

TITLE XX—BLOCK GRANTS TO STATES FOR SOCIAL SERVICES AND ELDER JUSTICE <sup>1</sup>

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<sup>1</sup>Title XX of the Social Security Act is administered by the Office of Policy, Planning, and Legislation, Office of Human Development Services, Department of Health and Human Services.

<sup>2</sup>This table of contents does not appear in the law.

## Subtitle A—Block Grants to States for Social Services<sup>1</sup>

### PURPOSES OF SUBTITLE; AUTHORIZATION OF APPROPRIATIONS

SEC. 2001. [42 U.S.C. 1397] For the purposes of consolidating Federal assistance to States for social services into a single grant, increasing State flexibility in using social service grants, and encouraging each State, as far as practicable under the conditions in that State, to furnish services directed at the goals of—

(1) achieving or maintaining economic self-support to prevent, reduce, or eliminate dependency;

(2) achieving or maintaining self-sufficiency, including reduction or prevention of dependency;

(3) preventing or remedying neglect, abuse, or exploitation of children and adults unable to protect their own interests, or preserving, rehabilitating or reuniting families;

(4) preventing or reducing inappropriate institutional care by providing for community-based care, home-based care, or other forms of less intensive care; and

(5) securing referral or admission for institutional care when other forms of care are not appropriate, or providing services to individuals in institution,

there are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of this title.

### PAYMENTS TO STATES

SEC. 2002. [42 U.S.C. 1397a] (a)(1) Each State shall be entitled to payment under this title for each fiscal year in an amount equal to its allotment for such fiscal year, to be used by such State for services directed at the goals set forth in section 2001, subject to the requirements of this title.

(2) For purposes of paragraph (1)—

(A) services which are directed at the goals set forth in section 2001 include, but are not limited to, child care services, protective services for children and adults, services for children and adults in foster care, services related to the management and maintenance of the home, day care services for adults, transportation services, family planning services, training and related services, employment services, information, referral, and counseling services, the preparation and delivery of meals, health support services and appropriate combinations of services designed to meet the special needs of children, the aged, the mentally retarded, the blind, the emotionally disturbed, the physically handicapped, and alcoholics and drug addicts; and

(B) expenditures for such services may include expenditures for—

(i) administration (including planning and evaluation);

<sup>1</sup>Section 6703(d)(1)(B) of Public Law 111–148 provides for a global amendment to “subtitle 1” in title XX by striking “this title” each place it appears and inserting “this subtitle”. Such amendment was not carried because it incorrectly cites the hierarchy which reference should have been to “subtitle A”.

(ii) personnel training and retraining directly related to the provision of those services (including both short-and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions); and

(iii) conferences or workshops, and training or retraining through grants to nonprofit organizations within the meaning of section 501(c)(3) of the Internal Revenue Code of 1954 or to individuals with social services expertise, or through financial assistance to individuals participating in such conferences, workshops, and training or retraining (and this clause shall apply with respect to all persons involved in the delivery of such services).

(b) The Secretary shall make payments in accordance with section 6503 of title 31, United States Code, to each State from its allotment for use under this title.

(c) Payments to a State from its allotment for any fiscal year must be expended by the State in such fiscal year or in the succeeding fiscal year.

(d) A State may transfer up to 10 percent of its allotment under section 2003 for any fiscal year for its use for that year under other provisions of Federal law providing block grants for support of health services, health promotion and disease prevention activities, or low-income home energy assistance (or any combination of those activities). Amounts allotted to a State under any provisions of Federal law referred to in the preceding sentence and transferred by a State for use in carrying out the purposes of this title shall be treated as if they were paid to the State under this title but shall not affect the computation of the State's allotment under this title. The State shall inform the Secretary of any such transfer of funds.

(e) A State may use a portion of the amounts described in subsection (a) for the purpose of purchasing technical assistance from public or private entities if the State determines that such assistance is required in developing, implementing, or administering programs funded under this title.

(f) A State may use funds provided under this title to provide vouchers, for services directed at the goals set forth in section 2001, to families, including—

(1) families who have become ineligible for assistance under a State program funded under part A of title IV by reason of a durational limit on the provision of such assistance; and

(2) families denied cash assistance under the State program funded under part A of title IV for a child who is born to a member of the family who is—

(A) a recipient of assistance under the program; or

(B) a person who received such assistance at any time during the 10-month period ending with the birth of the child.

