

lying children with a serious emotional disturbance who are in the early stages of such disturbance.

**(3) Rule of construction**

An agreement made under paragraph (2) may not be construed—

(A) with respect to subparagraph (C) of such paragraph—

(i) to prohibit a system of care under subsection (a) of this section from requiring that, in housing provided by the grantee for purposes of residential treatment services authorized under subsection (c) of this section, males and females be segregated to the extent appropriate in the treatment of the children involved; or

(ii) to prohibit the system of care from complying with the agreement made under subsection (b) of this section; or

(B) with respect to subparagraph (D) of such paragraph, to authorize the system of care to expend the grant under section 290ff(a) of this title (or the non-Federal contributions made with respect to the grant) to provide legal services or any service with respect to which expenditures regarding the grant are prohibited under subsection (d)(1)(B) of this section.

**(f) Restrictions on use of grant**

A funding agreement for a grant under section 290ff(a) of this title is that the grant, and the non-Federal contributions made with respect to the grant, will not be expended—

(1) to purchase or improve real property (including the construction or renovation of facilities);

(2) to provide for room and board in residential programs serving 10 or fewer children;

(3) to provide for room and board or other services or expenditures associated with care of children in residential treatment centers serving more than 10 children or in inpatient hospital settings, except intensive home-based services and other services provided on an ambulatory or outpatient basis; or

(4) to provide for the training of any individual, except training authorized in section 290ff-3(a)(2) of this title and training provided through any appropriate course in continuing education whose duration does not exceed 2 days.

**(g) Waivers**

The Secretary may waive one or more of the requirements of subsection (c) of this section for a public entity that is an Indian Tribe or tribal organization, or American Samoa, Guam, the Marshall Islands, the Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, the Republic of Palau, or the United States Virgin Islands if the Secretary determines, after peer review, that the system of care is family-centered and uses the least restrictive environment that is clinically appropriate.

(July 1, 1944, ch. 373, title V, §562, as added Pub. L. 102-321, title I, §119, July 10, 1992, 106 Stat. 351; amended Pub. L. 106-310, div. B, title XXXI, §3105(b), Oct. 17, 2000, 114 Stat. 1175; Pub. L. 108-446, title III, §305(i)(4), Dec. 3, 2004, 118 Stat. 2806.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (d)(3)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 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.

The Individuals with Disabilities Education Act, referred to in subsec. (d)(3)(B), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended. Parts B and C of the Act are classified generally to subchapters II (§1411 et seq.) and III (§1431 et seq.), respectively, of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

2004—Subsec. (d)(3)(B). Pub. L. 108-446 substituted “and C” for “and H”.

2000—Subsec. (g). Pub. L. 106-310 added subsec. (g).

EFFECTIVE DATE

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

**§ 290ff-2. Individualized plan for services**

**(a) In general**

A funding agreement for a grant under section 290ff(a) of this title is that a system of care under section 290ff-1(a) of this title will develop and carry out an individualized plan of services for each child provided access to the system, and that the plan will be developed and carried out with the participation of the family of the child and, unless clinically inappropriate, with the participation of the child.

**(b) Multidisciplinary team**

A funding agreement for a grant under section 290ff(a) of this title is that the plan required in subsection (a) of this section will be developed, and reviewed and as appropriate revised not less than once each year, by a multidisciplinary team of appropriately qualified individuals who provide services through the system, including as appropriate mental health services, other health services, educational services, social services, and vocational counseling and rehabilitation;<sup>1</sup>

**(c) Coordination with services under Individuals with Disabilities Education Act**

A funding agreement for a grant under section 290ff(a) of this title is that, with respect to a plan under subsection (a) of this section for a child, the multidisciplinary team required in subsection (b) of this section will—

(1) in developing, carrying out, reviewing, and revising the plan consider any individualized education program in effect for the child pursuant to part B of the Individuals with Disabilities Education Act [42 U.S.C. 1411 et seq.];

(2) ensure that the plan is consistent with such individualized education program and provides for coordinating services under the plan with services under such program; and

(3) ensure that the memorandum of understanding entered into under section 290ff-1(d)(3)(B) of this title regarding such Act

<sup>1</sup> So in original. The semicolon probably should be a period.

