107TH CONGRESS
1st Session

COMMITTEE PRINT

COMMITTEE PRINT 107–J

COMPILATION OF SELECTED ACTS WITHIN THE JURISDICTION OF THE COMMITTEE ON ENERGY AND COMMERCE

HEALTH LAW

As Amended Through December 31, 2000

INCLUDING

PUBLIC HEALTH SERVICE ACT
DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 2000
MENTAL HEALTH SYSTEMS ACT
CONSUMER-PATIENT RADIATION HEALTH AND SAFETY ACT OF 1981
DRUG ABUSE PREVENTION, TREATMENT, AND REHABILITATION ACT
PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS ACT
HEALTH CARE QUALITY IMPROVEMENT ACT OF 1986
ALZHEIMER'S DISEASE AND RELATED DEMENTIAS RESEARCH ACT OF 1992
ABANDONED INFANTS ASSISTANCE ACT OF 1988
MISCELLANEOUS PROVISIONS

PREPARED FOR THE USE OF THE

COMMITTEE ON ENERGY AND COMMERCE
U S HOUSE OF REPRESENTATIVES

JULY 2001

U.S GOVERNMENT PRINTING OFFICE
72–509 WASHINGTON 2001

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(ii) the aggregate civilian population of the territories of the United States, as indicated by such data

(2) MINIMUM ALLOTMENT FOR TERRITORIES —The amount of an allotment under section 1911 for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year,

(B) $50 000 and

(C) with respect to fiscal years 1993 and 1994 an amount equal to 20 6 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992

(3) RESERVATION OF AMOUNTS —The Secretary shall each fiscal year reserve for the territories of the United States 1 5 percent of the amounts appropriated under section 1920(a) for allotments under section 1911 for the fiscal year

(4) AVAILABILITY OF DATA ON POPULATION —With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist

(5) APPLICABILITY OF CERTAIN PROVISIONS —For purposes of subsection (a), the term "State does not include the territories of the United States

SEC 1919 [300x-8] DEFINITIONS

For purposes of this subpart

(1) The terms "adults with a serious mental illness' and "children with a serious emotional disturbance' have the meanings given such terms under section 1912(c)(1)

(2) The term "funding agreement", with respect to a grant under section 1911 to a State, means that the Secretary may make such a grant only if the State makes the agreement involved

SEC 1920 [300x-9] FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS —For the purpose of carrying out this subpart, and subpart III and section 505 with respect to mental health there are authorized to be appropriated $450,000 000 for fiscal year 2001 and such sums as may be necessary for each of the fiscal years 2002 and 2003

(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE DATA COLLECTION, AND PROGRAM EVALUATION —

(1) IN GENERAL —For the purpose of carrying out section 1948(a) with respect to mental health and the purposes specified in paragraphs (2) and (3), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) for a fiscal year

(2) DATA COLLECTION —The purpose specified in this paragraph is carrying out sections 505 and 1971 with respect to mental health

(3) PROGRAM EVALUATION —The purpose specified in this paragraph is the conduct of evaluations of prevention and treatment programs and services with respect to mental health to determine methods for improving the availability and quality of such programs and services

Subpart II—Block Grants for Prevention and Treatment of Substance Abuse

SEC 1921 [300x-21] FORMULA GRANTS TO STATES

(a) IN GENERAL —For the purpose described in subsection (b) the Secretary, acting through the Center for Substance Abuse Treatment, shall make an allotment each fiscal year for each State in an amount determined in accordance with section 1933 The Secretary shall make a grant to the State of the allotment made for the State for the fiscal year if the State submits to the Secretary an application in accordance with section 1932

(b) AUTHORIZED ACTIVITIES —A funding agreement for a grant under subsection (a) is that, subject to section 1931, the State involved will expend the grant only for the purpose of planning carrying out, and evaluating activities to prevent and treat substance abuse and for related activities authorized in section 1924

SEC 1922 [300x-22] CERTAIN ALLOCATIONS

(a) ALLOCATION REGARDING PRIMARY PREVENTION PROGRAMS —A funding agreement for a grant under section 1921 is that, in expending the grant, the State involved—

(1) will expend not less than 20 percent for programs for individuals who do not require treatment for substance abuse which programs—

(A) educate and counsel the individuals on such abuse and

(B) provide for activities to reduce the risk of such abuse by the individuals

(2) will, in carrying out paragraph (1)—

(A) give priority to programs for populations that are at risk of developing a pattern of such abuse, and

(B) ensure that programs receiving priority under subparagraph (A) develop community based strategies for the prevention of such abuse including strategies to discourage the use of alcoholic beverages and tobacco products by individuals to whom it is unlawful to sell or distribute such beverages or products

(b) [1] ALLOCATIONS REGARDING WOMEN —

[1] Paragraph (2)(A) of section 3303(f) of Public Law 106–310 (114 Stat 1211) provides as follows

(2) CONFORMING AMENDMENTS —Effective upon the publication of the regulations developed in accordance with section 1932(e)(1) of the Public Health Service Act (42 U S C 300x–32(d))—

(A) section 1922(c) of the Public Health Service Act (42 U S C 300x–22(c)) is amended by—

(i) striking paragraph (2) and

(ii) redesignating paragraph (3) as paragraph (2) and

The reference to section 1922(c) probably should be a reference to section 1922(b) as amended by section 3303(a) of such Public Law

(1) IN GENERAL —Subject to paragraph (2) a funding agreement for a grant under section 1921 for a fiscal year is that—

(A) in the case of a grant for fiscal year 1993, the State involved will expend not less than 5 percent of the grant to increase (relative to fiscal year 1992) the avail ability of treatment services designed for pregnant women and women with dependent children (either by estab lishing new programs or expanding the capacity of existing programs),

(B) in the case of a grant for fiscal year 1994, the State will expend not less than 5 percent of the grant to so increase (relative to fiscal year 1993) the availability of such services for such women, and

(C) in the case of a grant for any subsequent fiscal year, the State will expend for such services for such women not less than an amount equal to the amount ex pended by the State for fiscal year 1994

(2) WAIVER —

(A) Upon the request of a State, the Secretary may provide to the State a waiver of all or part of the require ment established in paragraph (1) if the Secretary deter mines that the State is providing an adequate level of treatments services for women described in such para graph, as indicated by a comparison of the number of such women seeking the services with the availability in the State of the services

(B) The Secretary shall approve or deny a request for a waiver under subparagraph (A) not later than 120 days after the date on which the request is made

(C) Any waiver provided by the Secretary under sub paragraph (A) shall be applicable only to the fiscal year in volved

(3) CHILDCARE AND PRENATAL CARE —A funding agreement for a grant under section 1921 for a State is that each entity providing treatment services with amounts reserved under paragraph (1) by the State will, directly or through arrange ments with other public or nonprofit private entities, make available prenatal care to women receiving such services and, while the women are receiving the services, childcare

SEC 1923 [300x-23] INTRAVENOUS SUBSTANCE ABUSE

(a) CAPACITY OF TREATMENT PROGRAMS —

(1) NOTIFICATION OF REACHING CAPACITY —A funding agreement for a grant under section 1921 is that the State in volved will, in the case of programs of treatment for intra venous drug abuse, require that any such program receiving amounts from the grant, upon reaching 90 percent of its capac ity to admit individuals to the program, provide to the State a notification of such fact

(2) PROVISION OF TREATMENT —A funding agreement for a grant under section 1921 is that the State involved will with respect to notifications under paragraph (1) ensure that each individual who requests and is in need of treatment for intra venous drug abuse is admitted to a program of such treatment not later than—

(A) 14 days after making the request for admission to such a program or

(B) 120 days after the date of such request if no such program has the capacity to admit the individual on the date of such request and if interim services are made available to the individual not later than 48 hours after such request

(b) OUTREACH REGARDING INTRAVENOUS SUBSTANCE ABUSE — A funding agreement for a grant under section 1921 is that the State involved, in providing amounts from the grant to any entity for treatment services for intravenous drug abuse, will require the entity to carry out activities to encourage individuals in need of such treatment to undergo treatment

SEC 1924 [300x-24] REQUIREMENTS REGARDING TUBERCULOSIS AND HUMAN IMMUNODEFICIENCY VIRUS

(a) TUBERCULOSIS —

(1) IN GENERAL —A funding agreement for a grant under section 1921 is that the State involved will require that any entity receiving amounts from the grant for operating a pro gram of treatment for substance abuse—

