authorizing appropriations for fiscal years 2005 to 2008 for provisions authorizing appropriations for fiscal years 1993 to 1996.

1992—Pub. L. 102–572 amended section generally. Prior to amendment, section authorized appropriations of $15,000,000 for each of fiscal years 1989, 1990, 1991, and 1992.

1989—Pub. L. 101–162 repealed Pub. L. 100–702, § 607, and provided that Pub. L. 100–690, § 7321(a), is revived, see 1988 Amendment notes below.

1988—Pub. L. 100–702 amended section generally, substituting appropriations authorization of $15,000,000 for fiscal years 1989 and 1990, such amounts to remain available until expended for authorization of $15,000,000 for fiscal years 1989, 1990, 1991, and 1992.

Pub. L. 100–690 amended section generally, substituting appropriations authorization of $15,000,000 for fiscal years 1989 through 1992 for authorization of $13,000,000 for fiscal year 1986 and $15,000,000 for fiscal years 1987 and 1988.

CHAPTER 114—PROTECTION AND ADVOCACY FOR INDIVIDUALS WITH MENTAL ILLNESS

SUBCHAPTER I—PROTECTION AND ADVOCACY SYSTEMS

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SUBCHAPTER I—PROTECTION AND ADVOCACY SYSTEMS

PART A—ESTABLISHMENT OF SYSTEMS

§ 10801. Congressional findings and statement of purpose

(a) The Congress finds that—

(1) individuals with mental illness are vulnerable to abuse and serious injury;

(2) family members of individuals with mental illness play a crucial role in being advocates for the rights of individuals with mental illness where the individuals are minors, the individuals are legally competent and choose to involve the family members, and the individuals are legally incompetent and the legal guardians, conservators, or other legal representatives are members of the family;

(3) individuals with mental illness are subject to neglect, including lack of treatment, adequate nutrition, clothing, health care, and adequate discharge planning; and

(4) State systems for monitoring compliance with respect to the rights of individuals with mental illness vary widely and are frequently inadequate.

(b) The purposes of this chapter are—

(1) to ensure that the rights of individuals with mental illness are protected; and

(2) to assist States to establish and operate a protection and advocacy system for individuals with mental illness which will—

(A) protect and advocate the rights of such individuals through activities to ensure the enforcement of the Constitution and Federal and State statutes; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

(Pub. L. 99–319, title I, § 101, May 23, 1986, 100 Stat. 478; Pub. L. 102–173, §§ 3, 10(2), Nov. 27, 1991, 105 Stat. 1217, 1219.)

REFERENCES IN TEXT

This chapter, referred to in subsec. (b), was in the original ''this Act'', meaning Pub. L. 99–319, May 23, 1986, 100 Stat. 478, which is classified principally to this chapter. For complete classification of this Act to the Code, see Short Title note below and Tables.

AMENDMENTS

1991—Subsec. (a). Pub. L. 102–173, § 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals'' in three places.

Subsec. (a)(2) to (4). Pub. L. 102–173, § 3, added par. (2) and redesignated former pars. (2) and (3) as (3) and (4), respectively.

Subsec. (b). Pub. L. 102–173, § 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals'' in three places.

SHORT TITLE OF 1991 AMENDMENT

Section 1 of Pub. L. 102–173 provided that: ''This Act [amending this section and sections 10802 to 10807, 10821, 10824, 10826, 10827, 10841, and 10851 of this title] may be cited as the 'Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991'.''

SHORT TITLE OF 1988 AMENDMENT

Pub. L. 100–509, § 1, Oct. 20, 1988, 102 Stat. 2543, provided that: ''This Act [amending sections 10802, 10804 to 10806, 10821, 10822, 10825, and 10827 of this title and enacting a provision set out as a note under section 10827 of this title] may be cited as the 'Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988'.''

SHORT TITLE

Pub. L. 99–319, § 1, May 23, 1986, 100 Stat. 478, as amended by Pub. L. 106–310, div. B, title XXXII, § 3206(a), Oct. 17, 2000, 114 Stat. 1193, provided that: ''This Act [enacting this chapter and section 247a of this title and enacting provisions set out as a note below] may be cited as the 'Protection and Advocacy for Individuals with Mental Illness Act'.''

SUPERSEDURE OF BALANCED BUDGET PROVISIONS

Section 402 of Pub. L. 99–319 provided that: ''This Act [see Short Title note above] shall not be construed as superseding any of the balanced budget provisions set forth in section 3(7) of the Congressional Budget and Impoundment Control Act of 1974 [2 U.S.C. 622(7)].''

§ 10802. Definitions

For purposes of this subchapter:

(1) The term ''abuse'' means any act or failure to act by an employee of a facility rendering care or treatment which was performed, or which was failed to be performed, knowingly, recklessly, or intentionally, and which caused, or may have caused, injury or death to a[1] individual with mental illness, and includes acts such as—

(A) the rape or sexual assault of a[1] individual with mental illness;

(B) the striking of a[1] individual with mental illness;

(C) the use of excessive force when placing a[1] individual with mental illness in bodily restraints; and

(D) the use of bodily or chemical restraints on a[1] individual with mental illness which is not in compliance with Federal and State laws and regulations.

(2) The term ''eligible system'' means the system established in a State to protect and advocate the rights of persons with developmental disabilities under subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 [42 U.S.C. 15041 et seq.].

(3) The term ''facilities'' may include, but need not be limited to, hospitals, nursing homes, community facilities for individuals with mental illness, board and care homes, homeless shelters, and jails and prisons.

(4) The term ''individual with mental illness'' means, except as provided in section 10804(d) of this title, an individual—

(A) who has a significant mental illness or emotional impairment, as determined by a mental health professional qualified under the laws and regulations of the State; and

(B)(i)(I) who is an inpatient or resident in a facility rendering care or treatment, even if the whereabouts of such inpatient or resident are unknown;

(II) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or'';[2]

(III) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense; or

(ii) who satisfies the requirements of subparagraph (A) and lives in a community setting, including their own home.