[20 U.S.C. 1400 et seq.] includes provisions regarding compliance with this subsection.

**(d) Contents of plan**

A funding agreement for a grant under section 290ff(a) of this title is that the plan required in subsection (a) of this section for a child will—

(1) identify and state the needs of the child for the services available pursuant to section 290ff-1 of this title through the system;

(2) provide for each of such services that is appropriate to the circumstances of the child, including, except in the case of children who are less than 14 years of age, the provision of appropriate vocational counseling and rehabilitation, and transition services (as defined in section 602 [20 U.S.C. 1401] of the Individuals with Disabilities Education Act);

(3) establish objectives to be achieved regarding the needs of the child and the methodology for achieving the objectives; and

(4) designate an individual to be responsible for providing the case management required in section 290ff-1(e)(1) of this title or certify that case management services will be provided to the child as part of the individualized education program of the child under the Individuals with Disabilities Education Act [20 U.S.C. 1400 et seq.].

(July 1, 1944, ch. 373, title V, §563, as added Pub. L. 102-321, title I, §119, July 10, 1992, 106 Stat. 354; amended Pub. L. 108-446, title III, §305(i)(5), Dec. 3, 2004, 118 Stat. 2806.)

REFERENCES IN TEXT

The Individuals with Disabilities Education Act, referred to in subsecs. (c)(1), (3) and (d)(4), is title VI of Pub. L. 91-230, Apr. 13, 1970, 84 Stat. 175, as amended, which is classified generally to chapter 33 (§1400 et seq.) of Title 20, Education. Part B of the Act is classified generally to subchapter II (§1411 et seq.) of chapter 33 of Title 20. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

AMENDMENTS

2004—Subsec. (d)(2). Pub. L. 108-446 substituted “section 602” for “section 602(a)(19)”.

EFFECTIVE DATE

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

**§ 290ff-3. Additional provisions**

**(a) Optional services**

In addition to services described in subsection (c) of section 290ff-1 of this title, a system of care under subsection (a) of such section may, in expending a grant under section 290ff(a) of this title, provide for—

(1) preliminary assessments to determine whether a child should be provided access to the system;

(2) training in—

(A) the administration of the system;

(B) the provision of intensive home-based services under paragraph (4) of section 290ff-1(c) of this title, intensive day treatment under paragraph (5) of such section, and foster care or group homes under paragraph (7) of such section; and

(C) the development of individualized plans for purposes of section 290ff-2 of this title;

(3) recreational activities for children provided access to the system; and

(4) such other services as may be appropriate in providing for the comprehensive needs with respect to mental health of children with a serious emotional disturbance.

**(b) Comprehensive plan**

The Secretary may make a grant under section 290ff(a) of this title only if, with respect to the jurisdiction of the public entity involved, the entity has submitted to the Secretary, and has had approved by the Secretary, a plan for the development of a jurisdiction-wide system of care for community-based services for children with a serious emotional disturbance that specifies the progress the public entity has made in developing the jurisdiction-wide system, the extent of cooperation across agencies serving children in the establishment of the system, the Federal and non-Federal resources currently committed to the establishment of the system, and the current gaps in community services and the manner in which the grant under section 290ff(a) of this title will be expended to address such gaps and establish local systems of care.

**(c) Limitation on imposition of fees for services**

A funding agreement for a grant under section 290ff(a) of this title is that, if a charge is imposed for the provision of services under the grant, such charge—

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the family of the child involved; and

(3) will not be imposed on any child whose family has income and resources of equal to or less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

**(d) Relationship to items and services under other programs**

A funding agreement for a grant under section 290ff(a) of this title is that the grant, and the non-Federal contributions made with respect to the grant, will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service—

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

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

**(e) Limitation on administrative expenses**

A funding agreement for a grant under section 290ff(a) of this title is that not more than 2 percent of the grant will be expended for administrative expenses incurred with respect to the grant by the public entity involved.

**(f) Reports to Secretary**

A funding agreement for a grant under section 290ff(a) of this title is that the public entity in-