

/* The Ryan White Act, 42 USC 300ff, a comprehensive set of federal grants for the treatment of HIV which provide several important protections for: (1) confidential testing; (2) medical personnel such as EMT's or other emergency personnel follows. This is one of the most significant laws related to federal funding for HIV and is contained in two sections. */

300ff. Purpose

It is the purpose of this Act to provide emergency assistance to localities that are disproportionately affected by the Human Immunodeficiency Virus epidemic and to make financial assistance available to States and other public or private nonprofit entities to provide for the development, organization, coordination and operation of more effective and cost efficient systems for the delivery of essential services to individuals and families with HIV disease.

(Aug. 18, 1990, P. L. 101-381, 104 Stat. 576.)

References in text:

"This Act", referred to in this section, is Act Aug. 18, 1990, P. L. 101-381, 104 Stat. 576, which is popularly known as the "Ryan White Comprehensive AIDS Resources Emergency Act of 1990."

300ff-1. Prohibition on use of funds

None of the funds made available under this Act, or an amendment made by this Act, shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs.

/* A last second amendment when it was noted that several state governments or cities were instituting needle exchange/dispensing programs. See in the case law section of the program the controversy surrounding the state of Washington's needle sharing. Note that this is not a federal law which prevents states from instituting needle exchange/dispensing laws, just a prohibition on the use of the federal funds for such programs. */

(Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle C, 422, 104 Stat. 628.)

EMERGENCY RELIEF FOR AREAS WITH SUBSTANTIAL NEED FOR SERVICES

300ff-11. Establishment of program of grants

(a) Eligible areas. The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall, subject to subsection (b), make grants in accordance with section 2603 [42 USC 300ff-13] for the purpose of assisting in the provision of the services specified in 2604 [42 USC 300ff-14] in any metropolitan area for which, as of June 30, 1990, in the case of grants for fiscal year 1991, and as of March 31 of the most recent fiscal year for which such data is available in the case of a grant for any subsequent fiscal year:

(1) there has been reported to and confirmed by the Director of the Centers for Disease Control and Prevention a cumulative total of more than 2,000 cases of acquired immune deficiency syndrome; or

(2) the per capita incidence of cumulative cases of such syndrome (computed on the basis of the most recently available data on the population of the area) is not less than 0.0025.

(b) Requirement regarding confirmation of cases. The Secretary may not make a grant under subsection (a) for a metropolitan area unless, before making any payments under the grant, the cases of acquired immune deficiency syndrome reported for purposes of such subsection have been confirmed by the Secretary, acting through the Director of the Centers for Disease Control and Prevention.

(July 1, 1944, ch 373, Title XXVI, Part A, 2601, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 576.)
(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(25), 106 Stat. 3505.)

Other provisions:

Study regarding HIV disease in rural areas. Act Aug. 18, 1990, P. L. 101-381, Title IV, Subtitle A, 403, 104 Stat. 622, provides:

"(a) In general. The Secretary of Health and Human Services, after consultation with the Director of the Office of Rural Health Policy, shall:

"(1) conduct a study for the purpose of estimating the incidence and prevalence in rural areas of cases of acquired immune deficiency syndrome and cases of infection with the etiologic agent for such syndrome; and

"(2) in carrying out such study, determine the adequacy in rural areas of services for diagnosing such cases and providing treatment for such cases that are in the early stages of infection.

"(b) Report. Not later than 1 year after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress a report describing the findings made as a result of such study. "(c) Authorization of appropriations. There are authorized to be appropriated to carry out this section, such sums as may be necessary for each of the fiscal years 1991 through 1995."

300ff-12. Administration and planning council

(a) Administration. (1) In general. Assistance made available under grants awarded under this part [42 USC 300ff-11 et seq.] shall be directed to the chief elected official of the city or urban county that administers the public health agency that provides outpatient and ambulatory services to the greatest number of individuals with AIDS, as reported to and confirmed by the Centers for Disease Control and Prevention, in the eligible area that is awarded such a grant.

(2) Requirements.(A) In general. To receive assistance under section 2601(a) [42 USC 300ff-11(a)], the chief elected official of the eligible area involved shall:

(i) establish, through intergovernmental agreements with the chief elected officials of the political subdivisions described in subparagraph (B), an administrative mechanism to allocate funds and services based on:

(I) the number of AIDS cases in such subdivisions;

(II) the severity of need for outpatient and ambulatory care services in such subdivisions; and

(III) the health and support services personnel needs of such subdivisions; and

(ii) establish an HIV health services planning council in accordance with subsection (b).

(B) Local political subdivision. The political subdivisions referred to in subparagraph (A) are those political subdivisions in the eligible area:

(i) that provide HIV-related health services; and

(ii) for which the number of cases reported for purposes of section 2601(a) [42 USC 300ff-11(a)] constitutes not less than 10 percent of the number of such cases reported for the eligible area.

(b) HIV health services planning council. (1) Establishment. To be eligible for assistance under this part [42 USC 300ff-11 et seq.], the chief elected official described in subsection (a)(1) shall establish or designate an HIV health services planning council that shall include representatives of:

(A) health care providers;

(B) community-based and AIDS service organizations;

(C) social service providers;

(D) mental health care providers;

(E) local public health agencies;

(F) hospital planning agencies or health care planning agencies;

(G) affected communities, including individuals with HIV disease;

(H) non-elected community leaders;

(I) State government;

(J) grantees under subpart II of part C [42 USC 300ff-51 et seq.];

and

(K) the lead agency of any Health Resources and Services Administration adult and pediatric HIV-related care demonstration project operating in the area to be served.

(2) Method of providing for council. (A) In general. In providing for a council for purposes of paragraph (1), a chief elected official receiving a grant under section 2601(a) [42 USC 300ff-11(a)] may establish the council directly or designate an existing entity to serve as the council, subject to subparagraph (B).

(B) Consideration regarding designation of council. In making a determination of whether to establish or designate a council under subparagraph (A), a chief elected official receiving a grant under section 2601(a) [42 USC 300ff-11(a)] shall give priority to the designation of an existing entity that has demonstrated experience in planning for the HIV health care service needs within the eligible area and in the implementation of such plans in addressing those needs. Any existing entity so designated shall be expanded to include a broad representation of the full range of entities that provide such services within the geographic area to be served.

(3) Duties. The planning council established or designated under

paragraph (1) shall:

(A) establish priorities for the allocation of funds within the eligible area;

(B) develop a comprehensive plan for the organization and delivery of health services described in section 2604 [42 USC 300ff-14] that is compatible with any existing State or local plan regarding the provision of health services to individuals with HIV disease; and

(C) assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the eligible area.