(5) The term ''neglect'' means a negligent act or omission by any individual responsible for providing services in a facility rendering care or treatment which caused or may have caused injury or death to a[1] individual with mental illness or which placed a[1] individual with mental illness at risk of injury or death, and includes an act or omission such as the failure to establish or carry out an appropriate individual program plan or treatment plan for a[1] individual with mental illness, the failure to provide adequate nutrition, clothing, or health care to a[1] individual with mental illness, or the failure to provide a safe environment for a[1] individual with mental illness, including the failure to maintain adequate numbers of appropriately trained staff.

(6) The term ''Secretary'' means the Secretary of Health and Human Services.

(7) The term ''State'' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Mariana Islands, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(8) The term ''American Indian consortium'' means a consortium established under part C of the Developmental Disabilities Assistance and Bill of Rights Act[3] (42 U.S.C. 6042 et seq.).

(Pub. L. 99–319, title I, § 102, May 23, 1986, 100 Stat. 478; Pub. L. 100–509, § 3, Oct. 20, 1988, 102 Stat. 2543; Pub. L. 102–173, §§ 4, 10(1), Nov. 27, 1991, 105 Stat. 1217, 1219; Pub. L. 106–310, div. B, title XXXII, § 3206(b), Oct. 17, 2000, 114 Stat. 1194; Pub. L. 106–402, title IV, § 401(b)(13)(A), Oct. 30, 2000, 114 Stat. 1739.)

References in Text

The Developmental Disabilities Assistance and Bill of Rights Act of 2000, referred to in par. (2), is Pub. L. 106–402, Oct. 30, 2000, 114 Stat. 1677. Subtitle C of the Act probably means subtitle C of title I of the Act, which is classified generally to part C (§ 15041 et seq.) of subchapter I of chapter 144 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 15001 of this title and Tables.

The Developmental Disabilities Assistance and Bill of Rights Act, referred to in par. (8), is title I of Pub. L. 88–164, as added by Pub. L. 98–527, § 2, Oct. 19, 1984, 98 Stat. 2662, as amended, which was repealed by Pub. L. 106–402, title IV, § 401(a), Oct. 30, 2000, 114 Stat. 1737. Part C of the Act was classified generally to subchapter III (§ 6041 et seq.) of chapter 75 of this title. For complete classification of this Act to the Code, see Tables.

Amendments

2000—Par. (2). Pub. L. 106–402 substituted ''subtitle C of the Developmental Disabilities Assistance and Bill of Rights Act of 2000'' for ''part C of the Developmental Disabilities Assistance and Bill of Rights Act''.

Par. (4). Pub. L. 106–310, § 3206(b)(1)(A), inserted '', except as provided in section 10804(d) of this title,'' after ''means'' in introductory provisions.

Par. (4)(B). Pub. L. 106–310, § 3206(b)(1)(B), designated existing provisions as cl. (i), redesignated former cls. (i) to (iii) as subcls. (I) to (III), respectively, of cl. (i), and added cl. (ii).

Par. (8). Pub. L. 106–310, § 3206(b)(2), added par. (8).

1991—Par. (1). Pub. L. 102–173, § 10(1), substituted ''individual with mental illness'' for ''mentally ill individual'' wherever appearing.

Pars. (3) to (7). Pub. L. 102–173 added par. (3), redesignated former pars. (3) to (6) as (4) to (7), respectively, and substituted ''individual with mental illness'' for ''mentally ill individual'' wherever appearing in pars. (4) and (5).

1988—Par. (1). Pub. L. 100–509, § 3(1), inserted ''or death'' after ''caused, injury''.

Par. (3)(B). Pub. L. 100–509, § 3(2), designated existing provisions as cl. (i), substituted '', even if the whereabouts of such inpatient or resident are unknown;'' for period at end, and added cls. (ii) and (iii).

Par. (4). Pub. L. 100–509, § 3(3), inserted ''or death'' after ''injury'' in two places and inserted before period at end '', including the failure to maintain adequate numbers of appropriately trained staff''.

[1] So in original. Probably should be ''an''.

[2] So in original.

[3] See References in Text note below.

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

§ 10803. Allotments

The Secretary shall make allotments under this subchapter to eligible systems to establish and administer systems—

(1) which meet the requirements of section 10805 of this title; and

(2) which are designed to—

(A) protect and advocate the rights of individuals with mental illness; and

(B) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred.

(Pub. L. 99–319, title I, § 103, May 23, 1986, 100 Stat. 479; Pub. L. 102–173, § 10(2), Nov. 27, 1991, 105 Stat. 1219.)

AMENDMENTS

1991—Par. (2). Pub. L. 102–173 substituted ''individuals with mental illness'' for ''mentally ill individuals'' in two places.

§ 10804. Use of allotments

(a) Contracts

(1) An eligible system may use its allotment under this subchapter to enter into contracts with State agencies and nonprofit organizations which operate throughout the State. In order to be eligible for a contract under this paragraph—

(A) such an agency shall be independent of any agency which provides treatment or services (other than advocacy services) to individuals with mental illness; and

(B) such an agency or organization shall have the capacity to protect and advocate the rights of individuals with mental illness.

(2) In carrying out paragraph (1), an eligible system should consider entering into contracts with organizations including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which,[1] provide protection or advocacy services to individuals with mental illness.

(b) Obligation of allotments; technical assistance and training

(1) If an eligible system is a public entity, the government of the State in which the system is located may not require the system to obligate more than 5 percent of its allotment under this subchapter in any fiscal year for administrative expenses.

(2) An eligible system may not use more than 10 percent of any allotment under this subchapter for any fiscal year for the costs of providing technical assistance and training to carry out this subchapter.

(c) Representation of individuals with mental illness

An eligible system may use its allotment under this subchapter to provide representation to individuals with mental illness in Federal facilities who request representation by the eligible system. Representatives of such individuals from such system shall be accorded all the rights and authority accorded to other representatives of residents of such facilities pursuant to State law and other Federal laws.

(d) Definition for purposes of representation of individuals with mental illness; priority

The definition of ''individual with a mental illness'' contained in section 10802(4)(B)(iii) of this title shall apply, and thus an eligible system may use its allotment under this subchapter to provide representation to such individuals, only if the total allotment under this subchapter for any fiscal year is $30,000,000 or more, and in such case, an eligible system must give priority to representing persons with mental illness as defined in subparagraphs (A) and (B)(i) of section 10802(4) of this title.

