

Attachment B
Authorizing Legislation for the Public Health and Health Services Block Grant Program

United States Code

TITLE 42 - THE PUBLIC HEALTH AND WELFARE

CHAPTER 6A - PUBLIC HEALTH SERVICE

SUBCHAPTER XVII - BLOCK GRANTS

PART A - PREVENTIVE HEALTH AND HEALTH SERVICES

BLOCK GRANTS

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Section 300w. Authorization of appropriations

(a) For the purpose of allotments under section 300w-1 of this title, there are authorized to be appropriated \$205,000,000 for fiscal year 1993, and such sums as may be necessary for each of the fiscal years 1994 through 1998.

(b) Of the amount appropriated for any fiscal year under subsection (a) of this section, at least \$7,000,000 shall be made available for allotments under section 300w-1(b) of this title.

Section 300w-1. Allotments

(a) Availability based upon prior year distributions

(1) From the amounts appropriated under section 300w of this title for any fiscal year and available for allotment under this subsection, the Secretary shall allot to each State an amount which bears the same ratio to the available amounts for that fiscal year as the amounts provided by the Secretary under the provisions of law listed in paragraph (2) to the State and entities in the State for fiscal year 1981 bore to the total amount appropriated for such provisions of law for fiscal year 1981.

(2) The provisions of law referred to in paragraph (1) are the following provisions of law as in effect on September 30, 1981:

(A) The authority for grants under section 247b of this title for preventive health service programs for the control of rodents.

(B) The authority for grants under section 247b of this title for establishing and maintaining community and school-based fluoridation programs.

(C) The authority for grants under section 247b of this title for preventive health service programs for hypertension.

(D) Sections 247b-1 (FOOTNOTE 1) and 247b-2 of this title.

(FOOTNOTE 1) See References in Text note below.

(E) Section 246(d) (FOOTNOTE 1) of this title.

(F) Section 255(a) (FOOTNOTE 1) of this title.

(G) Sections 300d-1, (FOOTNOTE 1) 300d-2, (FOOTNOTE 1) and 300d-3 (FOOTNOTE 1) of this title.

(b) Population

From the amount required to be made available under section

300w(b) of this title for allotments under this subsection for any fiscal year, the Secretary shall make allotments to each State on the basis of the population of the State.

(c) Distribution of appropriated funds not allotted

To the extent that all the funds appropriated under section 300w of this title for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because -

(1) one or more States have not submitted an application or description of activities in accordance with section 300w-4 of this title for the fiscal year;

(2) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

(3) some State allotments are offset or repaid under section 300w-5(b)(3) of this title;

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for the fiscal year without regard to this subsection.

(d) Distributions to Indian tribes

(1) 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 part be provided directly by the Secretary to such tribe or organization, and

(B) determines that the members of such tribe or tribal organization would be better served by means of grants made directly by the Secretary under this part,

the Secretary shall reserve from amounts which would otherwise be allotted to such State under subsection (a) of this section for the fiscal year the amount determined under paragraph (2).

(2) The Secretary shall reserve for the purpose of paragraph (1) from amounts that would otherwise be allotted to such State under subsection (a) of this section an amount equal to the amount which bears the same ratio to the State's allotment for the fiscal year involved as the total amount provided or allotted for fiscal year 1981 by the Secretary to such tribe or tribal organization under the provisions of law referred to in subsection (a) of this section bore to the total amount provided or allotted for such fiscal year by the Secretary to the State and entities (including Indian tribes and tribal organizations) in the State under such provisions of law.

(3) The amount reserved by the Secretary on the basis of a determination under this subsection shall be granted to the Indian tribe or tribal organization serving the individuals for whom such a determination has been made.

(4) In order for an Indian tribe or tribal organization to be eligible for a grant for a fiscal year under this subsection, it shall submit to the Secretary a plan for such fiscal year which meets such criteria as the Secretary may prescribe.