(July 1, 1944, ch 373, Title XXVI, Part A, 2602, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 577.)
(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(26), 106 Stat. 3505.)

300ff-13. Type and distribution of grants

(a) Grants based on relative need of area.(1) In general. In carrying out section 2601(a) [42 USC 300ff-11(a)], the Secretary shall make a grant for each eligible area for which an application under section 2605(a) [42 USC 300ff-15(a)] has been approved. Each such grant shall be made in an amount determined in accordance with paragraph (3).

(2) Expedited distribution. Not later than:

(A) 90 days after an appropriation becomes available to carry out this part for fiscal year 1991; and

(B) 60 days after an appropriation becomes available to carry out this part for each of fiscal years 1992 through 1995; the Secretary shall, except in the case of waivers granted under section 2605(c) [42 USC 300ff-15(c)], disburse 50 percent of the amount appropriated under section 2608 [42 USC 300ff-18] for such fiscal year through grants to eligible areas under section 2601(a) [42 USC 300ff-11(a)].

(3) Amount of grant. (A) In general. (i) Subject to the extent of amounts made available in appropriations Acts, a grant made for purposes of this paragraph to an eligible area shall be made in an amount equal to the product of:

(I) an amount equal to the amount available for distribution under paragraph (2) for the fiscal year involved; and

(II) the percentage constituted by the ratio of the

distribution factor for the eligible area to the sum of the respective distribution factors for all eligible areas.

(ii) For purposes of clause (i)(II), the term "distribution factor" means the sum of--

(I) an amount equal to the product of 3 and the amount determined under subparagraph (B) for the eligible area involved; and

(II) an amount equal to the product of the amount determined under subparagraph (B) for the eligible area and the amount determined under subparagraph (C) for the area.

(B) Amount relating to cumulative number of cases. The amount determined in this subparagraph is an amount equal to the ratio of--

(i) an amount equal to the cumulative number of cases of acquired immune deficiency syndrome in the eligible area involved, as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control and Prevention by the applicable date specified in section 2601(a) [42 USC 300ff-11(a)]; to

(ii) an amount equal to the sum of the respective amounts determined under clause (i) for each eligible area for which an application for a grant for purposes of this paragraph has been approved.

(C) Amount relating to per capita incidence of cases. The amount determined in this subparagraph is an amount equal to the ratio of--

(i) the per capita incidence of cumulative cases of acquired immune deficiency syndrome in the eligible area involved (computed on the basis of the most recently available data on the population of the area); to

(ii) the per capita incidence of cumulative such cases in all eligible areas for which applications for grants for purposes of this paragraph have been approved (computed on the basis of the most recently available data on the population of the areas).

(b) Supplemental grants.(1) In general. Not later than 150 days after the date on which appropriations are made under section 2608 [42 USC 300ff-18] for a fiscal year, the Secretary shall disburse the remainder of amounts not disbursed under section 2603(a)(2) [subsec. (a)(2) of this section] for such fiscal year for the purpose of making grants under section 2601(a) [42 USC 300ff-11(a)] to eligible areas whose application under section 2605(b) [42 USC 300ff-15(b)]:

(A) contains a report concerning the dissemination of emergency

relief funds under subsection (a) and the plan for utilization of such funds;

(B) demonstrates the severe need in such area for supplemental financial assistance to combat the HIV epidemic;

(C) demonstrates the existing commitment of local resources of the area, both financial and in-kind, to combating the HIV epidemic;

(D) demonstrates the ability of the area to utilize such supplemental financial resources in a manner that is immediately responsive and cost effective; and

(E) demonstrates that resources will be allocated in accordance with the local demographic incidence of AIDS including appropriate allocations for services for infants, children, women, and families with HIV disease.

(2) Remainder of amounts. In determining the amount of funds to be obligated under paragraph (1), the Secretary shall include amounts that are not paid to the eligible areas under expedited procedures under section 2603(a)(2) [subsec. (a)(2) of this section] as a result of:

(A) the failure of any eligible area to submit an application under section 2605(c) [42 USC 300ff-15(c)]; or

(B) any eligible area informing the Secretary that such eligible area does not intend to expend the full amount of its grant under such section.

(3) Amount of grant. The amount of each grant made for purposes of this subsection shall be determined by the Secretary based on the application submitted by the eligible area under section 2605(b) [42 USC 300ff-15(b)].

(4) Failure to submit.(A) In general. The failure of an eligible area to submit an application for an expedited grant under section 2603(a)(2) [subsec. (a)(2) of this section] shall not result in such area being ineligible for a grant under this subsection.

(B) Application. The application of an eligible area submitted under section 2605(b) [42 USC 300ff-15(b)] shall contain the assurances required under subsection (a) of such section if such eligible area fails to submit an application for an expedited grants [grant] under section 2603(a)(2) [subsec. (a)(2) of this section].

(July 1, 1944, ch 373, Title XXVI, Part A, 2603, as added Aug. 18, 1990. P. L. 101-381, Title I, 101(3), 104 Stat. 578); Nov. 3, 1990, P. L. 101-502, 6(a), 104

Stat. 1289.)

(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(27), 106 Stat. 3506.)

300ff-14. Use of amounts

(a) Requirements. The Secretary may not make a grant under section 2601(a) [42 USC 300ff-11(a)] to the chief elected official of an eligible area unless such political subdivision agrees that:

(1) subject to paragraph (2), the allocation of funds and services within the eligible area will be made in accordance with the priorities established, pursuant to section 2602(b)(3)(A) [42 USC 300ff-12(b)(3)(A)], by the HIV health services planning council that serves such eligible area; and

(2) funds provided under section 2601 [42 USC 300ff-11] will be expended only for the purposes described in subsections (b) and (c).

(b) Primary purposes. (1) In general. The chief elected official shall use amounts received under a grant under section 2601 [42 USC 300ff-11] to provide direct financial assistance to entities described in paragraph (2) for the purpose of delivering or enhancing HIV-related:

(A) outpatient and ambulatory health and support services, including case management and comprehensive treatment services, for individuals and families with HIV disease; and

(B) inpatient case management services that prevent unnecessary hospitalization or that expedite discharge, as medically appropriate, from inpatient facilities.

(2) Appropriate entities. (A) In general. Subject to subparagraph (B), direct financial assistance may be provided under paragraph (1) to public or nonprofit private entities, including hospitals (which may include Veterans Administration [Department of Veterans Affairs] facilities), community-based organizations, hospices, ambulatory care facilities, community health centers, migrant health centers, and homeless health centers.