(Pub. L. 99–319, title I, § 104, May 23, 1986, 100 Stat. 479; Pub. L. 100–509, § 7(a), (b)(1), Oct. 20, 1988, 102 Stat. 2544; Pub. L. 102–173, §§ 5, 10(2), Nov. 27, 1991, 105 Stat. 1217, 1219; Pub. L. 106–310, div. B, title XXXII, § 3206(c), Oct. 17, 2000, 114 Stat. 1194.)

AMENDMENTS

2000—Subsec. (d). Pub. L. 106–310 added subsec. (d).

1991—Subsec. (a). Pub. L. 102–173, § 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals'' in three places.

Subsec. (c). Pub. L. 102–173, § 5, added subsec. (c).

1988—Subsec. (a)(2). Pub. L. 100–509, § 7(a), substituted ''including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which'' for ''which, on May 23, 1986''.

Subsec. (b)(2). Pub. L. 100–509, § 7(b)(1), substituted ''10'' for ''5''.

§ 10805. System requirements

(a) Authority; independent status; access to facilities and records; advisory council; annual report; grievance procedure

A system established in a State under section 10803 of this title to protect and advocate the rights of individuals with mental illness shall—

(1) have the authority to—

(A) investigate incidents of abuse and neglect of individuals with mental illness if the incidents are reported to the system or if there is probable cause to believe that the incidents occurred;

(B) pursue administrative, legal, and other appropriate remedies to ensure the protection of individuals with mental illness who are receiving care or treatment in the State; and

(C) pursue administrative, legal, and other remedies on behalf of an individual who—

(i) was a[1] individual with mental illness; and

(ii) is a resident of the State,

but only with respect to matters which occur within 90 days after the date of the discharge of such individual from a facility providing care or treatment;

[1] So in original. The comma probably should not appear.

[1] So in original. Probably should be ''an''.

(2) be independent of any agency in the State which provides treatment or services (other than advocacy services) to individuals with mental illness;

(3) have access to facilities in the State providing care or treatment;

(4) in accordance with section 10806 of this title, have access to all records of—

(A) any individual who is a client of the system if such individual, or the legal guardian, conservator, or other legal representative of such individual, has authorized the system to have such access;

(B) any individual (including an individual who has died or whose whereabouts are unknown)—

(i) who by reason of the mental or physical condition of such individual is unable to authorize the system to have such access;

(ii) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

(iii) with respect to whom a complaint has been received by the system or with respect to whom as a result of monitoring or other activities (either of which result from a complaint or other evidence) there is probable cause to believe that such individual has been subject to abuse or neglect; and

(C) any individual with a mental illness, who has a legal guardian, conservator, or other legal representative, with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy, whenever—

(i) such representative has been contacted by such system upon receipt of the name and address of such representative;

(ii) such system has offered assistance to such representative to resolve the situation; and

(iii) such representative has failed or refused to act on behalf of the individual;

(5) have an arrangement with the Secretary and the agency of the State which administers the State plan under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the furnishing of the information required by subsection (b) of this section;

(6) establish an advisory council—

(A) which will advise the system on policies and priorities to be carried out in protecting and advocating the rights of individuals with mental illness;

(B) which shall include attorneys, mental health professionals, individuals from the public who are knowledgeable about mental illness, a provider of mental health services, individuals who have received or are receiving mental health services, and family members of such individuals, and at least 60 percent the membership of which shall be comprised of individuals who have received or are receiving mental health services or who are family members of such individuals; and

(C) which shall be chaired by an individual who has received or is receiving mental health services or who is a family member of such an individual;

(7) on January 1, 1987, and January 1 of each succeeding year, prepare and transmit to the Secretary and the head of the State mental health agency of the State in which the system is located a report describing the activities, accomplishments, and expenditures of the system during the most recently completed fiscal year, including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;

(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the system;

(9) establish a grievance procedure for clients or prospective clients of the system to assure that individuals with mental illness have full access to the services of the system and for individuals who have received or are receiving mental health services, family members of such individuals with mental illness, or representatives of such individuals or family members to assure that the eligible system is operating in compliance with the provisions of this subchapter and subchapter III of this chapter; and

(10) not use allotments provided to a system in a manner inconsistent with section 14404 of this title.

(b) Annual survey report; plan of corrections

The Secretary and the agency of a State which administers its State plan under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] shall provide the eligible system of the State with a copy of each annual survey report and plan of corrections for cited deficiencies made pursuant to titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] with respect to any facility rendering care or treatment to individuals with mental illness in the State in which such system is located. A report or plan shall be made available within 30 days after the completion of the report or plan.

(c) Governing authority

(1)(A) Each system established in a State, through allotments received under section 10803 of this title, to protect and advocate the rights of individuals with mental illness shall have a governing authority.

(B) In States in which the governing authority is organized as a private non-profit entity with a multi-member governing board, or a public system with a multi-member governing board, such governing board shall be selected according to the policies and procedures of the system. The governing board shall be composed of—

(i) members (to be selected no later than October 1, 1990) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

(ii) in the case of a governing authority organized as a private non-profit entity, members who broadly represent or are knowledgeable about the needs of the clients served by

the system including the chairperson of the advisory council of such system.

As used in this subparagraph, the term ''members who broadly represent or are knowledgeable about the needs of the clients served by the system'' shall be construed to include individuals who have received or are receiving mental health services and family members of such individuals.

(2) The governing authority established under paragraph (1) shall—

(A) be responsible for the planning, design, implementation, and functioning of the system; and

(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.

(Pub. L. 99–319, title I, § 105, May 23, 1986, 100 Stat. 480; Pub. L. 100–509, §§ 4–6(a), 7(c), Oct. 20, 1988, 102 Stat. 2543–2545; Pub. L. 102–173, §§ 6, 10, Nov. 27, 1991, 105 Stat. 1218, 1219; Pub. L. 105–12, § 9(m), Apr. 30, 1997, 111 Stat. 28.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(5) and (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Titles XVIII and XIX of the Social Security Act are classified generally to subchapters XVIII (§ 1395 et seq.) and XIX (§ 1396 et seq.) of chapter 7 of this title, respectively. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

AMENDMENTS

1997—Subsec. (a)(10). Pub. L. 105–12 added par. (10).