(A) will, directly or through arrangements with other public or nonprofit private entities, routinely make avail able tuberculosis services to each individual receiving treatment for such abuse, and

(B) in the case of an individual in need of such treat ment who is denied admission to the program on the basis of the lack of the capacity of the program to admit the in dividual, will refer the individual to another provider of tu berculosis services

(2) TUBERCULOSIS SERVICES —For purposes of paragraph (1) the term "tuberculosis services', with respect to an indi vidual, means—

(A) counseling the individual with respect to tuber culosis,

(B) testing to determine whether the individual has contracted such disease and testing to determine the form of treatment for the disease that is appropriate for the in dividual, and

(C) providing such treatment to the individual

(b) HUMAN IMMUNODEFICIENCY VIRUS —

(1) REQUIREMENT FOR CERTAIN STATES —In the case of a State described in paragraph (2) a funding agreement for a grant under section 1921 is that—

(A) with respect to individuals undergoing treatment for substance abuse the State will, subject to paragraph (3), carry out 1 or more projects to make available to the individuals early intervention services for HIV disease at the sites at which the individuals are undergoing such treatment,

(B) for the purpose of providing such early interven tion services through such projects the State will make

available from the grant the percentage that is applicable for the State under paragraph (4), and

(C) the State will, subject to paragraph (5), carry out such projects only in geographic areas of the State that have the greatest need for the projects

(2) DESIGNATED STATES —For purposes of this subsection a State described in this paragraph is any State whose rate of cases of acquired immune deficiency syndrome is 10 or more such cases per 100,000 individuals (as indicated by the number of such cases reported to and confirmed by the Director of the Centers for Disease Control for the most recent calendar year for which such data are available)

(3) USE OF EXISTING PROGRAMS REGARDING SUBSTANCE ABUSE —With respect to programs that provide treatment services for substance abuse, a funding agreement for a grant under section 1921 for a designated State is that each such program participating in a project under paragraph (1) will be a program that began operation prior to the fiscal year for which the State is applying to receive the grant A program that so began operation may participate in a project under paragraph (1) without regard to whether the program has been providing early intervention services for HIV disease

(4) APPLICABLE PERCENTAGE REGARDING EXPENDITURES FOR SERVICES —

(A)(i) For purposes of paragraph (1)(B), the percentage that is applicable under this paragraph for a designated State is, subject to subparagraph (B), the percentage by which the amount of the grant under section 1921 for the State for the fiscal year involved is an increase over the amount specified in clause (ii)

(ii) The amount specified in this clause is the amount that was reserved by the designated State involved from the allotment of the State under section 1912A for fiscal year 1991 in compliance with section 1916(c)(6)(A)(ii) (as such sections were in effect for such fiscal year)

(B) If the percentage determined under subparagraph (A) for a designated State for a fiscal year is less than 2 percent (including a negative percentage, in the case of a State for which there is no increase for purposes of such subparagraph) the percentage applicable under this paragraph for the State is 2 percent If the percentage so determined is 2 percent or more, the percentage applicable under this paragraph for the State is the percentage determined under subparagraph (A), subject to not exceeding 5 percent

(5) REQUIREMENT REGARDING RURAL AREAS —

(A) A funding agreement for a grant under section 1921 for a designated State is that, if the State will carry out 2 or more projects under paragraph (1), the State will carry out 1 such project in a rural area of the State, subject to subparagraph (B)

(B) The Secretary shall waive the requirement established in subparagraph (A) if the State involved certifies to the Secretary that—

(i) there is insufficient demand in the State to carry out a project under paragraph (1) in any rural area of the State, or

(ii) there are no rural areas in the State

(6) MANNER OF PROVIDING SERVICES —With respect to the provision of early intervention services for HIV disease to an individual a funding agreement for a grant under section 1921 for a designated State is that—

(A) such services will be undertaken voluntarily by and with the informed consent of, the individual, and

(B) undergoing such services will not be required as a condition of receiving treatment services for substance abuse or any other services

(7) DEFINITIONS —For purposes of this subsection

(A) The term "designated State' means a State described in paragraph (2)

(B) The term early intervention services , with respect to HIV disease, means—

(i) appropriate pretest counseling

(ii) 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

(iii) appropriate post test counseling and

(iv) providing the therapeutic measures described in clause (ii)

(C) The term 'HIV disease means infection with the etiologic agent for acquired immune deficiency syndrome

(c) EXPENDITURE OF GRANT FOR COMPLIANCE WITH AGREEMENTS —

(1) IN GENERAL —A grant under section 1921 may be expended for purposes of compliance with the agreements required in this section, subject to paragraph (2)

(2) LIMITATION —A funding agreement for a grant under section 1921 for a State is that the grant will not be expended to make payment for any service provided for purposes of compliance with this section to the extent that payment has been made, or can reasonably be expected to be made with respect to such service—

(A) under any State compensation program, under any insurance policy or under any Federal or State health benefits program (including the program established in title XVIII of the Social Security Act and the program established in title XIX of such Act), or

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

(d) MAINTENANCE OF EFFORT —With respect to services provided for by a State for purposes of compliance with this section a funding agreement for a grant under section 1921 is that the State will maintain expenditures of non Federal amounts for such

services at a level that is not less than average level of such expenditures maintained by the State for 2 year period preceding the first fiscal year for which the State receives such a grant

(e) APPLICABILITY OF CERTAIN PROVISION —Section 1931 applies to this section (and to each other provision of this subpart)

SEC 1925 [300x-25] GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS

(a) STATE REVOLVING FUNDS FOR ESTABLISHMENT OF HOMES — A State, using funds available under section 1921, may establish and maintain the ongoing operation of a revolving fund in accordance with this section to support group homes for recovering substance abusers as follows

(1) The purpose of the fund is to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 6 individuals The fund is established directly by the State or through the provision of a grant or contract to a nonprofit private entity

(2) The programs are carried out in accordance with guidelines issued under subsection (b)

(3) Not less than $100,000 is available for the fund

(4) Loans made from the revolving fund do not exceed $4,000 and each such loan is repaid to the revolving fund by the residents of the housing involved not later than 2 years after the date on which the loan is made

(5) Each such loan is repaid by such residents through monthly installments, and a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved

(6) Such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited

(B) any resident of the housing who violates such prohibition will be expelled from the housing,

(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing, and

(D) the residents of the housing will through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved

(b) ISSUANCE BY SECRETARY OF GUIDELINES —The Secretary shall ensure that there are in effect guidelines under this subpart for the operation of programs described in subsection (a)

(c) APPLICABILITY TO TERRITORIES —The requirements established in subsection (a) shall not apply to any territory of the United States other than the Commonwealth of Puerto Rico

SEC 1926 [300x-26] STATE LAW REGARDING SALE OF TOBACCO PRODUCTS TO INDIVIDUALS UNDER AGE OF 18

(a) RELEVANT LAW —

(1) IN GENERAL —Subject to paragraph (2), for fiscal year 1994 and subsequent fiscal years, the Secretary may make a grant under section 1921 only if the State involved has in effect a law providing that it is unlawful for any manufacturer retailer or distributor of tobacco products to sell or distribute any such product to any individual under the age of 18

(2) DELAYED APPLICABILITY FOR CERTAIN STATES —In the case of a State whose legislature does not convene a regular session in fiscal year 1993 and in the case of a State whose legislature does not convene a regular session in fiscal year 1994 the requirement described in paragraph (1) as a condition of a receipt of a grant under section 1921 shall apply only for fiscal year 1995 and subsequent fiscal years

(b) ENFORCEMENT —

(1) IN GENERAL —For the first applicable fiscal year and for subsequent fiscal years a funding agreement for a grant under section 1921 is that the State involved will enforce the law described in subsection (a) in a manner that can reasonably be expected to reduce the extent to which tobacco products are available to individuals under the age of 18

(2) ACTIVITIES AND REPORTS REGARDING ENFORCEMENT — For the first applicable fiscal year and for subsequent fiscal years a funding agreement for a grant under section 1921 is that the State involved will—

(A) annually conduct random unannounced inspections to ensure compliance with the law described in subsection (a), and

(B) annually submit to the Secretary a report describing—

(i) the activities carried out by the State to enforce such law during the fiscal year preceding the fiscal year for which the State is seeking the grant

(ii) the extent of success the State has achieved in reducing the availability of tobacco products to individuals under the age of 18, and

(iii) the strategies to be utilized by the State for enforcing such law during the fiscal year for which the grant is sought

