

cluding any facility or program having primary custody of children for 20 hours or more per week), juvenile detention, correction or treatment facilities, with the objective of protecting the children involved and promoting such children's safety and welfare while receiving service through such facilities or programs.

“(B) In the case of any State not meeting the requirements of subparagraph (A) by September 30, 1985, such State's allotment for fiscal year 1986 or 1987 shall be reduced in the aggregate by an amount equal to one-half of the amount by which such State's allotment under such title was increased for fiscal year 1985 as a result of subsection (a).

“(d) The determination and promulgation required by section 2003(b) of the Social Security Act [42 U.S.C. 1397b(b)] with respect to the fiscal year 1985 (to take into account the preceding provisions of this section) shall be made as soon as possible after the date of the enactment of this Act [Oct. 12, 1984].”

### § 1397c. State reporting requirements

Prior to expenditure by a State of payments made to it under section 1397a of this title for any fiscal year, the State shall report on the intended use of the payments the State is to receive under this division, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted under this division, and any revision shall be subject to the requirements of the previous sentence.

(Aug. 14, 1935, ch. 531, title XX, §2004, as added Pub. L. 97-35, title XXIII, §2352(a), Aug. 13, 1981, 95 Stat. 869; amended Pub. L. 111-148, title VI, §6703(d)(1)(B), Mar. 23, 2010, 124 Stat. 803.)

#### PRIOR PROVISIONS

A prior section 1397c, act Aug. 14, 1935, ch. 531, title XX, §2004, as added Jan. 4, 1975, Pub. L. 93-647, §2, 88 Stat. 2346; amended June 17, 1980, Pub. L. 96-272, title II, §206(a), (b), 94 Stat. 525, related to services program planning, prior to the general revision of this subchapter by section 2352(a) of Pub. L. 97-35.

#### AMENDMENTS

2010—Pub. L. 111-148, which directed substitution of “this division” for “this subchapter” wherever appearing in subtitle 1 of title XX of act Aug. 14, 1935, was executed by making the substitution in two places in this section, which is in subtitle A of title XX act Aug. 14, 1935, to reflect the probable intent of Congress.

### § 1397d. Limitation on use of grants; waiver

(a) Except as provided in subsection (b), grants made under this division may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this division—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than costs of subsist-

ence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelter provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this division;

(5) for social services (except services to an alcoholic or drug dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(6) for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income;

(7) for any child day care services unless such services meet applicable standards of State and local law;

(8) for the provision of cash payments as a service (except as otherwise provided in this section);

(9) for payment for any item or service (other than an emergency item or service) furnished—

(A) by an individual or entity during the period when such individual or entity is excluded under this division or subchapter V, XVIII, or XIX pursuant to section 1320a-7, 1320a-7a, 1320c-5, or 1395u(j)(2) of this title, or

(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded under this division or subchapter V, XVIII, or XIX pursuant to section 1320a-7, 1320a-7a, 1320c-5, or 1395u(j)(2) of this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person); or

(10) in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997 [42 U.S.C. 14401 et seq.].

(b) The Secretary may waive the limitation contained in subsection (a)(1) and (4) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this division.

(Aug. 14, 1935, ch. 531, title XX, §2005, as added Pub. L. 97-35, title XXIII, §2352(a), Aug. 13, 1981, 95 Stat. 869; amended Pub. L. 100-93, §8(i), Aug. 18, 1987, 101 Stat. 695; Pub. L. 100-203, title IV, §4118(e)(13), Dec. 22, 1987, as added Pub. L. 100-360, title IV, §411(k)(10)(D), July 1, 1988, 102 Stat. 796; Pub. L. 100-485, title VI, §608(d)(26)(K)(ii), Oct. 13, 1988, 102 Stat. 2422; Pub. L. 105-12, §9(c), Apr. 30, 1997, 111 Stat. 27;

Pub. L. 111-148, title VI, §6703(d)(1)(B), Mar. 23, 2010, 124 Stat. 803.)

#### REFERENCES IN TEXT

The Assisted Suicide Funding Restriction Act of 1997, referred to in subsec. (a)(10), is Pub. L. 105-12, Apr. 30, 1997, 111 Stat. 23, which is classified principally to chapter 138 (§14401 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 14401 of this title and Tables.

#### PRIOR PROVISIONS

A prior section 1397d, act Aug. 14, 1935, ch. 531, title XX, §2005, as added Jan. 4, 1975, Pub. L. 93-647, §2, 88 Stat. 2347; amended June 17, 1980, Pub. L. 96-272, title II, §206(d), 94 Stat. 525, related to effective date of implementing regulations, prior to the general revision of this subchapter by section 2352(a) of Pub. L. 97-35.

#### AMENDMENTS

2010—Pub. L. 111-148, which directed substitution of “this division” for “this subchapter” wherever appearing in subtitle 1 of title XX of act Aug. 14, 1935, was executed by making the substitution wherever appearing in this section, which is in subtitle A of title XX act Aug. 14, 1935, to reflect the probable intent of Congress.

1997—Subsec. (a)(10). Pub. L. 105-12 added par. (10).

1988—Subsec. (a)(9)(A), (B). Pub. L. 100-360, §411(k)(10)(D), as amended by Pub. L. 100-485, §608(d)(26)(K)(ii), added Pub. L. 100-203, §4118(e)(13), see 1987 Amendment note below.

1987—Subsec. (a)(9). Pub. L. 100-93 added par. (9).

Subsec. (a)(9)(A), (B). Pub. L. 100-203, §4118(e)(13), as added by Pub. L. 100-360, §411(k)(10)(D), as amended by Pub. L. 100-485, §608(d)(26)(K)(ii), substituted “under this subchapter or subchapter V, XVIII, or XIX pursuant to section 1320a-7, 1320a-7a, 1320c-5, or 1395u(j)(2) of this title” for “pursuant to section 1320a-7 of this title or section 1320a-7a of this title from participation in the program under this subchapter”.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-93 effective at end of fourteen-day period beginning Aug. 18, 1987, and inapplicable to administrative proceedings commenced before end of such period, see section 15(a) of Pub. L. 100-93, set out as a note under section 1320a-7 of this title.

### § 1397e. Administrative and fiscal accountability

#### (a) Reporting requirements; form, contents, etc.

Each State shall prepare reports on its activities carried out with funds made available (or

transferred for use) under this division. Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c)) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the reports required by section 1397c of this title. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

#### (b) Audits; implementation, etc.

Each State shall, not less often than every two years, audit its expenditures from amounts received (or transferred for use) under this division. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this division, in accordance with generally accepted auditing principles. Within 30 days following the completion of each audit, the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this division, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this division.

#### (c) State reports on expenditure and use of social services funds

Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

(1) the number of individuals who received services paid for in whole or in part with funds made available under this division, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

(2) the amount spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

(3) the criteria applied in determining eligibility for services (such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs); and

(4) the methods by which services were provided, showing separately the services provided by public agencies and those provided by private agencies, and broken down in each case to reflect the types of services and circumstances involved.

The Secretary shall establish uniform definitions of services for use by the States in preparing the information required by this subsection, and make such other provision as may be nec-