

(2) provides the early intervention services only with the consent of the individuals.

(July 1, 1944, ch. 373, title XXVI, §2644, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 601.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 300ff-41 of this title.

§ 300ff-45. Notification of certain individuals receiving blood transfusions

(a) In general

The Secretary may not make a grant under section 300ff-41 of this title unless the State involved provides assurances satisfactory to the Secretary that, with respect to individuals in the State receiving, between January 1, 1978, and April 1, 1985 (inclusive), a transfusion of whole blood or a blood-clotting factor, the State will provide public education and information for the purpose of—

(1) encouraging the population of such individuals to receive early intervention services; and

(2) informing such population of any health facilities in the geographic area involved that provide such services.

(b) Rule of construction

An agreement made under subsection (a) of this section may not be construed to require that, in carrying out the activities described in such subsection, a State receiving a grant under section 300ff-41 of this title provide individual notifications to the individuals described in such subsection.

(July 1, 1944, ch. 373, title XXVI, §2645, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 602.)

§ 300ff-46. Reporting and partner notification

(a) Reporting

The Secretary may not make a grant under section 300ff-41 of this title unless, with respect to testing for HIV disease, the State involved provides assurances satisfactory to the Secretary that the State will require that any entity carrying out such testing confidentially report to the State public health officer information sufficient—

(1) to perform statistical and epidemiological analyses of the incidence in the State of cases of such disease;

(2) to perform statistical and epidemiological analyses of the demographic characteristics of the population of individuals in the State who have the disease; and

(3) to assess the adequacy of early intervention services in the State.

(b) Partner notification

The Secretary may not make a grant under section 300ff-41 of this title unless the State involved provides assurances satisfactory to the Secretary that the State will require that the public health officer of the State, to the extent appropriate in the determination of the officer, carry out a program of partner notification regarding cases of HIV disease.

(c) Rules of construction

An agreement made under this section may not be construed—

(1) to require or prohibit any State from providing that identifying information concerning individuals with HIV disease is required to be submitted to the State; or

(2) to require any State to establish a requirement that entities other than the public health officer of the State are required to make the notifications referred to in subsection (b) of this section.

(July 1, 1944, ch. 373, title XXVI, §2646, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 602.)

STUDY REGARDING PARTNER NOTIFICATION

Section 402 of Pub. L. 101-381 provided that:

“(a) IN GENERAL.—The Secretary shall conduct a study of programs of HIV partner notification for the purpose of determining—

“(1) in the case of individuals who have been notified under such programs, the percentage of such individuals who undergo counseling and testing regarding HIV disease;

“(2) in the case of such individuals who have undergone HIV testing, the number of such individuals determined through such tests to have HIV disease;

“(3) the extent to which such programs have, in the case of such individuals, resulted in behavioral changes that are effective regarding the prevention of exposure to, and the transmission of, HIV disease; and

“(4) the extent to which such programs represent a cost effective use of available HIV-related resources.

“(b) REPORT.—Not later than 1 year after the date of enactment of this Act [Aug. 18, 1990], the Secretary of Health and Human Services shall complete the study required under subsection (a) and prepare and submit, to the appropriate committees of Congress, a report describing the findings made as a result of such study.”

§ 300ff-47. Requirement of State law protection against intentional transmission

(a) In general

The Secretary may not make a grant under section 300ff-41 of this title to a State unless the chief executive officer determines that the criminal laws of the State are adequate to prosecute any HIV infected individual, subject to the condition described in subsection (b) of this section, who—

(1) makes a donation of blood, semen, or breast milk, if the individual knows that he or she is infected with HIV and intends, through such donation, to expose another to HIV in the event that the donation is utilized;

(2) engages in sexual activity if the individual knows that he or she is infected with HIV and intends, through such sexual activity, to expose another to HIV; and

(3) injects himself or herself with a hypodermic needle and subsequently provides the needle to another person for purposes of hypodermic injection, if the individual knows that he or she is infected and intends, through the provision of the needle, to expose another to such etiologic agent in the event that the needle is utilized.

(b) Consent to risk of transmission

The State laws described in subsection (a) of this section need not apply to circumstances

under which the conduct described in paragraphs (1) through (3) of subsection (a) of this section if the individual who is subjected to the behavior involved knows that the other individual is infected and provides prior informed consent to the activity.