(B) Priority. In providing direct financial assistance under paragraph (1) the chief elected official shall give priority to entities that are currently participating in Health Resources and Services Administration HIV health care demonstration projects.

(c) Limited expenditures for personnel needs. (1) In general. A chief elected official, in accordance with paragraph (3), may use not to exceed 10 percent of amounts received under a grant under section 2601 [42 USC 300ff-11] to provide financial assistance or services, for the purposes described in paragraph (2), to any public or nonprofit private entity, including hospitals

(which may include Veterans Administration facilities), nursing homes, subacute and transitional care facilities, and hospices that:

(A) provide HIV-related care or services to a disproportionate share of low-income individuals and families with HIV disease;

(B) incur uncompensated costs in the provision of such care or services to such individuals and families;

(C) have established, and agree to implement, a plan to evaluate the utilization of services provided in the care of individuals and families with HIV disease; and

(D) have established a system designed to ensure that such individuals and families are referred to the most medically appropriate level of care as soon as such referral is medically indicated.

(2) Use. A chief elected official may use amounts referred to in paragraph (1) to:

(A) provide direct financial assistance to institutions and entities of the type referred to in such paragraph to assist such institutions and entities in recruiting or training and paying compensation to qualified personnel determined, under paragraph (3), to be necessary by the HIV health services planning council, specifically for the care of individuals with HIV disease; or

(B) in lieu of providing direct financial assistance, make arrangements for the provision of the services of such qualified personnel to such institutions and entities.

(3) Requirement of determination by council. A chief elected official shall not use any of the amounts received under a grant under section 2601(a) [42 USC 300ff-11(a)] to provide assistance or services under paragraph (2) unless the HIV health services planning council of the eligible area has made a determination that, with respect to the care of individuals with HIV disease:

(A) a shortage of specific health, mental health or support service personnel exists within specific institutions or entities in the eligible area;

(B) the shortage of such personnel has resulted in the inappropriate utilization of inpatient services within the area; and

(C) assistance or services provided to an institution or entity under paragraph (2), will not be used to supplant the existing resources devoted by such institution or entity to the uses described in such

paragraph.

(d) Requirement of status as Medicaid provider. (1) Provision of service. Subject to paragraph (2), the Secretary may not make a grant under section 2601(a) [42 USC 300ff-11(a)] for the provision of services under this section in a State unless, in the case of any such service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 USC 1396 et seq.] for the State:

(A) the political subdivision involved will provide the service directly, and the political subdivision has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(B) the political subdivision will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement and is qualified to receive such payments.

(2) Waiver. (A) In general. In the case of an entity making an agreement pursuant to paragraph (1)(B) regarding the provision of services, the requirement established in such paragraph shall be waived by the HIV health services planning council for the eligible area if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits program.

(B) Determination. A determination by the HIV health services planning council of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations for the purpose of providing services to the public.

(e) Administration and planning. The chief executive officer of an eligible area shall not use in excess of 5 percent of amounts received under a grant awarded under this part [42 USC 300ff-11 et seq.] for administration, accounting, reporting, and program oversight functions.

(f) Construction. A State may not use amounts received under a grant awarded under this part [42 USC 300ff-11 et seq.] to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(July 1, 1944, ch 373, Title XXVI, Part A, 2604, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 580.)

300ff-15. Application

(a) In general. To be eligible to receive a grant under section 2601 [42 USC 300ff-11], an eligible area shall prepare and submit to the Secretary an application at such time, in such form, and containing such information as the Secretary shall require, including assurances adequate to ensure:

(1) (A) that funds received under a grant awarded under this part [42 USC 300ff-11 et seq.] will be utilized to supplement not supplant State funds made available in the year for which the grant is awarded to provide HIV-related services to individuals with HIV disease;

(B) that the political subdivisions within the eligible area will maintain the level of expenditures by such political subdivisions for HIV-related services for individuals with HIV disease at a level that is equal to the level of such expenditures by such political subdivisions for the 1-year period preceding the first fiscal year for which a grant is received by the eligible area; and

(C) that political subdivisions within the eligible area will not use funds received under a grant awarded under this part [42 USC 300ff-11 et seq.] in maintaining the level of expenditures for HIV-related services as required in subparagraph (B);

(2) that the eligible area has an HIV health services planning council and has entered into intergovernmental agreements pursuant to section 2602 [42 USC 300ff-12], and has developed or will develop the comprehensive plan in accordance with section 2602(b)(3)(B) [42 USC 300ff-12(b)(3)(B)];

(3) that entities within the eligible area that will receive funds under a grant provided under section 2601(a) [42 USC 300ff-11(a)] shall participate in an established HIV community-based continuum of care if such continuum exists within the eligible area;

(4) that funds received under a grant awarded under this part [42 USC 300ff-11 et seq.] will not be utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

(A) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(B) by an entity that provides health services on a prepaid basis;
and

(5) to the maximum extent practicable, that:

(A) HIV health care and support services provided with assistance made available under this part [42 USC 300ff-11 et seq.] will be provided without regard:

(i) to the ability of the individual to pay for such services;
and

(ii) to the current or past health condition of the individual to be served;

(B) such services will be provided in a setting that is accessible to low-income individuals with HIV-disease; and

(C) a program of outreach will be provided to low-income individuals with HIV-disease to inform such individuals of such services.

(b) Additional application. An eligible area that desires to receive a grant under section 2603(b) [42 USC 300ff-13(b)] shall prepare and submit to the Secretary an additional application at such time, in such form, and containing such information as the Secretary shall require, including the information required under such subsection and information concerning:

(1) the number of individuals to be served within the eligible area with assistance provided under the grant;

(2) demographic data on the population of such individuals;

(3) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(4) the aggregate amounts expended for each such category of services.

(c) Date certain for submission. (1) Requirement. Except as provided in paragraph (2), to be eligible to receive a grant under section 2601(a) [42 USC 300ff-11(a)] for a fiscal year, an application under subsection (a) shall be submitted not later than 45 days after the date on which appropriations are made under section 2608 [42 USC 300ff-18] for the fiscal year.

(2) Exception. The Secretary may extend the time for the submission of an application under paragraph (1) for a period of not to exceed 60 days if the Secretary determines that the eligible area has made a good faith effort to comply with the requirement of such paragraph but has otherwise been unable to submit its application.

(3) Distribution by Secretary. Not later than 45 days after receiving an application that meets the requirements of subsection (a) from an eligible area, the Secretary shall distribute to such eligible area the amounts awarded under the grant for which the application was submitted.

