseworkers**

(1)(A) Each State shall take such steps as are necessary to ensure that the total number of visits made by caseworkers on a monthly basis to children in foster care under the responsibility of the State during a fiscal year is not less than 90 percent (or, in the case of fiscal year 2015 or thereafter, 95 percent) of the total number of such visits that would occur during the fiscal year if each such child were so visited once every month while in such care.

(B) If the Secretary determines that a State has failed to comply with subparagraph (A) for a fiscal year, then the percentage that would otherwise apply for purposes of subsection (a) for the fiscal year shall be reduced by—

(i) 1, if the number of full percentage points by which the State fell short of the percentage specified in subparagraph (A) is less than 10;

(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.

(2)(A) Each State shall take such steps as are necessary to ensure that not less than 50 percent of the total number of visits made by caseworkers to children in foster care under the responsibility of the State during a fiscal year occur in the residence of the child involved.

(B) If the Secretary determines that a State has failed to comply with subparagraph (A) for a fiscal year, then the percentage that would otherwise apply for purposes of subsection (a) for the fiscal year shall be reduced by—

(i) 1, if the number of full percentage points by which the State fell short of the percentage specified in subparagraph (A) is less than 10;

(ii) 3, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 10 and less than 20; or

(iii) 5, if the number of full percentage points by which the State fell short, as described in clause (i), is not less than 20.

(Aug. 14, 1935, ch. 531, title IV, §424, formerly §423, as added Pub. L. 90-248, title II, §240(c), Jan. 2, 1968, 81 Stat. 913; amended Pub. L. 94-273, §22, Apr. 21, 1976, 90 Stat. 379; Pub. L. 96-272, title I, §103(a), June 17, 1980, 94 Stat. 518; Pub. L. 103-66, title XIII, §13711(b)(2), Aug. 10, 1993, 107 Stat. 655; Pub. L. 103-432, title II, §202(d)(1), Oct. 31, 1994, 108 Stat. 4454; renumbered §424 and