(c) NONCOMPLIANCE OF STATE —Before making a grant under section 1921 to a State for the first applicable fiscal year or any subsequent fiscal year, the Secretary shall make a determination of whether the State has maintained compliance with subsections (a) and (b) If after notice to the State and an opportunity for a hearing the Secretary determines that the State is not in compliance with such subsections, the Secretary shall reduce the amount of the allotment under such section for the State for the fiscal year involved by an amount equal to—

(1) in the case of the first applicable fiscal year, 10 percent of the amount determined under section 1933 for the State for the fiscal year

(2) in the case of the first fiscal year following such applicable fiscal year 20 percent of the amount determined under section 1933 for the State for the fiscal year,

(3) in the case of the second such fiscal year, 30 percent of the amount determined under section 1933 for the State for the fiscal year, and

(4) in the case of the third such fiscal year or any subsequent fiscal year, 40 percent of the amount determined under section 1933 for the State for the fiscal year

(d) DEFINITION —For purposes of this section, the term "first applicable fiscal year' means—

(1) fiscal year 1995, in the case of any State described in subsection (a)(2), and

(2) fiscal year 1994, in the case of any other State

SEC 1927 [300x-27] TREATMENT SERVICES FOR PREGNANT WOMEN

(a) IN GENERAL —A funding agreement for a grant under section 1921 is that the State involved—

(1) will ensure that each pregnant woman in the State who seeks or is referred for and would benefit from such services is given preference in admissions to treatment facilities receiving funds pursuant to the grant, and

(2) will, in carrying out paragraph (1) publicize the availability to such women of services from the facilities and the fact that the women receive such preference

(b) REFERRALS REGARDING STATES —A funding agreement for a grant under section 1921 is that, in carrying out subsection (a)(1)—

(1) the State involved will require that, in the event that a treatment facility has insufficient capacity to provide treatment services to any woman described in such subsection who seeks the services from the facility, the facility refer the woman to the State, and

(2) the State, in the case of each woman for whom a referral under paragraph (1) is made to the State—

(A) will refer the woman to a treatment facility that has the capacity to provide treatment services to the woman, or

(B) will, if no treatment facility has the capacity to admit the woman, make interim services available to the woman not later than 48 hours after the women[1] seeks the treatment services

SEC 1928 [300x-28] ADDITIONAL AGREEMENTS

(a) IMPROVEMENT OF PROCESS FOR APPROPRIATE REFERRALS FOR TREATMENT —With respect to individuals seeking treatment services, a funding agreement for a grant under section 1921 is that the State involved will improve (relative to fiscal year 1992) the process in the State for referring the individuals to treatment facilities that can provide to the individuals the treatment modality that is most appropriate for the individuals

(b) CONTINUING EDUCATION —With respect to any facility for treatment services or prevention actitivities[2] that is receiving amounts from a grant under section 1921, a funding agreement for

[1] So in law See section 202 of Public Law 102–321 (106 Stat 396) Probably should be "woman

[2] So in law See section 202 of Public Law 102–321 (106 Stat 396) Probably should be activities

a State for a grant under such section is that continuing education in such services or activities (or both, as the case may be) will be made available to employees of the facility who provide the services or activities

(c) COORDINATION OF VARIOUS ACTIVITIES AND SERVICES —A funding agreement for a grant under section 1921 is that the State involved will coordinate prevention and treatment activities with the provision of other appropriate services (including health, social correctional and criminal justice, educational, vocational rehabilitation, and employment services)

(d)[1] WAIVER OF REQUIREMENT —

(1) IN GENERAL —Upon the request of a State the Secretary may provide to a State a waiver of any or all of the requirements established in this section if the Secretary determines that, with respect to services for the prevention and treatment of substance abuse the requirement involved is unnecessary for maintaining quality in the provision of such services in the State

(2) DATE CERTAIN FOR ACTING UPON REQUEST —The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made

(3) APPLICABILITY OF WAIVER —Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved

SEC 1929 [300x-29] SUBMISSION TO SECRETARY OF STATEWIDE ASSESSMENT OF NEEDS

The Secretary may make a grant under section 1921 only if the State submits to the Secretary an assessment of the need in the State for authorized activities (which assessment is conducted in accordance with criteria issued by the Secretary), both by locality and by the State in general, which assessment includes a description of—

(1) the incidence and prevalence in the State of drug abuse and the incidence and prevalence in the State of alcohol abuse and alcoholism,

(2) current prevention and treatment activities in the State,

(3) the need of the State for technical assistance to carry out such activities,

(4) efforts by the State to improve such activities, and

(5) the extent to which the availability of such activities is insufficient to meet the need for the activities, the interim services to be made available under sections 1923(a) and 1927(b), and the manner in which such services are to be so available

[1] Paragraph (2)(B) of section 3303(f) of Public Law 106–310 (114 Stat. 1211) provides as follows

(2) CONFORMING AMENDMENTS —Effective upon the publication of the regulations developed in accordance with section 1932(e)(1) of the Public Health Service Act (42 U S C 300x–32(d))—

(A) * * *

(B) section 1928(d) of the Public Health Service Act (42 U S C 300x–28(d)) is repealed

SEC 1930 [300x-30] MAINTENANCE OF EFFORT REGARDING STATE EXPENDITURES

(a) IN GENERAL—With respect to the principal agency of a State for carrying out authorized activities, a funding agreement for a grant under section 1921 for the State for a fiscal year is that such agency will for such year maintain aggregate State expenditures for authorized activities at a level that is not less than the average level of such expenditures maintained by the State for the 2 year period preceding the fiscal year for which the State is applying for the grant

(b) EXCLUSION OF CERTAIN FUNDS—The Secretary may exclude from the aggregate State expenditures under subsection (a), funds appropriated to the principle agency for authorized activities which are of a non recurring nature and for a specific purpose

(c) WAIVER—

(1) IN GENERAL—Upon the request of a State, the Secretary may waive all or part of the requirement established in subsection (a) if the Secretary determines that extraordinary economic conditions in the State justify the waiver

(2) DATE CERTAIN FOR ACTING UPON REQUEST—The Secretary shall approve or deny a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made

(3) APPLICABILITY OF WAIVER—Any waiver provided by the Secretary under paragraph (1) shall be applicable only to the fiscal year involved

(d) NONCOMPLIANCE BY STATE—

(1) IN GENERAL—In making a grant under section 1921 to a State for a fiscal year, the Secretary shall make a determination of whether, for the previous fiscal year the State maintained material compliance with any agreement made under subsection (a) If the Secretary determines that a State has failed to maintain such compliance, the Secretary shall reduce the amount of the allotment under section 1921 for the State for the fiscal year for which the grant is being made by an amount equal to the amount constituting such failure for the previous fiscal year

(2) SUBMISSION OF INFORMATION TO SECRETARY—The Secretary may make a grant under section 1921 for a fiscal year only if the State involved submits to the Secretary information sufficient for the Secretary to make the determination required in paragraph (1)

SEC 1931 [300x-31] RESTRICTIONS ON EXPENDITURE OF GRANT

(a) IN GENERAL—

(1) CERTAIN RESTRICTIONS—A funding agreement for a grant under section 1921 is that the State involved will not expend the grant—

(A) to provide inpatient hospital services, except as provided in subsection (b),

(B) to make cash payments to intended recipients of health services,

(C) to purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,

(D) to satisfy any requirement for the expenditure of non Federal funds as a condition for the receipt of Federal funds

(E) to provide financial assistance to any entity other than a public or nonprofit private entity, or

(F) to carry out any program prohibited by section 256(b) of the Health Omnibus Programs Extension of 1988 (42 U S C 300ee-5)

(2) LIMITATION ON ADMINISTRATIVE EXPENSES—A funding agreement for a grant under section 1921 is that the State involved will not expend more than 5 percent of the grant to pay the costs of administering the grant

(3) LIMITATION REGARDING PENAL AND CORRECTIONAL INSTITUTIONS—A funding agreement for a State for a grant under section 1921 is that, in expending the grant for the purpose of providing treatment services in penal or correctional institutions of the State, the State will not expend more than an amount equal to the amount expended for such purpose by the State from the grant made under section 1912A to the State for fiscal year 1991 (as section 1912A was in effect for such fiscal year)

(b) EXCEPTION REGARDING INPATIENT HOSPITAL SERVICES—

(1) MEDICAL NECESSITY AS PRECONDITION—With respect to compliance with the agreement made under subsection (a), a State may expend a grant under section 1921 to provide inpatient hospital services as treatment for substance abuse only if it has been determined in accordance with guidelines issued by the Secretary that such treatment is a medical necessity for the individual involved and that the individual cannot be effectively treated in a community based, nonhospital, residential program of treatment