(4) Redistribution. Any amounts appropriated in any fiscal year under this part [42 USC 300ff-11 et seq.] and not obligated to an eligible entity as a result of the failure of such entity to submit an application shall be redistributed by the Secretary to other eligible entities in proportion to the original grants made to such eligible areas under 2601(a) [42 USC 300ff-11(a)].

(d) Requirements regarding imposition of charges for services. (1) In general. The Secretary may not make a grant under section 2601 [42 USC 300ff-11] to an eligible area unless the eligible area provides assurances that in the provision of services with assistance provided under the grant:

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider:

(i) will impose a charge on each such individual for the provision of such services; and

(ii) will impose the charge according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) Assessment of charge. With respect to compliance with the assurance made under paragraph (1), a grantee or entity receiving assistance under this part [42 USC 300ff-11 et seq.] may, in the case of individuals subject to a charge for purposes of such paragraph:

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules and regarding limitations on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) Applicability of limitation on amount of charge. The Secretary may not make a grant under section 2601 [42 USC 300ff-11] to an eligible area unless the eligible area agrees that the limitations established in subparagraphs (C), (D) and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) Waiver regarding secondary agreements. The requirements established in paragraphs (1) through (3) shall be waived in accordance with section 2604(d)(2) [42 USC 300ff-14(d)(2)].

(July 1, 1944, ch 373, Title XXVI, Part A, 2605, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 582.)

300ff-16. Technical assistance

The Administrator of the Health Resources and Services Administration may, beginning on the date of enactment of this title [enacted Aug. 18, 1990], provide technical assistance to assist entities in complying with the requirements of this part [42 USC 300ff-11 et seq.] in order to make such entities eligible to receive a grant under this part [42 USC 300ff-11 et seq.].

(July 1, 1944, ch 373, Title XXVI, Part A, 2606, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 585.)

300ff-17. Definitions

For purposes of this part [42 USC 300ff-11 et seq.]:

(1) Eligible area. The term "eligible area" means a metropolitan area described in section 2601(a) [42 USC 300ff-11(a)].

(2) Metropolitan area. The term "metropolitan area" means an area referred to in the HIV/AIDS Surveillance Report of the Centers for Disease Control and Prevention as a metropolitan area.

(July 1, 1944, ch 373, Title XXVI, Part A, 2607, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 585; Nov. 15, 1990, P. L. 101-557, Title IV, 401(b)(1), 104 Stat. 2771.)

(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(28), 106 Stat. 3506.)

Amendments:

1990. Act Nov. 15, 1990, in para. (1), substituted "2601(a)" for "2601(a)(1)".

300ff-18. Authorization of appropriations

There are authorized to be appropriated to make grants under this part [42 USC 300ff-11 et seq.], \$275,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part A, 2608, as added Aug. 18, 1990, P. L. 101-381, Title I, 101(3), 104 Stat. 585.)

CARE GRANT PROGRAM

300ff-21. Grants

The Secretary shall, subject to the availability of appropriations, make grants to States to enable such States to improve the quality, availability and organization of health care and support services for individuals and families with HIV disease.

(July 1, 1944, ch 373, Title XXVI, Part B, 2611, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 586.)

300ff-22. General use of grants

(a) In general. A State may use amounts provided under grants made under this part:

(1) to establish and operate HIV care consortia within areas most affected by HIV disease that shall be designed to provide a comprehensive

continuum of care to individuals and families with HIV disease in accordance with section 2613 [42 USC 300ff-23];

(2) to provide home- and community-based care services for individuals with HIV disease in accordance with section 2614 [42 USC 300ff-24];

(3) to provide assistance to assure the continuity of health insurance coverage for individuals with HIV disease in accordance with section 2615 [42 USC 300ff-25]; and

(4) to provide treatments, that have been determined to prolong life or prevent serious deterioration of health, to individuals with HIV disease in accordance with section 2616 [42 USC 300ff-26].

(b) Infants and women, etc. A State shall use not less than 15 percent of funds allocated under this part to provide health and support services to infants, children, women, and families with HIV disease.

(July 1, 1944, ch 373, Title XXVI, Part B, 2612, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 586.)

300ff-23. Grants to establish HIV care consortia

(a) Consortia. A State may use amounts provided under a grant awarded under this part to provide assistance under section 2612(a)(1) [42 USC 300ff-22(a)(1)] to an entity that:

(1) is an association of one or more public, and one or more nonprofit private, health care and support service providers and community based organizations operating within areas determined by the State to be most affected by HIV disease; and

(2) agrees to use such assistance for the planning, development and delivery, through the direct provision of services or through entering into agreements with other entities for the provision of such services, of comprehensive outpatient health and support services for individuals with HIV disease, that may include:

(A) essential health services such as case management services, medical, nursing, and dental care, diagnostics, monitoring, and medical follow-up services, mental health, developmental, and rehabilitation services, home health and hospice care; and

(B) essential support services such as transportation services, attendant care, homemaker services, day or respite care, benefits advocacy, advocacy services provided through public and nonprofit private entities, and services that are incidental to the provision of health care services for

individuals with HIV disease including nutrition services, housing referral services, and child welfare and family services (including foster care and adoption services).

An entity or entities of the type described in this subsection shall hereinafter be referred to in this title [42 USC 300ff-11 et seq.] as a "consortium" or "consortia".

(b) Assurances. (1) Requirement. To receive assistance from a State under subsection (a), an applicant consortium shall provide the State with assurances that:

(A) within any locality in which such consortium is to operate, the populations and subpopulations of individuals and families with HIV disease have been identified by the consortium;

(B) the service plan established under subsection (c)(2) by such consortium addresses the special care and service needs of the populations and subpopulations identified under subparagraph (A); and

(C) except as provided in paragraph (2), the consortium will be a single coordinating entity that will integrate the delivery of services among the populations and subpopulations identified under subparagraph (A).

(2) Exception. Subparagraph (C) of paragraph (1) shall not apply to any applicant consortium that the State determines will operate in a community or locality in which it has been demonstrated by the applicant consortium that:

(A) subpopulations exist within the community to be served that have unique service requirements; and

(B) such unique service requirements cannot be adequately and efficiently addressed by a single consortium serving the entire community or locality.