#### ALLOTMENTS

SEC. 2003. [42 U.S.C. 1397b] (a) The allotment for any fiscal year to each of the jurisdictions of Puerto Rico, Guam, the Virgin

Islands, and the Northern Mariana Islands shall be an amount which bears the same ratio to the amount specified in subsection (c) as the amount which was specified for allocation to the particular jurisdiction involved for the fiscal year 1981 under section 2002(a)(2)(C) of this Act (as in effect prior to the enactment of this section) bore to \$2,900,000,000. The allotment for fiscal year 1989 and each succeeding fiscal year to American Samoa shall be an amount which bears the same ratio to the amount allotted to the Northern Mariana Islands for that fiscal year as the population of American Samoa bears to the population of the Northern Mariana Islands determined on the basis of the most recent data available at the time such allotment is determined.

(b) The allotment for any fiscal year for each State other than the jurisdictions of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands shall be an amount which bears the same ratio to—

(1) the amount specified in subsection (c), reduced by

(2) the total amount allotted to those jurisdictions for that fiscal year under subsection (a), as the population of that State bears to the population of all the States (other than Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands) as determined by the Secretary (on the basis of the most recent data available from the Department of Commerce) and promulgated prior to the first day of the third month of the preceding fiscal year.

(c) The amount specified for purposes of subsections (a) and (b) shall be—

- (1) \$2,400,000,000 for the fiscal year 1982;
- (2) \$2,450,000,000 for the fiscal year 1983;
- (3) \$2,700,000,000 for the fiscal years 1984, 1985, 1986, 1987, and 1989;
- (4) \$2,750,000,000 for the fiscal year 1988;
- (5) \$2,800,000,000 for each of the fiscal years 1990 through 1995;
- (6) \$2,381,000,000 for the fiscal year 1996;
- (7) \$2,380,000,000 for the fiscal year 1997;
- (8) \$2,299,000,000 for the fiscal year 1998;
- (9) \$2,380,000,000 for the fiscal year 1999;
- (10) \$2,380,000,000 for the fiscal year 2000; and
- (11) \$1,700,000,000 for the fiscal year 2001 and each fiscal year thereafter.

#### STATE ADMINISTRATION

SEC. 2004. [42 U.S.C. 1397c] Prior to expenditure by a State of payments made to it under section 2002 for any fiscal year, the State shall report on the intended use of the payments the State is to receive under this title, including information on the types of activities to be supported and the categories or characteristics of individuals to be served. The report shall be transmitted to the Secretary and made public within the State in such manner as to facilitate comment by any person (including any Federal or other public agency) during development of the report and after its completion. The report shall be revised throughout the year as may be necessary to reflect substantial changes in the activities assisted

under this title, and any revision shall be subject to the requirements of the previous sentence.

LIMITATIONS ON USE OF GRANTS

SEC. 2005. [42 U.S.C. 1397d] (a) Except as provided in subsection (b), grants made under this title may not be used by the State, or by any other person with which the State makes arrangements to carry out the purposes of this title—

(1) for the purchase or improvement of land, or the purchase, construction, or permanent improvement (other than minor remodeling) of any building or other facility;

(2) for the provision of cash payments for costs of subsistence or for the provision of room and board (other than costs of subsistence during rehabilitation, room and board provided for a short term as an integral but subordinate part of a social service, or temporary emergency shelter provided as a protective service);

(3) for payment of the wages of any individual as a social service (other than payment of the wages of welfare recipients employed in the provision of child day care services);

(4) for the provision of medical care (other than family planning services, rehabilitation services, or initial detoxification of an alcoholic or drug dependent individual) unless it is an integral but subordinate part of a social service for which grants may be used under this title;

(5) for social services (except services to an alcoholic or drug dependent individual or rehabilitation services) provided in and by employees of any hospital, skilled nursing facility, intermediate care facility, or prison, to any individual living in such institution;

(6) for the provision of any educational service which the State makes generally available to its residents without cost and without regard to their income;

(7) for any child day care services unless such services meet applicable standards of State and local law;

(8) for the provision of cash payments as a service (except as otherwise provided in this section);

(9) for payment for any item or service (other than an emergency item or service) furnished—

(A) by an individual or entity during the period when such individual or entity is excluded under this title or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, or 1842(j)(2), or

(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded under this title or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, or 1842(j)(2) and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person);  
or

(10) in a manner inconsistent with the Assisted Suicide Funding Restriction Act of 1997.

(b) The Secretary may waive the limitation contained in subsection (a)(1) and (4) upon the State's request for such a waiver if he finds that the request describes extraordinary circumstances to justify the waiver and that permitting the waiver will contribute to the State's ability to carry out the purposes of this title.