1991—Subsec. (a). Pub. L. 102–173, § 10, substituted ''individual with mental illness'' for ''mentally ill individual'' and ''individuals with mental illness'' for ''mentally ill individuals'' wherever appearing.

Subsec. (a)(4). Pub. L. 102–173, § 6(a), inserted ''as a result of monitoring or other activities (either of which result from a complaint or other evidence)'' before ''there is'' in subpar. (B)(iii) and added subpar. (C).

Subsec. (a)(6). Pub. L. 102–173, § 6(b), substituted ''60 percent'' for ''one-half'' in subpar. (B) and added subpar. (C).

Subsec. (a)(9). Pub. L. 102–173, § 6(c), inserted before period at end ''and for individuals who have received or are receiving mental health services, family members of such individuals with mental illness, or representatives of such individuals or family members to assure that the eligible system is operating in compliance with the provisions of this subchapter and subchapter III of this chapter''.

Subsec. (b). Pub. L. 102–173, § 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals''.

Subsec. (c)(1). Pub. L. 102–173, §§ 6(d), 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals'' in subpar. (A) and inserted at end of subpar. (B) ''As used in this subparagraph, the term 'members who broadly represent or are knowledgeable about the needs of the clients served by the system' shall be construed to include individuals who have received or are receiving mental health services and family members of such individuals.''

1988—Subsec. (a)(4)(B). Pub. L. 100–509, § 6(a), inserted ''(including an individual who has died or whose whereabouts are unknown)'' after ''any individual''.

Subsec. (a)(6). Pub. L. 100–509, § 4(1), substituted ''an advisory council'' for ''a board''.

Subsec. (a)(7). Pub. L. 100–509, § 5, substituted '', including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;'' for period at end.

Subsec. (a)(8), (9). Pub. L. 100–509, § 7(c), added pars. (8) and (9).

Subsec. (c). Pub. L. 100–509, § 4(2), added subsec. (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105–12, set out as an Effective Date note under section 14401 of this title.

§ 10806. Access to records

(a) An eligible system which, pursuant to section 10805(a)(4) of this title, has access to records which, under Federal or State law, are required to be maintained in a confidential manner by a provider of mental health services, shall, except as provided in subsection (b) of this section, maintain the confidentiality of such records to the same extent as is required of the provider of such services.

(b)(1) Except as provided in paragraph (2), an eligible system which has access to records pursuant to section 10805(a)(4) of this title may not disclose information from such records to the individual who is the subject of the information if the mental health professional responsible for supervising the provision of mental health services to such individual has provided the system with a written determination that disclosure of such information to such individual would be detrimental to such individual's health.

(2)(A) If disclosure of information has been denied under paragraph (1) to an individual—

(i) such individual;

(ii) the legal guardian, conservator, or other legal representative of such individual; or

(iii) an eligible system, acting on behalf of an individual described in subparagraph (B),

may select another mental health professional to review such information and to determine if disclosure of such information would be detrimental to such individual's health. If such mental health professional determines, based on professional judgment, that disclosure of such information would not be detrimental to the health of such individual, the system may disclose such information to such individual.

(B) An eligible system may select a mental health professional under subparagraph (A)(iii) on behalf of—

(i) an individual whose legal guardian is the State; or

(ii) an individual who has a legal guardian, conservator, or other legal representative other than the State if such guardian, conservator, or representative does not, within a reasonable time after such individual is denied access to information under paragraph (1), select a mental health professional under subparagraph (A) to review such information.

(C) If the laws of a State prohibit an eligible system from obtaining access to the records of individuals with mental illness in accordance with section 10805(a)(4) of this title and this section, section 10805(a)(4) of this title and this section shall not apply to such system before—

(i) the date such system is no longer subject to such a prohibition; or

(ii) the expiration of the 2-year period beginning on May 23, 1986,

whichever occurs first.

(3)(A) As used in this section, the term ''records'' includes reports prepared by any staff of a facility rendering care and treatment or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility that describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

(B) An eligible system shall have access to the type of records described in subparagraph (A) in accordance with the provisions of subsection (a) of this section and paragraphs (1) and (2) of subsection (b) of this section.

(Pub. L. 99–319, title I, § 106, May 23, 1986, 100 Stat. 481; Pub. L. 100–509, § 6(b), Oct. 20, 1988, 102 Stat. 2544; Pub. L. 102–173, § 10(2), Nov. 27, 1991, 105 Stat. 1219.)

AMENDMENTS

1991—Subsec. (b)(2)(C). Pub. L. 102–173 substituted ''individuals with mental illness'' for ''mentally ill individuals''.

1988—Subsec. (b)(3). Pub. L. 100–509 added par. (3).

§ 10807. Legal actions

(a) Prior to instituting any legal action in a Federal or State court on behalf of a[1] individual with mental illness, an eligible system, or a State agency or nonprofit organization which entered into a contract with an eligible system under section 10804(a) of this title, shall exhaust in a timely manner all administrative remedies where appropriate. If, in pursuing administrative remedies, the system, agency, or organization determines that any matter with respect to such individual will not be resolved within a reasonable time, the system, agency, or organization may pursue alternative remedies, including the initiation of a legal action.

(b) Subsection (a) of this section does not apply to any legal action instituted to prevent or eliminate imminent serious harm to a[1] individual with mental illness.

(Pub. L. 99–319, title I, § 107, May 23, 1986, 100 Stat. 482; Pub. L. 102–173, § 10(1), Nov. 27, 1991, 105 Stat. 1219.)

AMENDMENTS

1991—Pub. L. 102–173 substituted ''individual with mental illness'' for ''mentally ill individual'' in subsecs. (a) and (b).