(c) Application. (1) In general. To receive assistance from the State under subsection (a), a consortium shall prepare and submit to the State, an application that:

(A) demonstrates that the consortium includes agencies and community-based organizations:

(i) with a record of service to populations and subpopulations with HIV disease requiring care within the community to be served; and

(ii) that are representative of populations and

subpopulations reflecting the local incidence of HIV and that are located in areas in which such populations reside;

(B) demonstrates that the consortium has carried out an assessment of service needs within the geographic area to be served and, after consultation with the entities described in paragraph (2), has established a plan to ensure the delivery of services to meet such identified needs that shall include:

(i) assurances that service needs will be addressed through the coordination and expansion of existing programs before new programs are created;

(ii) assurances that, in metropolitan areas, the geographic area to be served by the consortium corresponds to the geographic boundaries of local health and support services delivery systems to the extent practicable;

(iii) assurances that, in the case of services for individuals residing in rural areas, the applicant consortium shall deliver case management services that link available community support services to appropriate specialized medical services; and

(iv) assurances that the assessment of service needs and the planning of the delivery of services will include participation by individuals with HIV disease;

(C) demonstrates that adequate planning has occurred to meet the special needs of families with HIV disease, including family centered care;

(D) demonstrates that the consortium has created a mechanism to evaluate periodically:

(i) the success of the consortium in responding to identified needs; and

(ii) the cost-effectiveness of the mechanisms employed by the consortium to deliver comprehensive care; and

(E) demonstrates that the consortium will report to the State the results of the evaluations described in subparagraph (D) and shall make available to the State or the Secretary, on request, such data and information on the program methodology that may be required to perform an independent evaluation.

(2) Consultation. In establishing the plan required under paragraph (1)

(B), the consortium shall consult with:

(A) (i) the public health agency that provides or supports ambulatory and outpatient HIV-related health care services within the geographic area to be served; or

(ii) in the case of a public health agency that does not directly provide such HIV-related health care services such agency shall consult with an entity or entities that directly provide ambulatory and outpatient HIV-related health care services within the geographic area to be served; and

(B) not less than one community-based organization that is organized solely for the purpose of providing HIV-related support services to individuals with HIV disease. The organization to be consulted under subparagraph (B) shall be at the discretion of the applicant consortium.

(d) Definition. As used in this part, the term "family centered care" means the system of services described in this section that is targeted specifically to the special needs of infants, children, women, and families. Family centered care shall be based on a partnership between parents, professionals, and the community designed to ensure an integrated, coordinated, culturally sensitive, and community-based continuum of care for children, women, and families with HIV disease.

(e) Priority. In providing assistance under subsection (a), the State shall, among applicants that meet the requirements of this section, give priority:

(1) first to consortia that are receiving assistance from the Health Resources and Services Administration for adult and pediatric HIV-related care demonstration projects; and then

(2) to any other existing HIV care consortia.

(July 1, 1944, ch 373, Title XXVI, Part B, 2613, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 586.)

300ff-24. Grants for home- and community-based care

(a) Uses. A State may use amounts provided under a grant awarded under this part to make grants under section 2612(a)(2) [42 USC 300ff-22(a)(2)] to entities to:

(1) provide home- and community-based health services for individuals with HIV disease pursuant to written plans of care prepared by a case management team, that shall include appropriate health care professionals, in such State for providing such services to such individuals;

(2) provide outreach services to individuals with HIV disease, including those individuals in rural areas; and

(3) provide for the coordination of the provision of services under this section with the provision of HIV-related health services provided by public and private entities.

(b) Priority. In awarding grants under subsection (a), a State shall give priority to entities that provide assurances to the State that:

(1) such entities will participate in HIV care consortia if such consortia exist within the State; and

(2) such entities will utilize amounts provided under such grants for the provision of home- and community-based services to low-income individuals with HIV disease.

(c) Definition. As used in this part, the term "home- and community-based health services":

(1) means, with respect to an individual with HIV disease, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a case management team, that shall include appropriate health care professionals, for the provision of such services and items described in paragraph (2);

(2) includes:

(A) durable medical equipment;

(B) homemaker or home health aide services and personal care services furnished in the home of the individual;

(C) day treatment or other partial hospitalization services;

(D) home intravenous and aerosolized drug therapy (including prescription drugs administered as part of such therapy);

(E) routine diagnostic testing administered in the home of the individual; and

(F) appropriate mental health, developmental, and rehabilitation services; and

(3) does not include:

(A) inpatient hospital services; and

(B) nursing home and other long term care facilities.

(July 1, 1944, ch 373, Title XXVI, Part B, 2614, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 589.)

300ff-25. Continuum of health insurance coverage

(a) In general. A State may use amounts received under a grant awarded under this part to establish a program of financial assistance under section 2612(a)(3) [42 USC 300ff-22(a)(3)] to assist eligible low-income individuals with HIV disease in:

- (1) maintaining a continuity of health insurance; or
- (2) receiving medical benefits under a health insurance program, including risk-pools.

(b) Limitations. Assistance shall not be utilized under subsection (a):

- (1) to pay any costs associated with the creation, capitalization, or administration of a liability risk pool (other than those costs paid on behalf of individuals as part of premium contributions to existing liability risk pools); and

- (2) to pay any amount expended by a State under title XIX of the Social Security Act [42 USC 1396 et seq.].

(July 1, 1944, ch 373, Title XXVI, Part B, 2615, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 590.)

300ff-26. Provision of treatments

(a) In general. A State may use amounts provided under a grant awarded under this part to establish a program under section 2612(a)(4) [42 USC 300ff-22(a)(4)] to provide treatments that have been determined to prolong life or prevent the serious deterioration of health arising from HIV disease in eligible individuals.

(b) Eligible individual. To be eligible to receive assistance from a State under this section an individual shall:

- (1) have a medical diagnosis of HIV disease; and
- (2) be a low-income individual, as defined by the State.

(c) State duties. In carrying out this section the State shall:

- (1) determine, in accordance with guidelines issued by the Secretary, which treatments are eligible to be included under the program established

under this section;

(2) provide assistance for the purchase of treatments determined to be eligible under paragraph (1), and the provision of such ancillary devices that are essential to administer such treatments;

(3) provide outreach to individuals with HIV disease, and as appropriate to the families of such individuals; and

(4) facilitate access to treatments for such individuals.

(July 1, 1944, ch 373, Title XXVI, Part B, 2616, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 590.)