(5) The terms "Indian tribe" and "tribal organization" have the same meaning given such terms in section 450b(b) and (c) (FOOTNOTE 2) of title 25.

(FOOTNOTE 2) See References in Text note below.

(e) Report on equitable distribution of available funds

The Secretary shall conduct a study for the purpose of devising a formula for the equitable distribution of funds available for allotment to the States under this section. In conducting the study, the Secretary shall take into account -

- (1) the financial resources of the various States,
- (2) the populations of the States, and
- (3) any other factor which the Secretary may consider appropriate.

Before June 30, 1982, the Secretary shall submit a report to the Congress respecting the development of a formula and make such recommendations as the Secretary may deem appropriate in order to ensure the most equitable distribution of funds under allotments under this section.

Section 300w-2. Payments under allotments to States

(a)(1) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, to each State from its allotment under section 300w-1 of this title (other than any amount reserved under section 300w-1(d) of this title) from amounts appropriated for that fiscal year.

(2) Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

(b) The Secretary, at the request of a State, may reduce the amount of payments under subsection (a) of this section by -

(1) the fair market value of any supplies or equipment furnished the State, and

(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described in section 300w-3 of this title. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State.

Section 300w-3. Use of allotments

(a) Preventive health services, comprehensive public health services, emergency medical services, etc.

(1) Except as provided in subsections (b) and (c) of this section, payments made to a State under section 300w-2 of this title may be used for the following:

(A) Activities consistent with making progress toward achieving the objectives established by the Secretary for the health status of the population of the United States for the year 2000 (in this part referred to as 'year 2000 health objectives').

(B) Preventive health service programs for the control of rodents and for community and school-based fluoridation programs.

(C) Feasibility studies and planning for emergency medical services systems and the establishment, expansion, and improvement of such systems. Amounts for such systems may not be used for the costs of the operation of the systems or the

purchase of equipment for the systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems. Amounts may be expended for feasibility studies or planning for the trauma-care components of such systems only if the studies or planning, respectively, is consistent with the requirements of section 300d-13(a) of this title.

(D) Providing services to victims of sex offenses and for prevention of sex offenses.

(E) The establishment, operation, and coordination of effective and cost-efficient systems to reduce the prevalence of illness due to asthma and asthma-related illnesses, especially among children, by reducing the level of exposure to cockroach allergen or other known asthma triggers through the use of integrated pest management, as applied to cockroaches or other known allergens. Amounts expended for such systems may include the costs of building maintenance and the costs of programs to promote community participation in the carrying out at such sites of integrated pest management, as applied to cockroaches or other known allergens. For purposes of this subparagraph, the term ''integrated pest management'' means an approach to the management of pests in public facilities that combines biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks.

(F) With respect to activities described in any of subparagraphs (A) through (E), related planning, administration, and educational activities.

(G) Monitoring and evaluation of activities carried out under any of subparagraphs (A) through (F).

(2) Except as provided in subsection (b) of this section, amounts paid to a State under section 300w-2 of this title from its allotment under section 300w-1(b) of this title may only be used for providing services to rape victims and for rape prevention.

(3) The Secretary may provide technical assistance to States in planning and operating activities to be carried out under this part.

(b) Prohibited uses

A State may not use amounts paid to it under section 300w-2 of this title to -

- (1) provide inpatient services,
- (2) make cash payments to intended recipients of health services,
- (3) purchase or improve land, purchase, construct, or permanently improve (other than minor remodeling) any building or other facility, or purchase major medical equipment,
- (4) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds, or
- (5) provide financial assistance to any entity other than a public or nonprofit private entity.

Except as provided in subsection (a)(1)(E) of this section, the Secretary may waive the limitation contained in paragraph (3) upon the request of a State if the Secretary finds that there are extraordinary circumstances to justify the waiver and that granting the waiver will assist in carrying out this part.