#### REPORTS AND AUDITS

SEC. 2006. [42 U.S.C. 1397e] (a) Each State shall prepare reports on its activities carried out with funds made available (or transferred for use) under this title. Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c)) as the State finds necessary to provide an accurate description of such activities, to secure a complete record of the purposes for which funds were spent, and to determine the extent to which funds were spent in a manner consistent with the reports required by section 2004. The State shall make copies of the reports required by this section available for public inspection within the State and shall transmit a copy to the Secretary. Copies shall also be provided, upon request, to any interested public agency, and each such agency may provide its views on these reports to the Congress.

(b) Each State shall, not less often than every two years, audit its expenditures from amounts received (or transferred for use) under this title. Such State audits shall be conducted by an entity independent of any agency administering activities funded under this title, in accordance with generally accepted auditing principles. Within 30 days following the completion of each audit, the State shall submit a copy of that audit to the legislature of the State and to the Secretary. Each State shall repay to the United States amounts ultimately found not to have been expended in accordance with this title, or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

(1) the number of individuals who received services paid for in whole or in part with funds made available under this title, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

(2) the amount spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

(3) the criteria applied in determining eligibility for services (such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs); and

(4) the methods by which services were provided, showing separately the services provided by public agencies and those

provided by private agencies, and broken down in each case to reflect the types of services and circumstances involved. The Secretary shall establish uniform definitions of services for use by the States in preparing the information required by this subsection, and make such other provision as may be necessary or appropriate to assure that compliance with the requirements of this subsection will not be unduly burdensome on the States.

(d) For other provisions requiring States to account for Federal grants, see section 6503 of title 31, United States Code.

**SEC. 2007. [42 U.S.C. 1397f] ADDITIONAL GRANTS.**

(a) ENTITLEMENT.—

(1) IN GENERAL.—In addition to any payment under section 2002, each State shall be entitled to—

(A) 2 grants under this section for each qualified empowerment zone in the State; and

(B) 1 grant under this section for each qualified enterprise community in the State.

(2) AMOUNT OF GRANTS.—

(A) EMPOWERMENT GRANTS.—The amount of each grant to a State under this section for a qualified empowerment zone shall be—

(i) if the zone is designated in an urban area, \$50,000,000, multiplied by that proportion of the population of the zone that resides in the State; or

(ii) if the zone is designated in a rural area, \$20,000,000, multiplied by each proportion.

(B) ENTERPRISE GRANTS.—The amount of the grant to a State under this section for a qualified enterprise community shall be 1/95 of \$280,000,000, multiplied by that proportion of the population of the community that resides in the State.

(C) POPULATION DETERMINATIONS.—The Secretary shall make population determinations for purposes of this paragraph based on the most recent decennial census data available.

(3) TIMING OF GRANTS.—

(A) QUALIFIED EMPOWERMENT ZONES.—With respect to each qualified empowerment zone, the Secretary shall make—

(i) 1 grant under this section to each State in which the zone lies, on the date of the designation of the zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986; and

(ii) 1 grant under this section to each such State, on the 1st day of the 1st fiscal year that begins after the date of the designation.

(B) QUALIFIED ENTERPRISE COMMUNITIES.—With respect to each qualified enterprise community, the Secretary shall make 1 grant under this section to each State in which the community lies, on the date of the designation of the community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986.

(4) FUNDING.—\$1,000,000,000 shall be made available to the Secretary for grants under this section.

(b) PROGRAM OPTIONS.—Notwithstanding section 2005(a):

(1) In order to prevent and remedy the neglect and abuse of children, a State may use amounts paid under this section to make grants to, or enter into contracts with, entities to provide residential or nonresidential drug and alcohol prevention and treatment programs that offer comprehensive services for pregnant women and mothers, and their children.

(2) In order to prevent to assist disadvantaged adults and youths in achieving and maintaining self-sufficiency, a State may use amounts paid under this section to make grants to, or enter into contracts with—

(A) organizations operated for profit or not for profit, for the purpose of training and employing disadvantaged adults and youths in construction, rehabilitation, or improvement of affordable housing, public infrastructure, and community facilities; and

(B) nonprofit organizations and community or junior colleges, for the purpose of enabling such entities to provide short-term training courses in entrepreneurship and self-employment, and other training that will promote individual self-sufficiency and the interests of the community.

(3) A State may use amounts paid under this section to make grants to, or enter into contracts with, nonprofit community-based organizations to enable such organizations to provide activities designed to promote and protect the interests of children and families, outside of school hours, including keeping schools open during evenings and weekends for mentoring and study.