300ff-27. State application

(a) In general. The Secretary shall not make a grant to a State under this part for a fiscal year unless the State prepares and submits, to the Secretary, an application at such time, in such form, and containing such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

(b) Description of intended uses and agreements. The application submitted under subsection (a) shall contain:

(1) a detailed description of the HIV-related services provided in the State to individuals and families with HIV disease during the year preceding the year for which the grant is requested, and the number of individuals and families receiving such services, that shall include:

(A) a description of the types of programs operated or funded by the State for the provision of HIV-related services during the year preceding the year for which the grant is requested and the methods utilized by the State to finance such programs;

(B) an accounting of the amount of funds that the State has expended for such services and programs during the year preceding the year for which the grant is requested; and

(C) information concerning:

(i) the number of individuals to be served with assistance provided under the grant;

(ii) demographic data on the population of the individuals to be served;

(iii) the average cost of providing each category of HIV-related health services and the extent to which such cost is paid by third-party payors; and

(iv) the aggregate amounts expended for each such category of services;

(2) a comprehensive plan for the organization and delivery of HIV health care and support services to be funded with assistance received under this part that shall include a description of the purposes for which the State intends to use such assistance, including:

(A) the services and activities to be provided and an explanation of the manner in which the elements of the program to be implemented by the State with such assistance will maximize the quality of health and support services available to individuals with HIV disease throughout the State; and

(B) a description of the manner in which services funded with assistance provided under this part will be coordinated with other available related services for individuals with HIV disease; and

(3) an assurance by the State that:

(A) the public health agency that is administering the grant for the State will conduct public hearings concerning the proposed use and distribution of the assistance to be received under this part;

(B) the State will:

(i) to the maximum extent practicable, ensure that HIV-related health care and support services delivered pursuant to a program established with assistance provided under this part will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual with HIV disease;

(ii) ensure that such services will be provided in a setting that is accessible to low-income individuals with HIV disease;

(iii) provide outreach to low-income individuals with HIV disease to inform such individuals of the services available under this part; and

(iv) in the case of a State that intends to use amounts provided under the grant for purposes described in 2615 [42 USC 300ff-25],

submit a plan to the Secretary that demonstrates that the State has established a program that assures that:

(I) such amounts will be targeted to individuals who would not otherwise be able to afford health insurance coverage; and

(II) income, asset, and medical expense criteria will be established and applied by the State to identify those individuals who qualify for assistance under such program, and information concerning such criteria shall be made available to the public;

(C) the State will provide for periodic independent peer review to assess the quality and appropriateness of health and support services provided by entities that receive funds from the State under this part;

(D) the State will permit and cooperate with any Federal investigations undertaken regarding programs conducted under this part;

(E) the State will maintain HIV-related activities at a level that is equal to not less than the level of such expenditures by the State for the 1-year period preceding the fiscal year for which the State is applying to receive a grant under this part; and

(F) the State will ensure that grant funds are not utilized to make payments for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service:

(i) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(ii) by an entity that provides health services on a prepaid basis.

(c) Requirements regarding imposition of charges for services.(1) In general. The Secretary may not make a grant under section 2611 [42 USC 300ff-21] to a State unless the State provides assurances that in the provision of services with assistance provided under the grant:

(A) in the case of individuals with an income less than or equal to 100 percent of the official poverty line, the provider will not impose charges on any such individual for the provision of services under the grant;

(B) in the case of individuals with an income greater than 100 percent of the official poverty line, the provider--

(i) will impose charges on each such individual for the

provision of such services; and

(ii) will impose charges according to a schedule of charges that is made available to the public;

(C) in the case of individuals with an income greater than 100 percent of the official poverty line and not exceeding 200 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 5 percent of the annual gross income of the individual involved;

(D) in the case of individuals with an income greater than 200 percent of the official poverty line and not exceeding 300 percent of such poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 7 percent of the annual gross income of the individual involved; and

(E) in the case of individuals with an income greater than 300 percent of the official poverty line, the provider will not, for any calendar year, impose charges in an amount exceeding 10 percent of the annual gross income of the individual involved.

(2) Assessment of charge. With respect to compliance with the assurance made under paragraph (1), a grantee under this part may, in the case of individuals subject to a charge for purposes of such paragraph--

(A) assess the amount of the charge in the discretion of the grantee, including imposing only a nominal charge for the provision of services, subject to the provisions of such paragraph regarding public schedules regarding limitation on the maximum amount of charges; and

(B) take into consideration the medical expenses of individuals in assessing the amount of the charge, subject to such provisions.

(3) Applicability of limitation on amount of charge. The Secretary may not make a grant under section 2611 [42 USC 300ff-21] unless the applicant of the grant agrees that the limitations established in subparagraphs (C), (D), and (E) of paragraph (1) regarding the imposition of charges for services applies to the annual aggregate of charges imposed for such services, without regard to whether they are characterized as enrollment fees, premiums, deductibles, cost sharing, copayments, coinsurance, or other charges.

(4) Waiver. (A) In general. The State shall waive the requirements established in paragraphs (1) through (3) in the case of an entity that does not, in providing health care services, impose a charge or accept reimbursement from any third-party payor, including reimbursement under

any insurance policy or under any Federal or State health benefits program.

(B) Determination. A determination by the State of whether an entity referred to in subparagraph (A) meets the criteria for a waiver under such subparagraph shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

(d) Requirement of matching funds regarding State allotments.(1) In general. In the case of any State to which the criterion described in paragraph (3) applies, the Secretary may not make a grant under this part unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the program for which the grant was awarded, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to:

(A) for the first fiscal year of payments under the grant, not less than $16 \frac{2}{3}$ percent of such costs (\$1 for each \$5 of Federal funds provided in the grant);

(B) for any second fiscal year of such payments, not less than 20 percent of such costs (\$1 for each \$4 of Federal funds provided in the grant);

(C) for any third fiscal year of such payments, not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant);

(D) for any fourth fiscal year of such payments, not less than $33 \frac{1}{3}$ percent of such costs (\$1 for each \$2 of Federal funds provided in the grant); and

(E) for any subsequent fiscal year of such payments, not less than $33 \frac{1}{3}$ percent of such costs (\$1 for each \$2 of Federal funds provided in the grant).

(2) Determination of amount of non-Federal contribution.(A) In general. Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(B) Inclusion of certain amounts.(i) In making a determination of the amount of non-Federal contributions made by a State for purposes of paragraph (1), the Secretary shall, subject to clause (ii), include any non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title;

(ii) In making a determination for purposes of clause (i), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in this part) or under other provisions of law.

(3) Applicability of requirement. (A) Number of cases. A State referred to in paragraph (1) is any State for which the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the period described in subparagraph (B) constitutes in excess of 1 percent of the aggregate number of such cases reported to and confirmed by the Director for such period for the United States.

(B) Period of time. The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under subsection (a).

(C) Puerto Rico. For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

(4) Diminished State contribution. With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in paragraph (1), the State shall continue to be eligible to receive Federal funds under a grant under this part, except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

(July 1, 1944, ch 373, Title XXVI, Part B, 2617, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 590.)
(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(29), 106 Stat. 3506.)