PART B—ADMINISTRATIVE PROVISIONS

§ 10821. Applications

(a) Submission for allotment; contents

No allotment may be made under this subchapter to an eligible system unless an application therefor is submitted to the Secretary. Each such application shall contain—

(1) assurances that amounts paid to such system from an allotment under this subchapter will be used to supplement and not to supplant the level of non-Federal funds available in the State in which such system is established to protect and advocate the rights of individuals with mental illness;

(2) assurances that such system will have a staff which is trained or being trained to provide advocacy services to individuals with mental illness and to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members;

(3) assurances that such system, and any State agency or nonprofit organization with which such system may enter into a contract under section 10804(a) of this title, will not, in the case of any individual who has a legal guardian, conservator, or representative other than the State, take actions which are duplicative of actions taken on behalf of such individual by such guardian, conservator, or representative unless such guardian, conservator, or representative requests the assistance of such system; and

(4) such other information as the Secretary may by regulation prescribe.

(b) Satisfaction of requirements regarding trained staff

The assurance required under subsection (a)(2) of this section regarding trained staff may be satisfied through the provision of training by individuals who have received or are receiving mental health services and family members of such individuals.

(c) Duration of applications and assurances

Applications submitted under this section shall remain in effect for a 4-year period, and the assurances required under this section shall be for the same 4-year period.

(Pub. L. 99–319, title I, § 111, May 23, 1986, 100 Stat. 482; Pub. L. 100–509, § 7(d), Oct. 20, 1988, 102 Stat. 2545; Pub. L. 102–173, §§ 7, 10(2), Nov. 27, 1991, 105 Stat. 1218, 1219; Pub. L. 102–321, title I, § 163(c)(3)(A), July 10, 1992, 106 Stat. 377.)

AMENDMENTS

1992—Subsec. (c). Pub. L. 102–321 substituted ''4-year'' for ''3-year'' in two places.

1991—Subsec. (a)(1). Pub. L. 102–173, § 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals''.

Subsec. (a)(2). Pub. L. 102–173, §§ 7(1), 10(2), substituted ''individuals with mental illness'' for ''mentally ill individuals'' and inserted before semicolon at end ''and to work with family members of clients served by the system where the individuals with mental illness are minors, legally competent and do not object, and legally incompetent and the legal guardians, conservators, or other legal representatives are family members''.

Subsecs. (b), (c). Pub. L. 102–173, § 7(2), (3) added subsec. (b) and redesignated former subsec. (b) as (c).

1988—Pub. L. 100–509 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, with provision for programs providing financial assistance, see section 801(c), (d) of Pub. L. 102–321, set out as a note under section 236 of this title.

[1] So in original. Probably should be ''an''.

§ 10822. Allotment formula and reallotments

(a)(1)(A) Except as provided in paragraph (2) and subject to the availability of appropriations under section 10827 of this title, the Secretary shall make allotments under section 10803 of this title from amounts appropriated under section 10827 of this title for a fiscal year to eligible systems on the basis of a formula prescribed by the Secretary which is based equally—

(i) on the population of each State in which there is an eligible system; and

(ii) on the population of each such State weighted by its relative per capita income.

(B) For purposes of subparagraph (A)(ii), the term ''relative per capita income'' means the quotient of the per capita income of the United States and the per capita income of the State, except that if the State is Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Marshall Islands, the Federated States of Micronesia, the Republic of Palau, or the Virgin Islands, the quotient shall be considered to be one.

(2)(A) The minimum amount of the allotment of an eligible system shall be the product (rounded to the nearest $100) of the appropriate base amount determined under subparagraph (B) and the factor specified in subparagraph (C).

(B) For purposes of subparagraph (A), the appropriate base amount—

(i) for American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, and the Virgin Islands, is $139,300; and

(ii) for any other State, is $260,000.

(C) The factor specified in this subparagraph is the ratio of the amount appropriated under section 10827 of this title for the fiscal year for which the allotment is being made to the amount appropriated under such section for fiscal year 1995.

(D) If the total amount appropriated for a fiscal year is at least $25,000,000, the Secretary shall make an allotment in accordance with subparagraph (A) to the eligible system serving the American Indian consortium.

(b)(1) To the extent that all the amounts appropriated under section 10827 of this title for a fiscal year are not allotted to eligible systems because—

(A) one or more eligible systems have not submitted an application for an allotment for such fiscal year; or

(B) one or more eligible systems have notified the Secretary that they do not intend to use the full amount of their allotment,

the amount which is not so allotted shall be reallotted among the remaining eligible systems.

(2) The amount of an allotment to an eligible system for a fiscal year which the Secretary determines will not be required by the system during the period for which it is available shall be available for reallotment by the Secretary to other eligible systems with respect to which such a determination has not been made.

(3) The Secretary shall make reallotments under paragraphs (1) and (2) on such date or dates as the Secretary may fix (but not earlier than 30 days after the Secretary has published notice of the intention of the Secretary to make such reallotment in the Federal Register). A reallotment to an eligible system shall be made in proportion to the original allotment of such system for such fiscal year, but with such proportionate amount for such system being reduced to the extent it exceeds the sum the Secretary estimates such system needs and will be able to use during such period. The total of such reductions shall be similarly reallotted among eligible systems whose proportionate amounts were not so reduced. Any amount so reallotted to an eligible system for a fiscal year shall be deemed to be a part of its allotment under subsection (a) of this section for such fiscal year.

(Pub. L. 99–319, title I, § 112, May 23, 1986, 100 Stat. 483; Pub. L. 100–509, § 7(e), Oct. 20, 1988, 102 Stat. 2545; Pub. L. 106–310, div. B, title XXXII, § 3206(d), (e), Oct. 17, 2000, 114 Stat. 1194, 1195.)

AMENDMENTS

2000—Subsec. (a)(1)(B). Pub. L. 106–310, § 3206(e)(1), substituted ''Marshall Islands, the Federated States of Micronesia, the Republic of Palau'' for ''Trust Territory of the Pacific Islands''.

Subsec. (a)(2). Pub. L. 106–310, § 3206(d), amended par. (2) generally. Prior to amendment, par. (2) specified minimum amounts of allotments to eligible systems of each State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands based on whether the total amount appropriated in a fiscal year was at least $13,000,000 or less than $13,000,000.