(2) RATE OF PAYMENT—In the case of an individual for whom a grant under section 1921 is expended to provide inpatient hospital services described in paragraph (1), a funding agreement for the grant for the State involved is that the daily rate of payment provided to the hospital for providing the services to the individual will not exceed the comparable daily rate provided for community based, nonhospital, residential programs of treatment for substance abuse

(c) WAIVER REGARDING CONSTRUCTION OF FACILITIES—

(1) IN GENERAL—The Secretary may provide to any State a waiver of the restriction established in subsection (a)(1)(C) for the purpose of authorizing the State to expend a grant under section 1921 for the construction of a new facility or rehabilitation of an existing facility, but not for land acquisition

(2) STANDARD REGARDING NEED FOR WAIVER—The Secretary may approve a waiver under paragraph (1) only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available

(3) AMOUNT —In granting a waiver under paragraph (1), the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment based on reasonable estimates by the State of the costs of construction or rehabilitation In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds

(4) MATCHING FUNDS —The Secretary may grant a waiver under paragraph (1) only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided under section 1921

(5) DATE CERTAIN FOR ACTING UPON REQUEST —The Secretary shall act upon a request for a waiver under paragraph (1) not later than 120 days after the date on which the request is made

SEC 1932 [300x-32] APPLICATION FOR GRANT APPROVAL OF STATE PLAN

(a) IN GENERAL —For purposes of section 1921, an application for a grant under such section for a fiscal year is in accordance with this section if, subject to subsections (c) and (d)(2)—

(1) the application is received by the Secretary not later than October 1 of the fiscal year for which the State is seeking funds,

(2) the application contains each funding agreement that is described in this subpart or subpart III for such a grant (other than any such agreement that is not applicable to the State),

(3) the agreements are made through certification from the chief executive officer of the State,

(4) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary,

(5) the application contains the information required in section 1929, the information required in section 1930(c)(2) and the report required in section 1942(a)

(6)(A) the application contains a plan in accordance with subsection (b) and the plan is approved by the Secretary, and

(B) the State provides assurances satisfactory to the Secretary that the State complied with the provisions of the plan under subparagraph (A) that was approved by the Secretary for the most recent fiscal year for which the State received a grant under section 1921 and

(7) the application (including the plan under paragraph (6)) is otherwise in such form is made in such manner, and contains such agreements, assurances and information as the Secretary determines to be necessary to carry out this subpart

(b) STATE PLAN —

(1) IN GENERAL —A plan submitted by a State under subsection (a)(6) is in accordance with this subsection if the plan contains detailed provisions for complying with each funding agreement for a grant under section 1921 that is applicable to the State including a description of the manner in which the State intends to expend the grant

(2) AUTHORITY OF SECRETARY REGARDING MODIFICATIONS — As a condition of making a grant under section 1921 to a State for a fiscal year, the Secretary may require that the State modify any provision of the plan submitted by the State under subsection (a)(6) (including provisions on priorities in carrying out authorized activities) If the Secretary approves the plan and makes the grant to the State for the fiscal year, the Secretary may not during such year require the State to modify the plan

(3) AUTHORITY OF CENTER FOR SUBSTANCE ABUSE PREVENTION —With respect to plans submitted by the States under subsection (a)(6) the Secretary, acting through the Director of the Center for Substance Abuse Prevention, shall review and approve or disapprove the provisions of the plans that relate to prevention activities

(c) WAIVERS REGARDING CERTAIN TERRITORIES —In the case of any territory of the United States except Puerto Rico, the Secretary may waive such provisions of this subpart and subpart III as the Secretary determines to be appropriate, other than the provisions of section 1931

(d) ISSUANCE OF REGULATIONS, PRECONDITION TO MAKING GRANTS —

(1) REGULATIONS —Not later than August 25, 1992 the Secretary acting as appropriate through the Director of the Center for Treatment Improvement or the Director of the Center for Substance Abuse Prevention, shall by regulation establish standards specifying the circumstances in which the Secretary will consider an application for a grant under section 1921 to be in accordance with this section

(2) ISSUANCE AS PRECONDITION TO MAKING GRANTS —The Secretary may not make payments under any grant under section 1921 for fiscal year 1993 on or after January 1 1993 unless the Secretary has issued standards under paragraph (1)

(e) WAIVER AUTHORITY FOR CERTAIN REQUIREMENTS —

(1) IN GENERAL —Upon the request of a State, the Secretary may waive the requirements of all or part of the sections described in paragraph (2) using objective criteria established by the Secretary by regulation after consultation with the States and other interested parties including consumers and providers

(2) SECTIONS —The sections described in paragraph (1) are sections 1922(c), 1923, 1924 and 1928

(3) DATE CERTAIN FOR ACTING UPON REQUEST —The Secretary shall approve or deny a request for a waiver under paragraph (1) and inform the State of that decision not later than 120 days after the date on which the request and all the information needed to support the request are submitted

(4) ANNUAL REPORTING REQUIREMENT —The Secretary shall annually report to the general public on the States that receive a waiver under this subsection

SEC 1933 [300x-33] DETERMINATION OF AMOUNT OF ALLOTMENT

(a) STATES —

(1) IN GENERAL —Subject to subsection (b) the Secretary shall determine the amount of the allotment required in section 1921 for a State for a fiscal year as follows

(A) The formula established in paragraph (1) of section 1918(a) shall apply to this subsection to the same extent and in the same manner as the formula applies for purposes of section 1918(a) except that, in the application of such formula for purposes of this subsection, the modifica

the modifica

(i) The amount specified in paragraph (2)(A) of section 1918(a) is deemed to be the amount appropriated under section 1935(a) for allotments under section 1921 for the fiscal year involved

(ii) The term "P" is deemed to have the meaning given in paragraph (2) of this subsection Section 1918(a)(5)(B) applies to the data used in determining such term for the States

(iii) The factor determined under paragraph (8) of section 1918(a) is deemed to have the purpose of reflecting the differences that exist between the State involved and other States in the costs of providing authorized services

(2) DETERMINATION OF TERM P —For purposes of this subsection, the term "P' means the percentage that is the arithmetic mean of the percentage determined under subparagraph (A) and the percentage determined under subparagraph (B), as follows

(A) The percentage constituted by the ratio of—

(i) an amount equal to the sum of the total number of individuals who reside in the State involved and are between 18 and 24 years of age (inclusive) and the number of individuals in the State who reside in urbanized areas of the State and are between such years of age to

(ii) an amount equal to the total of the respective sums determined for the States under clause (i)

(B) The percentage constituted by the ratio of—

(i) the total number of individuals in the State who are between 25 and 64 years of age (inclusive), to

(ii) an amount equal to the sum of the respective amounts determined for the States under clause (i)

(b) MINIMUM ALLOTMENTS FOR STATES —

(1) IN GENERAL —With respect to fiscal year 2000 and each subsequent fiscal year the amount of the allotment of a State under section 1921 shall not be less than the amount the State received under such section for the previous fiscal year increased by an amount equal to 30 65 percent of the percentage by which the aggregate amount allotted to all States for such fiscal year exceeds the aggregate amount allotted to all States for the previous fiscal year

(2) LIMITATIONS —

(A) IN GENERAL —Except as provided in subparagraph (B), a State shall not receive an allotment under section 1921 for a fiscal year in an amount that is less than an amount equal to 0 375 percent of the amount appropriated under section 1935(a) for such fiscal year

(B) EXCEPTION —In applying subparagraph (A) the Secretary shall ensure that no State receives an increase in its allotment under section 1921 for a fiscal year (as compared to the amount allotted to the State in the prior fiscal year) that is in excess of an amount equal to 300 percent of the percentage by which the amount appropriated under section 1935(a) for such fiscal year exceeds the amount appropriated for the prior fiscal year

(3) DECREASE IN OR EQUAL APPROPRIATIONS —If the amount appropriated under section 1935(a) for a fiscal year is equal to or less than the amount appropriated under such section for the prior fiscal year the amount of the State allotment under section 1921 shall be equal to the amount that the State received under section 1921 in the prior fiscal year decreased by the percentage by which the amount appropriated for such fiscal year is less than the amount appropriated or such section for the prior fiscal year