300ff-28. Distribution of funds

(a) Special projects of a national significance. (1) In general. Of the amount appropriated under section 2620 [42 USC 300ff-30] for each fiscal year, the Secretary shall use not to exceed 10 percent of such amount to establish and administer a special projects of national significance program to award direct grants to public and nonprofit private entities including community-based organizations to fund special programs for the care and treatment of individuals with HIV disease.

(2) Grants. The Secretary shall award grants under subsection (a)

based on:

(A) the need to assess the effectiveness of a particular model for the care and treatment of individuals with HIV disease;

(B) the innovative nature of the proposed activity; and

(C) the potential replicability of the proposed activity in other similar localities or nationally.

(3) Special projects. Special projects of a national significance may include those that are designed to:

(A) establish a system designed to increase the number of health care facilities willing and able to serve low-income individuals and families with HIV disease;

(B) deliver drug abuse treatment and HIV health care services at a single location, through either an outpatient or residential facility;

(C) provide support and respite care for participants in family-based care networks critical to the delivery of comprehensive HIV care in the minority community;

(D) deliver an enhanced spectrum of comprehensive health care and support services to underserved hemophilia populations, including minorities and those in rural and underserved areas, utilizing established networks of hemophilia diagnostic and treatment centers and community-based outreach systems;

(E) deliver HIV health care and support services to Indians with HIV disease and their families;

(F) improve the provision of HIV health care and support services to individuals and families with HIV disease located in rural areas;

(G) deliver HIV health care and support services to homeless individuals and families with HIV disease; and

(H) deliver HIV health care and support services to individuals with HIV disease who are incarcerated.

(b) Amount of grant to State. (1) Minimum allotment. Subject to the extent of amounts made available under section 2620 [42 USC 300ff-30], the amount of a grant to be made under this part for:

(A) each of the several States and the District of Columbia for a fiscal year shall be the greater of:

(i) \$100,000, and

(ii) an amount determined under paragraph (2); and

(B) each territory of the United States, as defined in paragraph 3, shall be an amount determined under paragraph (2).

(2) Determination. (A) Formula. The amount referred to in paragraph (1)(A)(ii) for a State and paragraph (1)(B) for a territory of the United States shall be the product of:

(i) an amount equal to the amount appropriated under section 2620 [42 USC 300ff-30] for the fiscal year involved; and

(ii) the ratio of the distribution factor for the State or territory to the sum of the distribution factors for all the States or territories.

(B) Distribution factor. As used in subparagraph (A)(ii), the term "distribution factor" means:

(i) in the case of a State, the product of:

(I) the number of cases of acquired immune deficiency syndrome in the State, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data are available; and

(II) the cube root of the ratio (based on the most recent available data) of:

(aa) the average per capita income of individuals in the United States (including the territories); to

(bb) the average per capita income of individuals in the State; and

(ii) in the case of a territory of the United States the number of additional cases of such syndrome in the specific territory, as indicated by the number of cases reported to and confirmed by the Secretary for the 2 most recent fiscal years for which such data is available.

(3) Definitions. As used in this subsection:

(A) the term "State" means each of the 50 States, the District of Columbia and the Commonwealth of Puerto Rico; and

(B) the term "territory of the United States" means the Virgin

Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of the Marshall Islands.

(c) Allocation of assistance by States. (1) Consortia. In a State that has reported 1 percent or more of all AIDS cases reported to and confirmed by the Centers for Disease Control and Prevention in all States, not less than 50 percent of the amount received by the State under a grant awarded under this part shall be utilized for the creation and operation of community-based comprehensive care consortia under section 2613 [42 USC 300ff-23], in those areas within the State in which the largest number of individuals with HIV disease reside.

(2) Allowances. Prior to allocating assistance under this subsection, a State shall consider the unmet needs of those areas that have not received financial assistance under part A [42 USC 300ff-11 et seq.].

(3) Planning and evaluations. A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for planning and evaluation activities.

(4) Administration. A State may not use in excess of 5 percent of amounts received under a grant awarded under this part for administration, accounting, reporting, and program oversight functions.

(5) Construction. A State may not use amounts received under a grant awarded under this part to purchase or improve land, or to purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or to make cash payments to intended recipients of services.

(d) Expedited distribution.(1) In general. Not less than 75 percent of the amounts received under a grant awarded to a State under this part shall be obligated to specific programs and projects and made available for expenditure not later than:

(A) in the case of the first fiscal year for which amounts are received, 150 days after the receipt of such amounts by the State; and

(B) in the case of succeeding fiscal years, 120 days after the receipt of such amounts by the State.

(2) Public comment. Within the time periods referred to in paragraph (1), the State shall invite and receive public comment concerning methods for the utilization of such amounts.

(e) Reallocation. Any amounts appropriated in any fiscal year and made available to a State under this part that have not been obligated as described in subsection (d) shall be repaid to the Secretary and reallocated to

other States in proportion to the original grants made to such States.

(July 1, 1944, ch 373, Title XXVI, Part B, 2618, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 595.)

(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(30), 106 Stat. 3506.)

300ff-29. Technical assistance

The Secretary may provide technical assistance in administering and coordinating the activities authorized under section 2612 [42 USC 300ff-22].

(July 1, 1944, ch 373, Title XXVI, Part B, 2619, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 597.)

300ff-30. Authorization of appropriations

There are authorized to be appropriated to make grants under this part, \$275,000,000 in each of the fiscal years 1991 and 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

(July 1, 1944, ch 373, Title XXVI, Part B, 2620, as added Aug. 18, 1990, P. L. 101-381, Title II, 201, 104 Stat. 597.)

EARLY INTERVENTION SERVICES Formula Grants for States

300ff-41. Establishment of program

(a) Allotments for States. For the purposes described in subsection (b), the Secretary, acting through the Director of the Centers for Disease Control and Prevention and in consultation with the Administrator of the Health Resources and Services Administration, shall for each of the fiscal years 1991 through 1995 make an allotment for each State in an amount determined in accordance with section 2649 [42 USC 300ff-49]. The Secretary shall make payments, as grants, to each State from the allotment for the State for the fiscal year involved if the Secretary approves for the fiscal year an application submitted by the State pursuant to section 2665 [42 USC 300ff-65].

(b) Purposes of grants.(1) In general. The Secretary may not make a grant under subsection (a) unless the State involved agrees to expend the grant for the purposes of providing, on an outpatient basis, each of the early intervention services specified in paragraph (2) with respect to HIV disease.