Subsec. (a)(3). Pub. L. 106–310, § 3206(e)(2), struck out par. (3) which read as follows: ''In any case in which the total amount appropriated under section 10827 of this title for a fiscal year exceeds the total amount appropriated under such section, as in effect on October 19, 1988, for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 720(c)(1) of title 29, the Secretary shall increase each of the allotments under clauses (i)(II) and (ii)(II) of subparagraph (A) and clauses (i) and (ii) of subparagraph (B) of paragraph (2) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

''(A) the total amount appropriated under section 10827 of this title for the fiscal year for which the increase in minimum allotment is made, minus;

''(B) the total amount appropriated under section 10827 of this title for the immediately preceding fiscal year,

bears to the total amount appropriated under section 10827 of this title for such preceding fiscal year.''

1988—Subsec. (a)(2). Pub. L. 100–509, § 7(e)(1), amended par. (2) generally. Prior to amendment, par. (2) read as follows: ''Notwithstanding paragraph (1) and subject to the availability of appropriations under section 10827 of this title—

''(A) the amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000; and

''(B) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000.''

Subsec. (a)(3). Pub. L. 100–509, § 7(e)(2), added par. (3).

§ 10823. Payments under allotments

For each fiscal year, the Secretary shall make payments to each eligible system from its allotment under this subchapter. Any amount paid to an eligible system for a fiscal year and remaining unobligated at the end of such year shall remain available to such system for the next fiscal year for the purposes for which it was made.

(Pub. L. 99–319, title I, § 113, May 23, 1986, 100 Stat. 484.)

§ 10824. Reports by Secretary

(a) The Secretary shall include in each report required under section 15005 of this title a separate statement which contains—

(1) a description of the activities, accomplishments, and expenditures of systems to protect and advocate the rights of individuals with mental illness supported with payments from allotments under this subchapter, including—

(A) a specification of the total number of individuals with mental illness served by such systems;

(B) a description of the types of activities undertaken by such systems;

(C) a description of the types of facilities providing care or treatment with respect to which such activities are undertaken;

(D) a description of the manner in which such activities are initiated; and

(E) a description of the accomplishments resulting from such activities;

(2) a description of—

(A) systems to protect and advocate the rights of individuals with mental illness supported with payments from allotments under this subchapter;

(B) activities conducted by States to protect and advocate such rights;

(C) mechanisms established by residential facilities for individuals with mental illness to protect and advocate such rights; and

(D) the coordination among such systems, activities, and mechanisms;

(3) a specification of the number of systems established with allotments under this subchapter and of whether each such system was established by a public or nonprofit private entity; and

(4) recommendations for activities and services to improve the protection and advocacy of the rights of individuals with mental illness and a description of needs for such activities and services which have not been met by systems established under this subchapter.

(b) In preparing each statement required by subsection (a) of this section, the Secretary shall use and include information submitted to the Secretary in the reports required under section 10805(a)(7) of this title.

(Pub. L. 99–319, title I, § 114, May 23, 1986, 100 Stat. 484; Pub. L. 102–173, § 10(2), Nov. 27, 1991, 105 Stat. 1219; Pub. L. 106–402, title IV, § 401(b)(13)(B), Oct. 30, 2000, 114 Stat. 1739.)

AMENDMENTS

2000—Subsec. (a). Pub. L. 106–402 substituted ''section 15005 of this title'' for ''section 6006(c) of this title'' in introductory provisions.

1991—Subsec. (a). Pub. L. 102–173 substituted ''individuals with mental illness'' for ''mentally ill individuals'' wherever appearing.

§ 10825. Technical assistance

The Secretary shall use not more than 2 percent of the amounts appropriated under section 10827 of this title to provide technical assistance to eligible systems with respect to activities carried out under this subchapter, consistent with requests by such systems for such assistance.

(Pub. L. 99–319, title I, § 115, May 23, 1986, 100 Stat. 484; Pub. L. 100–509, § 7(b)(2), Oct. 20, 1988, 102 Stat. 2545.)

AMENDMENTS

1988—Pub. L. 100–509 amended section generally. Prior to amendment, section read as follows: ''The Secretary shall provide technical assistance to eligible systems with respect to activities carried out under this subchapter.''

§ 10826. Administration

(a) In general

The Secretary shall carry out this subchapter through the Administrator of the Substance Abuse and Mental Health Services Administration.

(b) Regulations

Not later than 6 months after November 27, 1991, the Secretary shall promulgate final regulations to carry out this subchapter and subchapter III of this chapter.

(Pub. L. 99–319, title I, § 116, May 23, 1986, 100 Stat. 485; Pub. L. 102–173, § 9, Nov. 27, 1991, 105 Stat. 1219; Pub. L. 102–321, title I, § 163(c)(3)(B), July 10, 1992, 106 Stat. 377.)

AMENDMENTS

1992—Subsec. (a). Pub. L. 102–321 substituted ''the Substance Abuse and Mental Health Services Administration'' for ''the Alcohol, Drug Abuse, and Mental Health Administration''.

1991—Pub. L. 102–173 designated existing provisions as subsec. (a), inserted heading, and added subsec. (b).

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102–321 effective Oct. 1, 1992, see section 801(c) of Pub. L. 102–321, set out as a note under section 236 of this title.

§ 10827. Authorization of appropriations

There are authorized to be appropriated for allotments under this subchapter, $19,500,000 for fiscal year 1992, and such sums as may be necessary for each of the fiscal years 1993 through 2003.

(Pub. L. 99–319, title I, § 117, May 23, 1986, 100 Stat. 485; Pub. L. 100–509, § 7(f), Oct. 20, 1988, 102 Stat. 2546; Pub. L. 102–173, § 8, Nov. 27, 1991, 105 Stat. 1219; Pub. L. 106–310, div. B, title XXXII, § 3206(f), Oct. 17, 2000, 114 Stat. 1195.)

AMENDMENTS

2000—Pub. L. 106–310 substituted ''2003'' for ''1995''.

1991—Pub. L. 102–173 amended section generally. Prior to amendment, section read as follows: ''For allotments under this subchapter, there are authorized to be appropriated $14,300,000 for fiscal year 1989, and such sums

as may be necessary for fiscal year 1990 and fiscal year 1991.''