(c) Transfer of funds

A State may transfer not more than 7 percent of the amount allotted to the State under section 300w-1(a) of this title for any

fiscal year for use by the State under part B of this subchapter and title V of the Social Security Act (42 U.S.C. 701 et seq.) in such fiscal year as follows: At any time in the first three quarters of the fiscal year a State may transfer not more than 3 percent of the allotment of the State for the fiscal year for such use, and in the last quarter of a fiscal year a State may transfer for such use not more than the remainder of the amount of its allotment which may be transferred.

(d) Limitation on administrative costs

Of the amount paid to any State under section 300w-2 of this title, not more than 10 percent paid from each of its allotments under subsections (a) and (b) of section 300w-1 of this title may be used for administering the funds made available under section 300w-2 of this title. The State will pay from non-Federal sources the remaining costs of administering such funds.

Section 300w-4. Application for payments; State plan

(a) In general

The Secretary may make payments under section 300w-2 of this title to a State for a fiscal year only if -

(1) the State submits to the Secretary an application for the payments;

(2) the application contains a State plan in accordance with subsection (b) of this section;

(3) the application contains the certification described in subsection (c) of this section;

(4) the application contains such assurances as the Secretary may require regarding the compliance of the State with the requirements of this part (including assurances regarding compliance with the agreements described in subsection (c) of this section); and

(5) the application is in such form and is submitted by such date as the Secretary may require.

(b) State plan

A State plan required in subsection (a)(2) of this section for a fiscal year is in accordance with this subsection if the plan meets the following conditions:

(1) The plan is developed by the State agency with principal responsibility for public health programs, in consultation with the advisory committee established pursuant to subsection (c)(2) of this section.

(2) The plan specifies the activities authorized in section 300w-3 of this title that are to be carried out with payments made to the State under section 300w-2 of this title, including a specification of the year 2000 health objectives for which the State will expend the payments.

(3) The plan specifies the populations in the State for which such activities are to be carried out.

(4) The plan specifies any populations in the State that have a disparate need for such activities.

(5) With respect to each population specified under paragraph (3), the plan contains a strategy for expending such payments to carry out such activities to make progress toward improving the health status of the population, which strategy includes -

(A) a description of the programs and projects to be carried

out;

(B) an estimate of the number of individuals to be served by the programs and projects; and

(C) an estimate of the number of public health personnel needed to carry out the strategy.

(6) The plan specifies the amount of such payments to be expended for each of such activities and, with respect to the activity involved -

(A) the amount to be expended for each population specified under paragraph (3); and

(B) the amount to be expended for each population specified under paragraph (4).

(c) State certification

The certification referred to in subsection (a)(3) of this section for a fiscal year is a certification to the Secretary by the chief executive officer of the State involved as follows:

(1)(A) In the development of the State plan required in subsection (a)(2) of this section -

(i) the chief health officer of the State held public hearings on the plan; and

(ii) proposals for the plan were made public in a manner that facilitated comments from public and private entities (including Federal and other public agencies).

(B) The State agrees that, if any revisions are made in such plan during the fiscal year, the State will, with respect to the revisions, hold hearings and make proposals public in accordance with subparagraph (A), and will submit to the Secretary a description of the revisions.

(2) The State has established an advisory committee in accordance with subsection (d) of this section.

(3) The State agrees to expend payments under section 300w-2 of this title only for the activities authorized in section 300w-3 of this title.

(4) The State agrees to expend such payments in accordance with the State plan submitted under subsection (a)(2) of this section (with any revisions submitted to the Secretary under paragraph (1)(B)), including making expenditures to carry out the strategy contained in the plan pursuant to subsection (b)(5) of this section.

(5)(A) The State agrees that, in the case of each population for which such strategy is carried out, the State will measure the extent of progress being made toward improving the health status of the population.

(B) The State agrees that -

(i) the State will collect and report data in accordance with section 300w-5(a) of this title; and

(ii) for purposes of subparagraph (A), progress will be measured through use of each of the applicable uniform data items developed by the Secretary under paragraph (2) of such section, or if no such items are applicable, through use of the uniform criteria developed by the Secretary under paragraph (3) of such section.