(c) TERRITORIES —

(1) DETERMINATION UNDER FORMULA.—Subject to paragraphs (2) and (4), the amount of an allotment under section 1921 for a territory of the United States for a fiscal year shall be the product of—

(A) an amount equal to the amounts reserved under paragraph (3) for the fiscal year, and

(B) a percentage equal to the quotient of—

(i) the civilian population of the territory, as indicated by the most recently available data, divided by

(ii) the aggregate civilian population of the territories of the United States, as indicated by such data

(2) MINIMUM ALLOTMENT FOR TERRITORIES —The amount of an allotment under section 1921 for a territory of the United States for a fiscal year shall be the greater of—

(A) the amount determined under paragraph (1) for the territory for the fiscal year,

(B) $50 000, and

(C) with respect to fiscal years 1993 and 1994, an amount equal to 79 4 percent of the amount received by the territory from allotments made pursuant to this part for fiscal year 1992

(3) RESERVATION OF AMOUNTS —The Secretary shall each fiscal year reserve for the territories of the United States 1 5 percent of the amounts appropriated under section 1935(a) for allotments under section 1921 for the fiscal year

(4) AVAILABILITY OF DATA ON POPULATION —With respect to data on the civilian population of the territories of the United States, if the Secretary determines for a fiscal year that recent such data for purposes of paragraph (1)(B) do not exist regarding a territory, the Secretary shall for such purposes estimate the civilian population of the territory by modifying the

data on the territory to reflect the average extent of change occurring during the ensuing period in the population of all territories with respect to which recent such data do exist

(5) APPLICABILITY OF CERTAIN PROVISIONS —For purposes of subsections (a) and (b) the term 'State" does not include the territories of the United States

(d) INDIAN TRIBES AND TRIBAL ORGANIZATIONS —

(1) IN GENERAL —If the Secretary—

(A) receives a request from the governing body of an Indian tribe or tribal organization within any State that funds under this subpart be provided directly by the Secretary to such tribe or organization, and

(B) makes a determination that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this,[1]

the Secretary shall reserve from the allotment under section 1921 for the State for the fiscal year involved an amount that bears the same ratio to the allotment as the amount provided under this subpart to the tribe or tribal organization for fiscal year 1991 for activities relating to the prevention and treatment of the abuse of alcohol and other drugs bore to the amount of the portion of the allotment under this subpart for the State for such fiscal year that was expended for such activities

(2) TRIBE OR TRIBAL ORGANIZATION AS GRANTEE —The amount reserved by the Secretary on the basis of a determination under this paragraph[2] shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made

(3) APPLICATION —In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this paragraph, it shall submit to the Secretary a plan for such fiscal year that meets such criteria as the Secretary may prescribe

(4) DEFINITION —The terms 'Indian tribe" and 'tribal organization" have the same meaning given such terms in subsections (b) and (c) of section 4 of the Indian Self Determination and Education Assistance Act

SEC 1934. [300x-34] DEFINITIONS

For purposes of this subpart

(1) The term "authorized activities", subject to section 1931 means the activities described in section 1921(b)

(2) The term "funding agreement", with respect to a grant under section 1921 to a State, means that the Secretary may make such a grant only if the State makes the agreement involved

(3) The term "prevention activities" subject to section 1931, means activities to prevent substance abuse

[1] So in law See section 102 of Public Law 102-321 (106 Stat 402) Probably should be under this subpart

[2] So in law See section 102 of Public Law 102-321 (106 Stat 402) Probably should be subsection

(4) The term "substance abuse" means the abuse of alcohol or other drugs

(5) The term "treatment activities" means treatment services and, subject to section 1931, authorized activities that are related to treatment services

(6) The term "treatment facility' means an entity that provides treatment services

(7) The term "treatment services", subject to section 1931, means treatment for substance abuse

SEC 1935 [300x-35] FUNDING

(a) AUTHORIZATION OF APPROPRIATIONS —For the purpose of carrying out this subpart, subpart III and section 505 with respect to substance abuse, and section 515(d), there are authorized to be appropriated $2,000,000,000 for fiscal year 2001, and such sums as may be necessary for each of the fiscal years 2002 and 2003

(b) ALLOCATIONS FOR TECHNICAL ASSISTANCE NATIONAL DATA BASE, DATA COLLECTION, AND PROGRAM EVALUATIONS —

(1) IN GENERAL —

(A) For the purpose of carrying out section 1948(a) with respect to substance abuse, section 515(d) and the purposes specified in subparagraphs (B) and (C), the Secretary shall obligate 5 percent of the amounts appropriated under subsection (a) each fiscal year

(B) The purpose specified in this subparagraph is the collection of data in this paragraph[1] is carrying out sections 505 and 1971 with respect to substance abuse

(C) The purpose specified in this subparagraph is the conduct of evaluations of authorized activities to determine methods for improving the availability and quality of such activities

(2) ACTIVITIES OF CENTER FOR SUBSTANCE ABUSE PREVENTION —Of the amounts reserved under paragraph (1) for a fiscal year, the Secretary, acting through the Director of the Center for Substance Abuse Prevention shall obligate 20 percent for carrying out paragraph (1)(C) section 1948(a) with respect to prevention activities, and section 515(d)

(3) CORE DATA SET —A State that receives a new grant contract, or cooperative agreement from amounts available to the Secretary under paragraph (1), for the purposes of improving the data collection, analysis and reporting capabilities of the State, shall be required, as a condition of receipt of funds, to collect, analyze, and report to the Secretary for each fiscal year subsequent to receiving such funds a core data set to be determined by the Secretary in conjunction with the States

Subpart III—General Provisions

SEC 1941 [300x-51] OPPORTUNITY FOR PUBLIC COMMENT ON STATE PLANS

A funding agreement for a grant under section 1911 or 1921 is that the State involved will make the plan required in section

[1] So in law See section 202 of Public Law 102-321 (106 Stat 403) The words "the collection of data in this paragraph probably should not appear

1912 and the plan required in section 1932 respectively public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during the development of the plan (including any revisions) and after the submission of the plan to the Secretary

SEC 1942 [300x-52] REQUIREMENT OF REPORTS AND AUDITS BY STATES

(a) REPORT —A funding agreement for a grant under section 1911 or 1921 is that the State involved will submit to the Secretary a report in such form and containing such information as the Sec retary determines (after consultation with the States) to be nec essary for securing a record and a description of—

(1) the purposes for which the grant received by the State for the preceding fiscal year under the program involved were expended and a description of the activities of the State under the program, and

(2) the recipients of amounts provided in the grant

(b) AUDITS —A funding agreement for a grant under section 1911 or 1921 is that the State will, with respect to the grant, com ply with chapter 75 of title 31, United States Code

(c) AVAILABILITY TO PUBLIC —A funding agreement for a grant under section 1911 or 1921 is that the State involved will—

(1) make copies of the reports and audits described in this section available for public inspection within the State, and

(2) provide copies of the report under subsection (a), upon request, to any interested person (including any public agency)

SEC 1943 [300x-53] ADDITIONAL REQUIREMENTS

(a) IN GENERAL —A funding agreement for a grant under sec tion 1911 or 1921 is that the State involved will—

(1)(A) for the fiscal year for which the grant involved is provided, provide for independent peer review to assess the quality appropriateness and efficacy of treatment services provided in the State to individuals under the program in volved, and

(B) ensure that, in the conduct of such peer review, not fewer than 5 percent of the entities providing services in the State under such program are reviewed (which 5 percent is representative of the total population of such entities),

(2) permit and cooperate with Federal investigations un dertaken in accordance with section 1945, and

(3) provide to the Secretary any data required by the Sec retary pursuant to section 505 and will cooperate with the Sec retary in the development of uniform criteria for the collection of data pursuant to such section

(b) PATIENT RECORDS —The Secretary may make a grant under section 1911 or 1921 only if the State involved has in effect a sys tem to protect from inappropriate disclosure patient records main tained by the State in connection with an activity funded under the program involved or by any entity which is receiving amounts from the grant

SEC 1944. [300x-54] DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS

(a) IN GENERAL —Amounts described in subsection (b) and available for a fiscal year pursuant to section 1911 or 1921 as the case may be, shall be allotted by the Secretary and paid to the States receiving a grant under the program involved, other than any State referred to in subsection (b) with respect to such pro gram Such amounts shall be allotted in a manner equivalent to the manner in which the allotment under the program involved was determined

(b) SPECIFICATION OF AMOUNTS —The amounts referred to in subsection (a) are any amounts that—

(1) are not paid to States under the program involved as a result of—

(A) the failure of any State to submit an application in accordance with the program