1988—Pub. L. 100–509 amended section generally. Prior to amendment, section read as follows: ''For allotments under this subchapter, there are authorized to be appropriated $10,000,000 for fiscal year 1986, $10,500,000 for fiscal year 1987, and $11,025,000 for fiscal year 1988.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 8 of Pub. L. 100–509 provided that:

''(a) IN GENERAL.—The amendments made by this Act [amending sections 10802, 10804 to 10806, 10821, 10822, and 10825 of this title], other than the amendment made by section 7(f) [amending this section], shall become effective on the date of the enactment of this Act [Oct. 20, 1988].

''(b) AUTHORIZATION OF APPROPRIATIONS.—The amendment made by section 7(f) [amending this section] shall become effective on October 1, 1988.''

SUBCHAPTER II—RESTATEMENT OF BILL OF RIGHTS FOR MENTAL HEALTH PATIENTS

§ 10841. Restatement of bill of rights

It is the sense of the Congress that, as previously stated in title V of the Mental Health Systems Act [42 U.S.C. 9501 et seq.], each State should review and revise, if necessary, its laws to ensure that mental health patients receive the protection and services they require, and that in making such review and revision, States should take into account the recommendations of the President's Commission on Mental Health and the following:

(1) A person admitted to a program or facility for the purpose of receiving mental health services should be accorded the following:

(A) The right to appropriate treatment and related services in a setting and under conditions that—

(i) are the most supportive of such person's personal liberty; and

(ii) restrict such liberty only to the extent necessary consistent with such person's treatment needs, applicable requirements of law, and applicable judicial orders.

(B) The right to an individualized, written, treatment or service plan (such plan to be developed promptly after admission of such person), the right to treatment based on such plan, the right to periodic review and reassessment of treatment and related service needs, and the right to appropriate revision of such plan, including any revision necessary to provide a description of mental health services that may be needed after such person is discharged from such program or facility.

(C) The right to ongoing participation, in a manner appropriate to such person's capabilities, in the planning of mental health services to be provided such person (including the right to participate in the development and periodic revision of the plan described in subparagraph (B)), and, in connection with such participation, the right to be provided with a reasonable explanation, in terms and language appropriate to such person's condition and ability to understand, of—

(i) such person's general mental condition and, if such program or facility has provided a physical examination, such person's general physical condition;

(ii) the objectives of treatment;

(iii) the nature and significant possible adverse effects of recommended treatments;

(iv) the reasons why a particular treatment is considered appropriate;

(v) the reasons why access to certain visitors may not be appropriate; and

(vi) any appropriate and available alternative treatments, services, and types of providers of mental health services.

(D) The right not to receive a mode or course of treatment, established pursuant to the treatment plan, in the absence of such person's informed, voluntary, written consent to such mode or course of treatment, except treatment—

(i) during an emergency situation if such treatment is pursuant to or documented contemporaneously by the written order of a responsible mental health professional; or

(ii) as permitted under applicable law in the case of a person committed by a court to a treatment program or facility.

(E) The right not to participate in experimentation in the absence of such person's informed, voluntary, written consent, the right to appropriate protections in connection with such participation, including the right to a reasonable explanation of the procedure to be followed, the benefits to be expected, the relative advantages of alternative treatments, and the potential discomforts and risks, and the right and opportunity to revoke such consent.

(F) The right to freedom from restraint or seclusion, other than as a mode or course of treatment or restraint or seclusion during an emergency situation if such restraint or seclusion is pursuant to or documented contemporaneously by the written order of a responsible mental health professional.

(G) The right to a humane treatment environment that affords reasonable protection from harm and appropriate privacy to such person with regard to personal needs.

(H) The right to confidentiality of such person's records.

(I) The right to access, upon request, to such person's mental health care records, except such person may be refused access to—

(i) information in such records provided by a third party under assurance that such information shall remain confidential; and

(ii) specific material in such records if the health professional responsible for the mental health services concerned has made a determination in writing that such access would be detrimental to such person's health, except that such material may be made available to a similarly licensed health professional selected by such person and such health professional may, in the exercise of professional judgment, provide such person with access to any or

all parts of such material or otherwise disclose the information contained in such material to such person.

(J) The right, in the case of a person admitted on a residential or inpatient care basis, to converse with others privately, to have convenient and reasonable access to the telephone and mails, and to see visitors during regularly scheduled hours, except that, if a mental health professional treating such person determines that denial of access to a particular visitor is necessary for treatment purposes, such mental health professional may, for a specific, limited, and reasonable period of time, deny such access if such mental health professional has ordered such denial in writing and such order has been incorporated in the treatment plan for such person. An order denying such access should include the reasons for such denial.

(K) The right to be informed promptly at the time of admission and periodically thereafter, in language and terms appropriate to such person's condition and ability to understand, of the rights described in this section.

(L) The right to assert grievances with respect to infringement of the rights described in this section, including the right to have such grievances considered in a fair, timely, and impartial grievance procedure provided for or by the program or facility.

(M) Notwithstanding subparagraph (J), the right of access to (including the opportunities and facilities for private communication with) any available—

(i) rights protection service within the program or facility;

(ii) rights protection service within the State mental health system designed to be available to such person;

(iii) system established under subchapter I of this chapter to protect and advocate the rights of individuals with mental illness; and

(iv) qualified advocate;

for the purpose of receiving assistance to understand, exercise, and protect the rights described in this section and in other provisions of law.

(N) The right to exercise the rights described in this section without reprisal, including reprisal in the form of denial of any appropriate, available treatment.

(O) The right to referral as appropriate to other providers of mental health services upon discharge.

(2)(A) The rights described in this section should be in addition to and not in derogation of any other statutory or constitutional rights.

(B) The rights to confidentiality of and access to records as provided in subparagraphs (H) and (I) of paragraph (1) should remain applicable to records pertaining to a person after such person's discharge from a program or facility.

(3)(A) No otherwise eligible person should be denied admission to a program or facility for mental health services as a reprisal for the exercise of the rights described in this section.

(B) Nothing in this section should—

(i) obligate an individual mental health or health professional to administer treatment contrary to such professional's clinical judgment;

(ii) prevent any program or facility from discharging any person for whom the provision of appropriate treatment, consistent with the clinical judgment of the mental health professional primarily responsible for such person's treatment, is or has become impossible as a result of such person's refusal to consent to such treatment;

(iii) require a program or facility to admit any person who, while admitted on prior occasions to such program or facility, has repeatedly frustrated the purposes of such admissions by withholding consent to proposed treatment; or

(iv) obligate a program or facility to provide treatment services to any person who is admitted to such program or facility solely for diagnostic or evaluative purposes.