(6) With respect to the activities authorized in section 300w-3 of this title, the State agrees to maintain State expenditures for such 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

to receive payments under section 300w-2 of this title.

(7) The State agrees to establish reasonable criteria to evaluate the effective performance of entities that receive funds from such payments and procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity.

(8) The State agrees to permit and cooperate with Federal investigations undertaken in accordance with section 300w-6 of this title.

(9) The State has in effect a system to protect from inappropriate disclosure patient and sex offense victim records maintained by the State in connection with an activity funded under this part or by any entity which is receiving payments from the allotment of the State under this part.

(10) The State agrees to provide the officer of the State government responsible for the administration of the State highway safety program with an opportunity to -

(A) participate in the development of any plan by the State relating to emergency medical services, as such plan relates to highway safety; and

(B) review and comment on any proposal by any State agency to use any Federal grant or Federal payment received by the State for the provision of emergency medical services as such proposal relates to highway safety.

(d) State Advisory Committee

(1) In general

For purposes of subsection (c)(2) of this section, an advisory committee is in accordance with this subsection if such committee is known as the State Preventive Health Advisory Committee (in this subsection referred to as the ''Committee'') and the Committee meets the conditions described in the subsequent paragraphs of this subsection.

(2) Duties

A condition under paragraph (1) for a State is that the duties of the Committee are -

(A) to hold public hearings on the State plan required in subsection (a)(2) of this section; and

(B) to make recommendations pursuant to subsection (b)(1) of this section regarding the development and implementation of such plan, including recommendations on -

(i) the conduct of assessments of the public health;

(ii) which of the activities authorized in section 300w-3 of this title should be carried out in the State;

(iii) the allocation of payments made to the State under section 300w-2 of this title;

(iv) the coordination of activities carried out under such plan with relevant programs of other entities; and

(v) the collection and reporting of data in accordance with section 300w-5(a) of this title.

(3) Composition

(A) A condition under paragraph (1) for a State is that the Committee is composed of such members of the general public, and such officials of the health departments of political subdivisions of the State, as may be necessary to provide adequate representation of the general public and of such health departments.

(B) With respect to compliance with subparagraph (A), the

membership of advisory committees established pursuant to subsection (c)(2) of this section may include representatives of community-based organizations (including minority community-based organizations), schools of public health, and entities to which the State involved awards grants or contracts to carry out activities authorized in section 300w-3 of this title.

(4) Chair; meetings

A condition under paragraph (1) for a State is that the State public health officer serves as the chair of the Committee, and that the Committee meets not less than twice each fiscal year.

Section 300w-5. Reports, data, and audits

(a) Annual reports; contents; data collection; copies

(1) For purposes of section 300w-4(c)(5)(B)(i) of this title, a State is collecting and reporting data for a fiscal year in accordance with this subsection if the State submits to the Secretary, not later than February 1 of the succeeding fiscal year, a report that -

(A) describes the purposes for which the State expended payments made to the State under section 300w-2 of this title;

(B) pursuant to section 300w-4(c)(5)(A) of this title, describes the extent of progress made by the State for purposes of such section;

(C) meets the conditions described in the subsequent paragraphs of this subsection; and

(D) contains such additional information regarding activities authorized in section 300w-3 of this title, and is submitted in such form, as the Secretary may require.

(2)(A) The Secretary, in consultation with the States, shall develop sets of data for uniformly defining health status for purposes of the year 2000 health objectives (which sets are in this subsection referred to as ''uniform data sets''). Each of such sets shall consist of one or more categories of information (in this subsection individually referred to as a ''uniform data item''). The Secretary shall develop formats for the uniform collecting and reporting of information on such items.

(B) A condition under paragraph (1)(C) for a fiscal year is that the State involved will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for one uniform data item from each of the uniform data sets, which items are selected for the State by the Secretary.