(2) Specification of early intervention services. The early intervention

services referred to in paragraph (1) are:

(A) counseling individuals with respect to HIV disease in accordance with section 2662 [42 USC 300ff-62];

(B) testing individuals with respect to such disease, including tests to confirm the presence of the disease, tests to diagnose the extent of the deficiency in the immune system, and tests to provide information on appropriate therapeutic measures for preventing and treating the deterioration of the immune system and for preventing and treating conditions arising from the disease;

(C) referrals described in paragraph (3);

(D) other clinical and diagnostic services with respect to HIV disease, and periodic medical evaluations of individuals with the disease; and

(E) providing the therapeutic measures described in subparagraph (B).

(3) Referrals. The services referred to in paragraph (2)(C) are referrals of individuals with HIV disease to appropriate providers of health and support services, including, as appropriate:

(A) to entities receiving amounts under part A [42 USC 300ff-11 et seq.] or B [42 USC 300ff-21 et seq.] for the provision of such services;

(B) to biomedical research facilities of institutions of higher education that offer experimental treatment for such disease, or to community-based organizations or other entities that provide such treatment; or

(C) to grantees under section 2671 [42 USC 300ff-71], in the case of pregnant women.

(4) Requirement of availability of all early intervention services through each grantee. The Secretary may not make a grant under subsection (a) unless the State involved agrees that each of the early intervention services specified in paragraph (2) will be available through the State. With respect to compliance with such agreement, a State may expend the grant to provide the early intervention services directly, and may expend the grant to enter into agreements with public or nonprofit private entities under which the entities provide the services.

(5) Optional services. A State receiving a grant under subsection (a):

(A) may expend not more than 5 percent of the grant to provide early intervention services through making grants to hospitals that:

(i) for the most recent fiscal year for which the data is available, have admitted:

(I) not fewer than 250 individuals with acquired immune deficiency syndrome; or

(II) a number of such individuals constituting 20 percent of the number of inpatients of the hospital admitted during such period;

(ii) agree to offer and encourage such services with respect to inpatients of the hospitals; and

(iii) agree that subsections (c) and (d) of section 2644 [42 USC 300ff-44(c), (d)] will apply to the hospitals to the same extent and in the same manner as such subsections apply to entities described in such section;

(B) may expend the grant to provide outreach services to individuals who may have HIV disease, or may be at risk of the disease, and who may be unaware of the availability and potential benefits of early treatment of the disease, and to provide outreach services to health care professionals who may be unaware of such availability and potential benefits; and

(C) may, in the case of individuals who seek early intervention services from the grantee, expend the grant:

(i) for case management to provide coordination in the provision of health care services to the individuals and to review the extent of utilization of the services by the individuals; and

(ii) to provide assistance to the individuals regarding establishing the eligibility of the individuals for financial assistance and services under Federal, State, or local programs providing for health services, mental health services, social services, or other appropriate services.

(6) Allocations.(A) Subject to subparagraphs (B) and (C), the Secretary may not make a grant under subsection (a) unless the State involved agrees:

(i) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2); and

(ii) to expend not less than 35 percent of the grant to provide the early intervention services specified in subparagraphs (D) and (E) of such paragraph.

(B) With respect to compliance with the agreement under subparagraph (A), amounts reserved by a State for fiscal year 1991 for purposes of clauses (i) and (ii) of such subparagraph may be expended to provide the services specified in paragraph (5).

(C) The Secretary shall ensure that, of the amounts appropriated under section 2650 [42 USC 300ff-50] for fiscal year 1991, an amount equal to \$130,000,000 is expended to provide the early intervention services specified in subparagraphs (A) through (C) of paragraph (2).

300ff-43. Requirement of matching funds

(a) In general. In the case of any State to which the criterion described in subsection (c) applies, the Secretary may not make a grant under section 2641 [42 USC 300ff-41] unless the State agrees that, with respect to the costs to be incurred by the State in carrying out the purpose referred to in such subsection, the State will, subject to subsection (b)(2), make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to:

(1) for the first fiscal year for which such criterion applies to the State, not less than 16 2/3 percent of such costs (\$1 for each \$5 of Federal funds provided in the grant);

(2) for any second such fiscal year, not less than 20 percent of such costs (\$1 for each \$4 of Federal funds provided in the grant);

(3) for any third such fiscal year, not less than 25 percent of such costs (\$1 for each \$3 of Federal funds provided in the grant); and

(4) for any subsequent fiscal year, not less than 33 1/3 percent of such costs (\$1 for each \$2 of Federal funds provided in the grant).

(b) Determination of amount of non-Federal contribution.(1) In general. Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and any portion of any service subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) Inclusion of certain amounts.(A) In making a determination of the amount of non-Federal contributions made by a State for purposes of subsection (a), the Secretary shall, subject to subparagraph (B), include any

non-Federal contributions provided by the State for HIV-related services, without regard to whether the contributions are made for programs established pursuant to this title.

(B) In making a determination for purposes of subparagraph (A), the Secretary may not include any non-Federal contributions provided by the State as a condition of receiving Federal funds under any program under this title (except for the program established in section 2641 [42 USC 300ff-41]) or under other provisions of law.

(c) Applicability of matching requirement.(1) Percentage of national number of cases.(A) The criterion referred to in subsection (a) is, with respect to a State, that the number of cases of acquired immune deficiency syndrome reported to and confirmed by the Director of the Centers for Disease Control and Prevention for the State for the period described in subparagraph (B) constitutes more than 1 percent of the number of such cases reported to and confirmed by the Director for the United States for such period.

(B) The period referred to in subparagraph (A) is the 2-year period preceding the fiscal year for which the State involved is applying to receive a grant under section 2641 [42 USC 300ff-41].

(2) Exemption. For purposes of paragraph (1), the number of cases of acquired immune deficiency syndrome reported and confirmed for the Commonwealth of Puerto Rico for any fiscal year shall be deemed to be less than 1 percent.

(d) Diminished State contribution. With respect to a State that does not make available the entire amount of the non-Federal contribution referred to in subsection (a), the State shall continue to be eligible to receive Federal funds under a grant under section 2641 [42 USC 300ff-41], except that the Secretary in providing Federal funds under the grant shall provide such funds (in accordance with the ratios prescribed in paragraph (1)) only with respect to the amount of funds contributed by such State.

(July 1, 1944, ch 373, Title XXVI, Part C, Subpart I, 2643, as added Aug. 18, 1990, P. L. 101-381, Title III, 301(a), 104 Stat. 600.)
(As amended Oct. 27, 1992, P. L. 102-531, Title III, 312(d)(32), 106 Stat. 3506.)

/* This statute is continued in part 2. */