(C) In order to assist a person admitted to a program or facility in the exercise or protection of such person's rights, such person's attorney or legal representatives should have reasonable access to—

(i) such person;

(ii) the areas of the program or facility where such person has received treatment, resided, or had access; and

(iii) pursuant to the written authorization of such person, the records and information pertaining to such person's diagnosis, treatment, and related services described in paragraph (1)(I).

(D) Each program and facility should post a notice listing and describing, in language and terms appropriate to the ability of the persons to whom such notice is addressed to understand, the rights described in this section of all persons admitted to such program or facility. Each such notice should conform to the format and content for such notices, and should be posted in all appropriate locations.

(4)(A) In the case of a person adjudicated by a court of competent jurisdiction as being incompetent to exercise the right to consent to treatment or experimentation described in subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), such right may be exercised or such authorization may be provided by the individual appointed by such court as such person's guardian or representative for the purpose of exercising such right or such authorization.

(B) In the case of a person who lacks capacity to exercise the right to consent to treatment or experimentation under subparagraph (D) or (E) of paragraph (1), or the right to confidentiality of or access to records described in subparagraph (H) or (I) of such paragraph, or to provide authorization as described in paragraph (3)(C)(iii), because such person has not

attained an age considered sufficiently advanced under State law to permit the exercise of such right or such authorization to be legally binding, such right may be exercised or such authorization may be provided on behalf of such person by a parent or legal guardian of such person.

(C) Notwithstanding subparagraphs (A) and (B), in the case of a person admitted to a program or facility for the purpose of receiving mental health services, no individual employed by or receiving any remuneration from such program or facility should act as such person's guardian or representative.

(Pub. L. 99–319, title II, § 201, May 23, 1986, 100 Stat. 485; Pub. L. 102–173, § 10(2), Nov. 27, 1991, 105 Stat. 1219.)

REFERENCES IN TEXT

The Mental Health Systems Act, referred to in introductory text, is Pub. L. 96–398, Oct. 7, 1980, 94 Stat. 1564, as amended. Title V of the Mental Health Systems Act is classified generally to subchapter IV (§ 9501 et seq.) of chapter 102 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9401 of this title and Tables.

AMENDMENTS

1991—Par. (1)(M)(iii). Pub. L. 102–173 substituted ''individuals with mental illness'' for ''mentally ill individuals''.

SUBCHAPTER III—CONSTRUCTION

§ 10851. Construction of subchapters I and II; "individual with mental illness" defined

(a) Subchapters I and II of this chapter shall not be construed as establishing any new rights for individuals with mental illness.

(b) For purposes of this section, the term ''individual with mental illness'' has the same meaning as in section 10802(3)[1] of this title.

(Pub. L. 99–319, title III, § 301, May 23, 1986, 100 Stat. 489; Pub. L. 102–173, § 10, Nov. 27, 1991, 105 Stat. 1219.)

REFERENCES IN TEXT

Section 10802(3) of this title, referred to in subsec. (b), was redesignated section 10802(4) of this title by Pub. L. 102–173, § 4(1), Nov. 27, 1991, 105 Stat. 1217.

AMENDMENTS

1991—Pub. L. 102–173, substituted ''individuals with mental illness'' for ''mentally ill individuals'' in subsec. (a) and ''individual with mental illness'' for ''mentally ill individual'' in subsec. (b).

CHAPTER 115—CHILD DEVELOPMENT ASSOCIATE SCHOLARSHIP ASSISTANCE PROGRAM

Sec.
10901. Authority of Secretary to make grants.
10902. Application for grants.
10903. Definitions.
10904. Annual report by States; contents; manner of payments pursuant to grants.
10905. Authorization of appropriations.

§ 10901. Authority of Secretary to make grants

The Secretary is authorized to make a grant for any fiscal year to any State receiving a grant under title XX of the Social Security Act [42 U.S.C. 1397 et seq.] for such fiscal year to enable such State to award scholarships to eligible individuals within the State who are candidates for the Child Development Associate credential.

(Pub. L. 99–425, title VI, § 602, Sept. 30, 1986, 100 Stat. 976.)

REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XX of the Social Security Act is classified principally to subchapter XX (§ 1397 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

EFFECTIVE DATE

Chapter effective Oct. 1, 1986, see section 1001 of Pub. L. 99–425, set out as an Effective Date of 1986 Amendment note under section 8621 of this title.

SHORT TITLE

Section 601 of title VI of Pub. L. 99–425 provided that: ''This title [enacting this chapter] may be cited as the 'Child Development Associate Scholarship Assistance Act of 1985'.''

§ 10902. Application for grants

(a) Application required

A State desiring to participate in the grant program established by this chapter shall submit an application to the Secretary in such form as the Secretary may require.

(b) Contents of applications

A State's application shall contain appropriate assurances that—

(1) scholarship assistance made available with funds provided under this chapter will be awarded—

(A) only to eligible individuals;

(B) on the basis of the financial need of such individuals; and

(C) in amounts sufficient to cover the cost of application, assessment, and credentialing (including, at the option of the State, any training necessary for credentialing) for the Child Development Associate credential for such individuals;

(2) not more than 35 percent of the funds received under this chapter by a State may be used to provide scholarship assistance under paragraph (1) to cover the cost of training described in paragraph (1)(C); and

(3) not more than 10 percent of the funds received by the State under this chapter will be used for the costs of administering the program established in such State to award such assistance.

(c) Equitable distribution

In making grants under this chapter, the Secretary shall—

(1) distribute such grants equitably among States; and

(2) ensure that the needs of rural and urban areas are appropriately addressed.

(Pub. L. 99–425, title VI, § 603, Sept. 30, 1986, 100 Stat. 976; Pub. L. 101–501, title V, § 501, Nov. 3, 1990, 104 Stat. 1256.)

AMENDMENTS

1990—Subsec. (b)(1)(C). Pub. L. 101–501, § 501(a), (b)(1), inserted ''(including, at the option of the State, any

[1] See References in Text note below.