(C) In the case of fiscal year 1995 and each subsequent fiscal year, a condition under paragraph (1) for a State is that the State will, in accordance with the applicable format under subparagraph (A), collect during such year, and include in the report under paragraph (1), the necessary information for each of the uniform data sets appropriate to the year 2000 health objectives that the State has, in the State plan submitted under section 300w-4 of this title for the fiscal year, specified as a purpose for which payments under section 300w-2 of this title are to be expended.

(3) The Secretary, in consultation with the States, shall establish criteria for the uniform collection and reporting of data on activities authorized in section 300w-3 of this title with respect to which no uniform data items exist.

(4) A condition under paragraph (1) for a fiscal year is that the State involved will make copies of the report submitted under such paragraph for the fiscal year available for public inspection, and will upon request provide a copy of the report to any individual for a charge not exceeding the cost of providing the copy.

(b) Fiscal control; accounting procedures; annual audits; repayments and offsets; public inspection; Comptroller General evaluations; report to Congress

(1) Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of and accounting for Federal funds paid to the State under section 300w-2 of this title and funds transferred under section 300w-3(c) of this title for use under this part.

(2) Each State shall annually audit its expenditures from payments received under section 300w-2 of this title. Such State audits shall be conducted by an entity independent of any agency administering a program funded under this part and, in so far as practical, in accordance with the Comptroller General's standards for auditing governmental organizations, programs, activities, and functions. Within 30 days following the date each audit is completed, the chief executive officer of the State shall transmit a copy of that audit to the Secretary.

(3) Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certification provided by the State under section 300w-4 of this title. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this part.

(4) The State shall make copies of the reports and audits required by this section available for public inspection within the State.

(5) The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of grants under this part in order to assure that expenditures are consistent with the provisions of this part and the certification provided by the State under section 300w-4 of this title.

(6) Not later than October 1, 1990, the Secretary shall report to the Congress on the activities of the States that have received funds under this part and may include in the report any recommendations for appropriate changes in legislation.

(c) Inapplicability of title XVII of Omnibus Budget Reconciliation Act of 1981

Title XVII of the Omnibus Budget Reconciliation Act of 1981 shall not apply with respect to audits of funds allotted under this part.

Section 300w-6. Withholding of funds

(a) Prerequisites

(1) The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certification provided under

section 300w-4 of this title. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

(2) The Secretary may not institute proceedings to withhold funds under paragraph (1) unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certification provided under section 300w-4 of this title. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

(3) The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 300w-4 of this title.

(4) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the requirements of this part or certifications provided under section 300w-4 of this title.

(b) Investigations

(1) The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under this part in order to evaluate compliance with the requirements of this part and certifications provided under section 300w-4 of this title.

(2) The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 300w-4 of this title.

(c) Availability of books, documents, papers, and records

Each State, and each entity which has received funds from an allotment made to a State under this part, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, 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.

(d) Information not readily available

(1) In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

(2) Paragraph (1) does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

Section 300w-7. Nondiscrimination provisions

(a) Programs and activities receiving Federal financial assistance

(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), on the basis of handicap under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), on the basis of sex under title IX of the Education Amendments of 1972

(20 U.S.C. 1681 et seq.), or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or 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 this part.

(b) Failure to comply

Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under section 300w-1 of this title, has failed to comply with a provision of law referred to in subsection (a)(1) of this section, with subsection (a)(2) of this section, or with an applicable regulation (including one prescribed to carry out subsection (a)(2) of this section), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may -

- (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,
- (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), as may be applicable, or

(3) take such other action as may be provided by law.

(c) Civil actions by Attorney General

When a matter is referred to the Attorney General pursuant to subsection (b)(1) of this section, or whenever he 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) of this section or in violation of subsection (a)(2) of this section, 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.

Section 300w-8. Criminal penalty for false statements

Whoever -

(1) knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be made by a State from funds allotted to the State under this part, or

(2) having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized,

shall be fined not more than \$25,000 or imprisoned for not more than five years, or both.