

oped by the President in accordance with section 9605(a)(8)(B) of this title.

**(d) Health coverage unaffected**

Nothing in this section shall be construed to affect any coverage obligation of a governmental or private health plan or program relating to an at-risk individual.

**(e) Funding**

**(1) In general**

Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary, to carry out the program under this section—

(A) \$23,000,000 for the period of fiscal years 2010 through 2014; and

(B) \$20,000,000 for each 5-fiscal year period thereafter.

**(2) Availability**

Funds appropriated under paragraph (1) shall remain available until expended.

**(f) Nonapplication**

**(1) In general**

Except as provided in paragraph (2), the preceding sections of this subchapter shall not apply to grants awarded under this section.

**(2) Limitations on use of grants**

Section 1397d(a) of this title shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this subchapter, except that paragraph (4) of such section shall not be construed to prohibit grantees from conducting screening for environmental health conditions as authorized under this section.

(Aug. 14, 1935, ch. 531, title XX, §2009, as added Pub. L. 111-148, title X, §10323(b), Mar. 23, 2010, 124 Stat. 957.)

CODIFICATION

Pub. L. 111-148, title X, §10323(b), Mar. 23, 2010, 124 Stat. 957, which directed amendment of title XX of act Aug. 14, 1935, by adding this section at the end, was executed by adding this section at the end of subtitle A of title XX of that Act, which is this division, to reflect the probable intent of Congress.

Division B—Elder Justice

**§ 1397j. Definitions**

In this division:

**(1) Abuse**

The term “abuse” means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.

**(2) Adult protective services**

The term “adult protective services” means such services provided to adults as the Secretary may specify and includes services such as—

(A) receiving reports of adult abuse, neglect, or exploitation;

(B) investigating the reports described in subparagraph (A);

(C) case planning, monitoring, evaluation, and other case work and services; and

(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.

**(3) Caregiver**

The term “caregiver” means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder who needs supportive services in any setting.

**(4) Direct care**

The term “direct care” means care by an employee or contractor who provides assistance or long-term care services to a recipient.

**(5) Elder**

The term “elder” means an individual age 60 or older.

**(6) Elder justice**

The term “elder justice” means—

(A) from a societal perspective, efforts to—  
(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and

(ii) protect elders with diminished capacity while maximizing their autonomy; and

(B) from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.

**(7) Eligible entity**

The term “eligible entity” means a State or local government agency, Indian tribe or tribal organization, or any other public or private entity that is engaged in and has expertise in issues relating to elder justice or in a field necessary to promote elder justice efforts.

**(8) Exploitation**

The term “exploitation” means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

**(9) Fiduciary**

The term “fiduciary”—

(A) means a person or entity with the legal responsibility—

(i) to make decisions on behalf of and for the benefit of another person; and

(ii) to act in good faith and with fairness; and

(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

**(10) Grant**

The term “grant” includes a contract, cooperative agreement, or other mechanism for providing financial assistance.

**(11) Guardianship**

The term “guardianship” means—

(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care or property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

**(12) Indian tribe****(A) In general**

The term “Indian tribe” has the meaning given such term in section 5304 of title 25.

**(B) Inclusion of Pueblo and Rancheria**

The term “Indian tribe” includes any Pueblo or Rancheria.

**(13) Law enforcement**

The term “law enforcement” means the full range of potential responders to elder abuse, neglect, and exploitation including—

(A) police, sheriffs, detectives, public safety officers, and corrections personnel;

(B) prosecutors;

(C) medical examiners;

(D) investigators; and

(E) coroners.

**(14) Long-term care****(A) In general**

The term “long-term care” means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.

**(B) Loss of capacity for self-care**

For purposes of subparagraph (A), the term “loss of capacity for self-care” means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, management of one’s financial affairs, and other activities the Secretary determines appropriate.

**(15) Long-term care facility**

The term “long-term care facility” means a residential care provider that arranges for, or directly provides, long-term care.

**(16) Neglect**

The term “neglect” means—

(A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or

(B) self-neglect.

**(17) Nursing facility****(A) In general**

The term “nursing facility” has the meaning given such term under section 1396r(a) of this title.

**(B) Inclusion of skilled nursing facility**

The term “nursing facility” includes a skilled nursing facility (as defined in section 1395i-3(a) of this title).

**(18) Self-neglect**

The term “self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—

(A) obtaining essential food, clothing, shelter, and medical care;

(B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or

(C) managing one’s own financial affairs.

**(19) Serious bodily injury****(A) In general**

The term “serious bodily injury” means an injury—

(i) involving extreme physical pain;

(ii) involving substantial risk of death;

(iii) involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or

(iv) requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

**(B) Criminal sexual abuse**

Serious bodily injury shall be considered to have occurred if the conduct causing the injury is conduct described in section 2241 (relating to aggravated sexual abuse) or 2242 (relating to sexual abuse) of title 18 or any similar offense under State law.

**(20) Social**

The term “social”, when used with respect to a service, includes adult protective services.

**(21) State legal assistance developer**

The term “State legal assistance developer” means an individual described in section 3058j of this title.

**(22) State Long-Term Care Ombudsman**

The term “State Long-Term Care Ombudsman” means the State Long-Term Care Ombudsman described in section 3058g(a)(2) of this title.

(Aug. 14, 1935, ch. 531, title XX, § 2011, as added Pub. L. 111-148, title VI, § 6703(a)(1)(C), Mar. 23, 2010, 124 Stat. 782.)

**§ 1397j-1. General provisions****(a) Protection of privacy**

In pursuing activities under this division, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.