

APPENDIX A

Public Health Service Act (42 USC 241) Section 301

Public Law 100-607 Section 2521

S.2889

Title: A bill to amend the Public Health Service Act to establish certain health programs, to revise and extend certain health programs, and for other purposes.

Sponsor: **Senator Kennedy, Edward M.** [MA] (introduced 10/13/1988)
Cosponsors (1)

Latest Major Action: 11/4/1988 Became Public Law No: 100-607.

SUMMARY AS OF:

10/13/1988--Introduced.

Health Omnibus Programs Extension of 1988 - **Title II: Programs with Respect to Acquired Immune Deficiency Syndrome** - AIDS Amendments of 1988 - **Subtitle B: Health Services** - Amends the Public Health Service Act to create a new title on health services with respect to acquired immune deficiency syndrome (AIDS).

Directs the Secretary of Health and Human Services, for each of the FY 1989 and 1990, to make an allotment for each State. Defines "eligible individual" as an individual infected with the etiologic agent for AIDS who either is medically dependent or chronically dependent.

Requires that a State agree that, in using payments under the allotment, it will: (1) provide for home and community-based health services for eligible individuals under written plans; (2) provide for outreach to eligible individuals; (3) provide for coordinating similar services by public and private entities; and (4) give priority to outreach and services to eligible individuals with low incomes.

Authorizes a State to provide such services through grants to public and nonprofit private entities and through contracts with public and private entities, giving priority to public and nonprofit private entities with experience delivering such services to individuals with the etiologic agent.

Requires that States submit a description of the intended uses of a grant. Sets forth restrictions on the use of a grant, including limiting payments for a fiscal year to a State to not more than 65 percent of the national average payment for extended care services under part A (Hospital Insurance) of title XVIII (Medicare) of the Social Security Act. Sets forth reporting requirements. Requires States to provide for a financial and compliance audit. Requires that the reports and audits be available for public inspection. Directs the U.S. Comptroller General, from time to time, to evaluate the expenditures by the States.

Requires that a State agree that: (1) its legislature will conduct public hearings on the proposed use and distribution of the payments; (2) if charges are imposed for the home and community-based services, the charges will be set forth in a public schedule, they will not be imposed on individuals with incomes below the official poverty line, and the charges will be adjusted to reflect to income of individuals with incomes above the poverty line; (3) the State will provide for periodic independent peer review of the services

provided; (4) the State will cooperate with Federal investigations under provisions of this Act; (5) the State will expend for such services for persons infected with the etiologic agent not less than the average level of such expenditures for the previous two years; and (6) the State will not make payments from allotments for any item or service covered by another source.

Sets forth a formula for determination of the amount of allotments. Provides for repayment or withholding of payments for failure to comply with agreements. Directs the Secretary to conduct investigations of compliance. Provides for criminal penalties for certain false statements. Authorizes the Secretary to provide to a State: (1) technical assistance without charge; and (2) supplies and services in lieu of grant funds. Sets forth reporting requirements.

Authorizes appropriations for FY 1989 and 1990.

Repeals provisions of this Act relating to grants from allotments to States for home and community-based health services, effective with respect to appropriations made for any period after fiscal year 1990.

Defines "patients infected with the human immunodeficiency virus" as persons who have or are recovering from a disease attributable to infection with the human immunodeficiency virus (HIV), resulting in a need for subacute-care services.

Directs the Secretary to conduct three demonstration projects to determine the effectiveness and cost of providing subacute-care services to patients infected with HIV, and the impact of the services on the health status of the patients. Requires subacute-care services to be designed to meet the specific needs of the patients, including: (1) care and treatment by providing subacute care, emergency medical care and specialized diagnostic and therapeutic services, and case management services; and (2) technical assistance directed towards education and training of physicians, nurses, and other health care professionals.

Requires the demonstration projects to be conducted during a four-year period beginning not later than nine months after enactment of this provision at geographically diverse sites that have the highest incidence of AIDS and the greatest need for subacute-care services.

Sets forth reporting requirements.

Requires each demonstration project to provide for other research to be carried out at the site of the project, including clinical research on AIDS, concentrating on the neurological manifestations resulting from HIV infection, and the study of the psychological and mental health issues related to AIDS.

Authorizes appropriations for FY 1988 through 1991.

Directs the Secretary to enter into an agreement with the Administrator of Veterans Affairs to ensure the furnishing, through demonstration projects, of services to eligible veterans under specified provisions.

Authorizes the Secretary to make grants to States to provide opportunities for individuals to undergo counseling and testing with regard to the etiologic agent: (1) without being required to provide identification; and (2) through the use of a pseudonym.

Requires grantees to provide counseling which includes coverage of specified points before testing, after a negative test result, and after a positive test result. Requires grantees, where appropriate, to provide opportunities for women, children, hemophiliacs, and emergency response employees to undergo counseling under conditions appropriate to their needs. Allows grantees to use the grant to provide counseling without testing.

Requires all individuals receiving counseling under these provisions to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities. Prohibits funds from being used to provide counseling that is designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous drug abuse, but declares that this may not be construed to prohibit a counselor from providing accurate information about means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent, provided any informational materials used are not obscene.

Authorizes appropriations for such counseling and testing grants to States for FY 1989 and 1990.

Authorizes the Secretary to make grants for demonstration projects for the development, establishment, or expansion of programs to provide counseling and mental health treatment for individuals with a positive test result, and for their families and others, who experience serious psychological reactions. Mandates that the counseling include counseling relating to prevention of exposure to, and the transmission of, the etiologic agent. Allows the grants to be used to train individuals to provide the counseling and mental health treatment. Directs the Secretary, subject to appropriations, to make a minimum of six grants for FY 1989. Authorizes the Secretary, acting through the Director of the National Institute of Mental Health, to provide technical assistance and administrative support to grantees. Authorizes appropriations for FY 1989 through 1991.