(B) the failure of any State to prepare such application in compliance with the program, or

(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State under the program,

(2) are terminated repaid, or offset under section 1945,

(3) in the case of the program established in section 1911, are available as a result of reductions in allotments under such section pursuant to section 1912(d) or 1915(b), or

(4) in the case of the program established in section 1921, are available as a result of reductions in allotments under such section pursuant to section 1926 or 1930

SEC 1945 [300x-55] FAILURE TO COMPLY WITH AGREEMENTS

(a) SUSPENSION OR TERMINATION OF PAYMENTS —Subject to subsection (e), if the Secretary determines that a State has materi ally failed to comply with the agreements or other conditions re quired for the receipt of a grant under the program involved the Secretary may in whole or in part suspend payments under the grant, terminate the grant for cause or employ such other rem edies (including the remedies provided for in subsections (b) and (c)) as may be legally available and appropriate in the cir cumstances involved

(b) REPAYMENT OF PAYMENTS —

(1) IN GENERAL —Subject to subsection (e), the Secretary may require a State to repay with interest any payments re ceived by the State under section 1911 or 1921 that the Sec retary determines were not expended by the State in accord ance with the agreements required under the program in volved

(2) OFFSET AGAINST PAYMENTS —If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any pay ment due to be paid to the State under the program involved

(c) WITHHOLDING OF PAYMENTS —

(1) IN GENERAL —Subject to subsections (e) and (g)(3) the Secretary may withhold payments due under section 1911 or 1921 if the Secretary determines that the State involved is not

expending amounts received under the program involved in accordance with the agreements required under the program

(2) TERMINATION OF WITHHOLDING —The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under the program involved in accordance with the agreements required under the program

(d) APPLICABILITY OF REMEDIES TO CERTAIN VIOLATIONS —

(1) IN GENERAL —With respect to agreements or other conditions for receiving a grant under the program involved, in the case of the failure of a State to maintain material compliance with a condition referred to in paragraph (2), the provisions for noncompliance with the condition that are provided in the section establishing the condition shall apply in lieu of subsections (a) through (c) of this section

(2) RELEVANT CONDITIONS —For purposes of paragraph (1)

(A) In the case of the program established in section 1911, a condition referred to in this paragraph is the condition established in section 1912(d) and the condition established in section 1915(b)

(B) In the case of the program established in section 1921, a condition referred to in this paragraph is the condition established in section 1926 and the condition established in section 1930

(e) OPPORTUNITY FOR HEARING —Before taking action against a State under any of subsections (a) through (c) (or under a section referred to in subsection (d)(2), as the case may be), the Secretary shall provide to the State involved adequate notice and an opportunity for a hearing

(f) REQUIREMENT OF HEARING IN CERTAIN CIRCUMSTANCES —

(1) IN GENERAL —If the Secretary receives a complaint that a State has failed to maintain material compliance with the agreements or other conditions required for receiving a grant under the program involved (including any condition referred to for purposes of subsection (d)), and there appears to be reasonable evidence to support the complaint, the Secretary shall promptly conduct a hearing with respect to the complaint

(2) FINDING OF MATERIAL NONCOMPLIANCE —If in a hearing under paragraph (1) the Secretary finds that the State involved has failed to maintain material compliance with the agreement or other condition involved, the Secretary shall take such action under this section as may be appropriate to ensure that material compliance is so maintained, or such action as may be required in a section referred to in subsection (d)(2), as the case may be

(g) CERTAIN INVESTIGATIONS —

(1) REQUIREMENT REGARDING SECRETARY —The Secretary shall in fiscal year 1994 and each subsequent fiscal year conduct in not less than 10 States investigations of the expenditure of grants received by the States under section 1911 or 1921 in order to evaluate compliance with the agreements required under the program involved

(2) PROVISION OF RECORDS ETC UPON REQUEST —Each State receiving a grant under section 1911 or 1921, and each entity receiving funds from the grant shall make appropriate books documents papers and records available to the Secretary or the Comptroller General or any of their duly authorized representatives, for examination, copying or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor

(3) LIMITATIONS ON AUTHORITY —The Secretary may not institute proceedings under subsection (c) unless the Secretary has conducted an investigation concerning whether the State has expended payments under the program involved in accordance with the agreements required under the program Any such investigation shall be conducted within the State by qualified investigators

SEC 1946 [300x-56] PROHIBITIONS REGARDING RECEIPT OF FUNDS

(a) ESTABLISHMENT —

(1) CERTAIN FALSE STATEMENTS AND REPRESENTATIONS —A person shall not knowingly and willfully make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payments may be made by a State from a grant made to the State under section 1911 or 1921

(2) CONCEALING OR FAILING TO DISCLOSE CERTAIN EVENTS —A person with knowledge of the occurrence of any event affecting the initial or continued right of the person to receive any payments from a grant made to a State under section 1911 or 1921 shall not conceal or fail to disclose any such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such amount is due

(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION —Any person who violates any prohibition established in subsection (a) shall for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both

SEC 1947 [300x-57] NONDISCRIMINATION

(a) IN GENERAL —

(1) RULE OF CONSTRUCTION REGARDING CERTAIN CIVIL RIGHTS LAWS —For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973 on the basis of sex under title IX of the Education Amendments of 1972 or on the basis of race, color or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under section 1911 or 1921 shall be considered to be programs and activities receiving Federal financial assistance

(2) PROHIBITION —No person shall on the ground of sex (including in the case of a woman, on the ground that the woman is pregnant), or on the ground of religion be excluded from participation in be denied the benefits of or be subjected to discrimination under any program or activity funded in

whole or in part with funds made available under section 1911 or 1921

(b) ENFORCEMENT —

(1) REFERRALS TO ATTORNEY GENERAL AFTER NOTICE — Whenever the Secretary finds that a State, or an entity that has received a payment pursuant to section 1911 or 1921, has failed to comply with a provision of law referred to in subsection (a)(1), with subsection (a)(2), or with an applicable regulation (including one prescribed to carry out subsection (a)(2)), the Secretary shall notify the chief executive officer of the State and shall request the chief executive officer to secure compliance If within a reasonable period of time not to exceed 60 days the chief executive officer fails or refuses to secure compliance the Secretary may—

(A) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted

(B) exercise the powers and functions provided by the Age Discrimination Act of 1975, section 504 of the Rehabilitation Act of 1973, title IX of the Education Amendments of 1972, or title VI of the Civil Rights Act of 1964 as may be applicable, or

(C) take such other actions as may be authorized by law

(2) AUTHORITY OF ATTORNEY GENERAL —When a matter is referred to the Attorney General pursuant to paragraph (1)(A) or whenever the Attorney General has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in subsection (a)(1) or in violation of subsection (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief

SEC 1948 [300x-58] TECHNICAL ASSISTANCE AND PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS

(a) TECHNICAL ASSISTANCE —The Secretary shall without charge to a State receiving a grant under section 1911 or 1921 provide to the State (or to any public or nonprofit private entity within the State) technical assistance with respect to the planning, development and operation of any program or service carried out pursuant to the program involved The Secretary may provide such technical assistance directly through contract, or through grants

(b) PROVISION OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS —

(1) IN GENERAL —Upon the request of a State receiving a grant under section 1911 or 1921 the Secretary may, subject to paragraph (2), provide supplies, equipment and services for the purpose of aiding the State in carrying out the program involved and for such purpose may detail to the State any officer or employee of the Department of Health and Human Services

(2) CORRESPONDING REDUCTION IN PAYMENTS —With respect to a request described in paragraph (1) the Secretary shall reduce the amount of payments under the program in

volved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld

SEC 1949 [1] [300x-59] PLANS FOR PERFORMANCE PARTNERSHIPS

(a) DEVELOPMENT —The Secretary in conjunction with States and other interested groups shall develop separate plans for the programs authorized under subparts I and II for creating more flexibility for States and accountability based on outcome and other performance measures The plans shall each include—

(1) a description of the flexibility that would be given to the States under the plan,

(2) the common set of performance measures that would be used for accountability, including measures that would be used for the program under subpart II for pregnant addicts HIV transmission, tuberculosis, and those with a co occurring substance abuse and mental disorders, and for programs under subpart I for children with serious emotional disturbance and adults with serious mental illness and for individuals with co occurring mental health and substance abuse disorders,

(3) the definitions for the data elements to be used under the plan

(4) the obstacles to implementation of the plan and the manner in which such obstacles would be resolved