(c) State certification with respect to required laws

With respect to complying with subsection (a) of this section as a condition of receiving a grant under section 300ff-41 of this title, the Secretary may not require a State to enact any statute, or to issue any regulation, if the chief executive officer of the State certifies to the Secretary that the laws of the State are adequate. The existence of a criminal law of general application, which can be applied to the conduct described in paragraphs (1) through (3) of subsection (a) of this section, is sufficient for compliance with this section.

(d) Time limitations with respect to required laws

With respect to receiving a grant under section 300ff-41 of this title, if a State is unable to certify compliance with subsection (a) of this section, the Secretary may make a grant to a State under such section if—

(1) for each of the fiscal years 1991 and 1992, the State provides assurances satisfactory to the Secretary that by not later than October 1, 1992, the State will have in place or will establish the prohibitions described in subsection (a) of this section; and

(2) for fiscal year 1993 and subsequent fiscal years, the State has established such prohibitions.

(July 1, 1944, ch. 373, title XXVI, §2647, as added Pub. L. 101-381, title III, §301(a), Aug. 18, 1990, 104 Stat. 603; amended Pub. L. 101-502, §6(c), Nov. 3, 1990, 104 Stat. 1291; Pub. L. 104-146, §12(c)(4), May 20, 1996, 110 Stat. 1373.)

AMENDMENTS

1996—Subsec. (a)(1). Pub. L. 104-146, §12(c)(4)(A), which directed insertion of “to” before “HIV”, was executed by making the insertion before “HIV” the second time appearing to reflect the probable intent of Congress.

Subsec. (c). Pub. L. 104-146, §12(c)(4)(B), substituted “section 300ff-41” for “section 300ff-11”.

Subsec. (d). Pub. L. 104-146, §12(c)(4)(C)(i), substituted “section 300ff-41” for “section 300ff-11” in introductory provisions.

Subsec. (d)(1). Pub. L. 104-146, §12(c)(4)(C)(ii), substituted “will have in place” for “has in place”.

1990—Subsec. (c). Pub. L. 101-502 inserted “certifies to the Secretary that the laws of the State” before “are adequate” in first sentence and substituted “subsection (a) of this section,” for “subsection (a) of this section” in second sentence.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-146 effective Oct. 1, 1996, see section 13 of Pub. L. 104-146, set out as a note under section 300ff-11 of this title.

§ 300ff-48. Testing and other early intervention services for State prisoners

(a) In general

In addition to grants under section 300ff-41 of this title, the Secretary may make grants to

States for the purpose of assisting the States in providing early intervention services to individuals sentenced by the State to a term of imprisonment. The Secretary may make such a grant only if the State involved requires, subject to subsection (d) of this section, that—

(1) the services be provided to such individuals; and

(2) each such individual be informed of the requirements of subsection (c) of this section regarding testing and be informed of the results of such testing of the individual.

(b) Requirement of matching funds

(1) In general

The Secretary may not make a grant under subsection (a) of this section unless the State involved agrees that, with respect to the costs to be incurred by the State in carrying out the purpose described in such subsection, the State will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount equal to—

(A) for the first fiscal year of payments under the grant, not less than \$1 for each \$2 of Federal funds provided in the grant; and

(B) for any subsequent fiscal year of such payments, not less than \$1 for each \$1 of Federal funds provided in the grant.

(2) Determination of amount of non-Federal contribution

Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, and services (or portions of services) subsidized by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(c) Testing

The Secretary may not make a grant under subsection (a) of this section unless—

(1) the State involved requires that, subject to subsection (d) of this section, any individual sentenced by the State to a term of imprisonment be tested for HIV disease—

(A) upon entering the State penal system; and

(B) during the 30-day period preceding the date on which the individual is released from such system;

(2) with respect to informing employees of the penal system of the results of such testing of the individual, the State—

(A) upon the request of any such employee, provides the results to the employee in any case in which the medical officer of the prison determines that there is a reasonable basis for believing that the employee has been exposed by the individual to such disease; and

(B) informs the employees of the availability to the employees of such results under the conditions described in subparagraph (A);

(3) with respect to informing the spouse of the individual of the results of such testing of the individual, the State—