(5) the resources needed to implement the performance partnerships under the plan, and

(6) an implementation strategy complete with recommendations for any necessary legislation

(b) SUBMISSION —Not later than 2 years after the date of the enactment of this Act [2], the plans developed under subsection (a) shall be submitted to the Committee on Health, Education, Labor and Pensions of the Senate and the Committee on Commerce of the House of Representatives

(c) INFORMATION —As the elements of the plans described in subsection (a) are developed, States are encouraged to provide information to the Secretary on a voluntary basis

(d) PARTICIPANTS —The Secretary shall include among those interested groups that participate in the development of the plan consumers of mental health or substance abuse services providers representatives of political divisions of States, and representatives of racial and ethnic groups including Native Americans

SEC 1950 [300x-60] RULE OF CONSTRUCTION REGARDING DELEGATION OF AUTHORITY TO STATES

With respect to States receiving grants under section 1911 or 1921, this part may not be construed to authorize the Secretary to

[1] Section 1949 appears according to the probable intent of the Congress Section 3403(a) of Public Law 106–310 (114 Stat 1219) provides that the section "is amended as follows No amendatory instructions were then given but a substitute text was provided. The amendment probably should have instructed that section 1949 "is amended to read as follows

[2] The probable intent of the Congress was that the reference to "this Act be a reference to the Children s Health Act of 2000 (Public Law 106–310) which provided a substitute text for section 1949 (see footnote 1) including subsection (b) above That Act was enacted October 17 2000 (A reference to "this Act" is a reference to the Public Health Service Act which was enacted July 1 1944)

delegate to the States the primary responsibility for interpreting the governing provisions of this part

SEC 1951 [300x-61] SOLICITATION OF VIEWS OF CERTAIN ENTITIES

In carrying out this part, the Secretary, as appropriate, shall solicit the views of the States and other appropriate entities

SEC 1952 [1] [300x-62] AVAILABILITY TO STATES OF GRANT PAYMENTS

Any amounts paid to a State for a fiscal year under section 1911 or 1921 shall be available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts were paid

SEC 1953 [300x-63] CONTINUATION OF CERTAIN PROGRAMS

(a) IN GENERAL —Of the amount allotted to the State of Hawaii under section 1911 and the amount allotted to such State under section 1921, an amount equal to the proportion of Native Hawaiians residing in the State to the total population of the State shall be available respectively for carrying out the program involved for Native Hawaiians

(b) EXPENDITURE OF AMOUNTS —The amount made available under subsection (a) may be expended only through contracts entered into by the State of Hawaii with public and private nonprofit organizations to enable such organizations to plan, conduct and administer comprehensive substance abuse and treatment programs for the benefit of Native Hawaiians In entering into contracts under this section the State of Hawaii shall give preference to Native Hawaiian organizations and Native Hawaiian health centers

(c) DEFINITIONS —For the purposes of this subsection[2], the terms "Native Hawaiian', "Native Hawaiian organization", and 'Native Hawaiian health center" have the meaning given such terms in section 2308 of subtitle D of title II of the Anti Drug Abuse Act of 1988

SEC 1954 [300x-64] DEFINITIONS

(a) DEFINITIONS FOR SUBPART III —For purposes of this subpart

(1) The term "program involved" means the program of grants established in section 1911 or 1921, or both, as indicated by whether the State involved is receiving or is applying to receive a grant under section 1911 or 1921, or both

(2)(A) The term "funding agreement", with respect to a grant under section 1911 has the meaning given such term in section 1919

(B) The term 'funding agreement", with respect to a grant under section 1921, has the meaning given such term in section 1934

(b) DEFINITIONS FOR PART B —For purposes of this part

(1) The term ' Comptroller General" means the Comptroller General of the United States

[1] Section 1952 appears according to the probable intent of the Congress Section 3403(b) of Public Law 106–310 (114 Stat 1220) provides that the section "is amended as follows No amendatory instructions were then given but a substitute text was provided The amendment probably should have instructed that section 1952 "is amended to read as follows·"

[2] So in law See section 203 of Public Law 102–321 (106 Stat 409) Probably should be section

(2) The term "State", except as provided in sections 1918(c)(5) and 1933(c)(5), means each of the several States, the District of Columbia, and each of the territories of the United States

(3) The term "territories of the United States" means each of the Commonwealth of Puerto Rico American Samoa Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, Palau, the Marshall Islands, and Micronesia

(4) The term "interim services', in the case of an individual in need of treatment for substance abuse who has been denied admission to a program of such treatment on the basis of the lack of the capacity of the program to admit the individual, means services for reducing the adverse health effects of such abuse, for promoting the health of the individual and for reducing the risk of transmission of disease which services are provided until the individual is admitted to such a program

SEC 1955 [300x-65] SERVICES PROVIDED BY NONGOVERNMENTAL ORGANIZATIONS [1]

(a) PURPOSES —The purposes of this section are—

(1) to prohibit discrimination against nongovernmental organizations and certain individuals on the basis of religion in the distribution of government funds to provide substance abuse services under this title and title V, and the receipt of services under such titles, and

(2) to allow the organizations to accept the funds to provide the services to the individuals without impairing the religious character of the organizations or the religious freedom of the individuals

(b) RELIGIOUS ORGANIZATIONS INCLUDED AS NONGOVERNMENTAL PROVIDERS —

(1) IN GENERAL —A State may administer and provide substance abuse services under any program under this title or title V through grants contracts or cooperative agreements to provide assistance to beneficiaries under such titles with nongovernmental organizations

(2) REQUIREMENT —A State that elects to utilize nongovernmental organizations as provided for under paragraph (1) shall consider on the same basis as other nongovernmental organizations, religious organizations to provide services under substance abuse programs under this title or title V, so long as the programs under such titles are implemented in a manner consistent with the Establishment Clause of the first amendment to the Constitution Neither the Federal Government nor a State or local government receiving funds under such programs shall discriminate against an organization that provides services under, or applies to provide services under such programs, on the basis that the organization has a religious character

[1] Part G of title V of this Act (the second part G see page 572) also relates to religious organizations as providers of substance abuse services That part was added by section 144 of the Community Renewal Tax Relief Act of 2000 (as enacted into law by section 1(a)(7) of Public Law 106–554 114 Stat 2763A–619) Section 1955 above was added by section 3305 of Public Law 106–310 (114 Stat. 1212)

(c) RELIGIOUS CHARACTER AND INDEPENDENCE —

(1) IN GENERAL —A religious organization that provides services under any substance abuse program under this title or title V shall retain its independence from Federal, State, and local governments including such organization s control over the definition, development, practice, and expression of its reli gious beliefs

(2) ADDITIONAL SAFEGUARDS —Neither the Federal Govern ment nor a State or local government shall require a religious organization—

(A) to alter its form of internal governance, or

(B) to remove religious art, icons, scripture, or other symbols,

in order to be eligible to provide services under any substance abuse program under this title or title V

(d) EMPLOYMENT PRACTICES —

(1) SUBSTANCE ABUSE —A religious organization that pro vides services under any substance abuse program under this title or title V may require that its employees providing serv ices under such program adhere to rules forbidding the use of drugs or alcohol

(2) TITLE VII EXEMPTION —The exemption of a religious or ganization provided under section 702 or 703(e)(2) of the Civil Rights Act of 1964 (42 U S C 2000e–1, 2000e–2(e)(2)) regard ing employment practices shall not be affected by the religious organization s provision of services under or receipt of funds from, any substance abuse program under this title or title V

(e) RIGHTS OF BENEFICIARIES OF ASSISTANCE —

(1) IN GENERAL —If an individual described in paragraph (3) has an objection to the religious character of the organiza tion from which the individual receives, or would receive, serv ices funded under any substance abuse program under this title or title V, the appropriate Federal State, or local govern mental entity shall provide to such individual (if otherwise eli gible for such services) within a reasonable period of time after the date of such objection services that—

(A) are from an alternative provider that is accessible to the individual, and

(B) have a value that is not less than the value of the services that the individual would have received from such organization

(2) NOTICE —The appropriate Federal, State, or local gov ernmental entity shall ensure that notice is provided to indi viduals described in paragraph (3) of the rights of such individ uals under this section

(3) INDIVIDUAL DESCRIBED —An individual described in this paragraph is an individual who receives or applies for services under any substance abuse program under this title or title V

(f) NONDISCRIMINATION AGAINST BENEFICIARIES —A religious organization providing services through a grant contract, or coop erative agreement under any substance abuse program under this title or title V shall not discriminate, in carrying out such program, against an individual described in subsection (e)(3) on the basis of

religion a religious belief a refusal to hold a religious belief or a refusal to actively participate in a religious practice

(g) FISCAL ACCOUNTABILITY —

(1) IN GENERAL —Except as provided in paragraph (2) any religious organization providing services under any substance abuse program under this title or title V shall be subject to the same regulations as other nongovernmental organizations to account in accord with generally accepted accounting principles for the use of such funds provided under such program

(2) LIMITED AUDIT —Such organization shall segregate gov ernment funds provided under such substance abuse program into a separate account Only the government funds shall be subject to audit by the government

(h) COMPLIANCE —Any party that seeks to enforce such party's rights under this section may assert a civil action for injunctive re lief exclusively in an appropriate Federal or State court against the entity, agency or official that allegedly commits such violation

(i) LIMITATIONS ON USE OF FUNDS FOR CERTAIN PURPOSES —No funds provided through a grant or contract to a religious organiza tion to provide services under any substance abuse program under this title or title V shall be expended for sectarian worship, instruc tion, or proselytization

(j) EFFECT ON STATE AND LOCAL FUNDS —If a State or local government contributes State or local funds to carry out any sub stance abuse program under this title or title V the State or local government may segregate the State or local funds from the Fed eral funds provided to carry out the program or may commingle the State or local funds with the Federal funds If the State or local government commingles the State or local funds, the provisions of this section shall apply to the commingled funds in the same man ner, and to the same extent as the provisions apply to the Federal funds

(k) TREATMENT OF INTERMEDIATE CONTRACTORS —If a non governmental organization (referred to in this subsection as an "in termediate organization") acting under a contract or other agree ment with the Federal Government or a State or local government, is given the authority under the contract or agreement to select nongovernmental organizations to provide services under any sub stance abuse program under this title or title V, the intermediate organization shall have the same duties under this section as the government but shall retain all other rights of a nongovernmental organization under this section

SEC 1956 [300x–66] SERVICES FOR INDIVIDUALS WITH CO OCCUR- RING DISORDERS

States may use funds available for treatment under sections 1911 and 1921 to treat persons with co occurring substance abuse and mental disorders as long as funds available under such sec tions are used for the purposes for which they were authorized by law and can be tracked for accounting purposes

PART C—CERTAIN PROGRAMS REGARDING MENTAL HEALTH AND SUBSTANCE ABUSE

Subpart I—Data Infrastructure Development

SEC 1971 [300y] DATA INFRASTRUCTURE DEVELOPMENT

(a) IN GENERAL—The Secretary may make grants to, and enter into contracts or cooperative agreements with States for the purpose of developing and operating mental health or substance abuse data collection, analysis, and reporting systems with regard to performance measures including capacity, process, and outcomes measures

(b) PROJECTS—The Secretary shall establish criteria to ensure that services will be available under this section to States that have a fundamental basis for the collection, analysis and reporting of mental health and substance abuse performance measures and States that do not have such basis The Secretary will establish criteria for determining whether a State has a fundamental basis for the collection, analysis, and reporting of data

(c) CONDITION OF RECEIPT OF FUNDS—As a condition of the receipt of an award under this section a State shall agree to collect analyze, and report to the Secretary within 2 years of the date of the award on a core set of performance measures to be determined by the Secretary in conjunction with the States

(d) MATCHING REQUIREMENT—

(1) IN GENERAL—With respect to the costs of the program to be carried out under subsection (a) by a State, the Secretary may make an award under such subsection only if the applicant agrees to make available (directly or through donations from public or private entities) non Federal contributions toward such costs in an amount that is not less than 50 percent of such costs

(2) DETERMINATION OF AMOUNT CONTRIBUTED—Non Federal contributions under paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment or services Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such contributions

(e) DURATION OF SUPPORT—The period during which payments may be made for a project under subsection (a) may be not less than 3 years nor more than 5 years

(f) AUTHORIZATION OF APPROPRIATION—

(1) IN GENERAL—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001, 2002 and 2003

(2) ALLOCATION—Of the amounts appropriated under paragraph (1) for a fiscal year, 50 percent shall be expended to support data infrastructure development for mental health and 50 percent shall be expended to support data infrastructure development for substance abuse

Subpart II—Interim Maintenance Treatment of Narcotics Dependence

SEC 1976 [300y-11] INTERIM MAINTENANCE TREATMENT

(a) REQUIREMENT REGARDING SECRETARY—Subject to the following subsections of this section, for the purpose of reducing the incidence of the transmission of HIV disease pursuant to the intravenous abuse of heroin or other morphine like drugs, the Secretary, in establishing conditions for the use of methadone in public or nonprofit private programs of treatment for dependence on such drugs, shall authorize such programs—

(1) to dispense methadone for treatment purposes to individuals who—

(A) meet the conditions for admission to such programs that dispense methadone as part of comprehensive treatment for such dependence and

(B) are seeking admission to such programs that so dispense methadone but as a result of the limited capacity of the programs, will not gain such admission until 14 or more days after seeking admission to the programs and

(2) in dispensing methadone to such individuals, to provide only minimum ancillary services during the period in which the individuals are waiting for admission to programs of comprehensive treatment

(b) INAPPLICABILITY OF REQUIREMENT IN CERTAIN CIRCUMSTANCES—

(1) IN GENERAL—The requirement established in subsection (a) for the Secretary does not apply if any or all of the following conditions are met

(A) The preponderance of scientific research indicates that the risk of the transmission of HIV disease pursuant to the intravenous abuse of drugs is minimal

(B) The preponderance of scientific research indicates that the medically supervised dispensing of methadone is not an effective method of reducing the extent of dependence on heroin and other morphine like drugs

(C) The preponderance of available data indicates that, of treatment programs that dispense methadone as part of comprehensive treatment a substantial majority admit all individuals seeking services to the programs not later than 14 days after the individuals seek admission to the programs

(2) EVALUATION BY SECRETARY—In evaluating whether any or all of the conditions described in paragraph (1) have been met, the Secretary shall consult with the National Commission on Acquired Immune Deficiency Syndrome

(c) CONDITIONS FOR OBTAINING AUTHORIZATION FROM SECRETARY—

(1) IN GENERAL—In carrying out the requirement established in subsection (a), the Secretary shall after consultation with the National Commission on Acquired Immune Deficiency Syndrome by regulation issue such conditions for treatment programs to obtain authorization from the Secretary to provide

interim maintenance treatment as may be necessary to carry out the purpose described in such subsection Such conditions shall include conditions for preventing the unauthorized use of methadone

(2) COUNSELING ON HIV DISEASE —The regulations issued under paragraph (1) shall provide that an authorization described in such paragraph may not be issued to a treatment program unless the program provides to recipients of the treatment counseling on preventing exposure to and the transmission of HIV disease

(3) PERMISSION OF RELEVANT STATE AS CONDITION OF AUTHORIZATION —The regulations issued under paragraph (1) shall provide that the Secretary may not provide an authorization described in such paragraph to any treatment program in a State unless the chief public health officer of the State has certified to the Secretary that—

(A) such officer does not object to the provision of such authorizations to treatment programs in the State, and

(B) the provision of interim maintenance services in the State will not reduce the capacity of comprehensive treatment programs in the State to admit individuals to the programs (relative to the date on which such officer so certifies)

(4) DATE CERTAIN FOR ISSUANCE OF REGULATIONS, FAILURE OF SECRETARY —The Secretary shall issue the final rule for purposes of the regulations required in paragraph (1), and such rule shall be effective, not later than the expiration of the 180 day period beginning on the date of the enactment of the ADAMHA Reorganization Act[1] If the Secretary fails to meet the requirement of the preceding sentence, the proposed rule issued on March 2, 1989, with respect to part 291 of title 21, Code of Federal Regulations (docket numbered 88N–0444, 54 Fed Reg 8973 et seq) is deemed to take effect as a final rule upon the expiration of such period, and the provisions of paragraph (3) of this subsection are deemed to be incorporated into such rule

(d) DEFINITIONS —For purposes of this section

(1) The term "interim maintenance services" means the provision of methadone in a treatment program under the circumstances described in paragraphs (1) and (2) of subsection (a)

(2) The term "HIV disease" means infection with the etiologic agent for acquired immune deficiency syndrome

(3) The term "treatment program" means a public or non profit private program of treatment for dependence on heroin or other morphine like drugs

[1] Enacted July 10 1992