(4) In order to assist disadvantaged adults and youths in achieving and maintain economic self-support, a State may use amounts paid under this section to—

(A) fund services designed to promote community and economic development in qualified empowerment zones and qualified enterprise communities, such as skills training, job counseling, transportation services, housing counseling, financial management, and business counseling;

(B) assist in emergency and transitional shelter for disadvantaged families and individuals; or

(C) support programs that promote home ownership, education, or other routes to economic independence for low-income families and individuals.

(c) USE OF GRANTS.—

(1) IN GENERAL.—Subject to subsection (d) of this section, each State that receives a grant under this section with respect to an area shall use the grant—

(A) for services directed only at the goals set forth in paragraphs (1), (2), and (3) of section 2001;

(B) in accordance with the strategic plan for the area; and

(C) for activities that benefit residents of the area for which the grant is made.



(2) TECHNICAL ASSISTANCE.—A State may use a portion of any grant made under this section in the manner described in section 2002(e).

(d) REMITTANCE OF CERTAIN AMOUNTS.—

(1) PORTION OF GRANT UPON TERMINATION OF DESIGNATION.—Each State to which an amount is paid under this subsection during a fiscal year with respect to an area the designation of which under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986 ends before the end of the fiscal year shall remit to the Secretary an amount equal to the total of the amounts so paid with respect to the area, multiplied by that proportion of the fiscal year remaining after the designation ends.

(2) AMOUNTS PAID TO THE STATES AND NOT OBLIGATED WITHIN 2 YEARS.—Each State shall remit to the Secretary any amount paid to the State under this section that is not obligated by the end of the 2-year period that begins with the date of the payment.

(e) REALLOCATION OF REMAINING FUNDS.—

(1) REMITTED AMOUNTS.—The amount specified in section 2003(c) for any fiscal year is hereby increased by the total of the amounts remitted during the fiscal year pursuant to subsection (d) of this section.

(2) AMOUNTS NOT PAID TO THE STATES.—The amount specified in section 2003(c) for fiscal year 1998 is hereby increased by the amount made available for grants under this section that has not been paid to any State by the end of fiscal year 1997.

(f) DEFINITIONS.—As used in this section:

(1) QUALIFIED EMPOWERMENT ZONE.—The term “qualified empowerment zone” means, with respect to a State, an area—

(A) which has been designated (other than by the Secretary of the Interior) as an empowerment zone under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

(B) with respect to which the designation is in effect;

(C) the strategic plan for which is a qualified plan; and

(D) part or all of which is in the State.

(2) QUALIFIED ENTERPRISE COMMUNITY.—The term “qualified enterprise community” means, with respect to a State, an area—

(A) which has been designated (other than by the Secretary of the Interior) as an enterprise community under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986;

(B) with respect to which the designation is in effect;

(C) the strategic plan for which is a qualified plan; and

(D) part or all of which is in the State.

(3) STRATEGIC PLAN.—The term “strategic plan” means, with respect to an area, the plan contained in the application for designation of the area under part I of subchapter U of chapter 1 of the Internal Revenue Code of 1986.

(4) QUALIFIED PLAN.—The term “qualified plan” means, with respect to an area, a plan that—

(A) includes a detailed description of the activities proposed for the area that are to be funded with amounts provided under this section;

(B) contains a commitment that the amounts provided under this section to any State for the area will not be used to supplant Federal or non-Federal funds for services and activities which promote the purposes of this section;

(C) was developed in cooperation with the local government or governments with jurisdiction over the area; and

(D) to the extent that any State will not use the amounts provided under this section for the area in the manner described in subsection (b), explains the reasons why not.

(5) RURAL AREA.—The term “rural area” has the meaning given such term in section 1393(a)(2) of the Internal Revenue Code of 1986.

(6) URBAN AREA.—The term “urban area” has the meaning given such term in section 1393(a)(3) of the Internal Revenue Code of 1986.

**SEC. 2008. [42 U.S.C. 1397g] DEMONSTRATION PROJECTS TO ADDRESS HEALTH PROFESSIONS WORKFORCE NEEDS.**

(a) DEMONSTRATION PROJECTS TO PROVIDE LOW-INCOME INDIVIDUALS WITH OPPORTUNITIES FOR EDUCATION, TRAINING, AND CAREER ADVANCEMENT TO ADDRESS HEALTH PROFESSIONS WORKFORCE NEEDS.—

(1) AUTHORITY TO AWARD GRANTS.—The Secretary, in consultation with the Secretary of Labor, shall award grants to eligible entities to conduct demonstration projects that are designed to provide eligible individuals with the opportunity to obtain education and training for occupations in the health care field that pay well and are expected to either experience labor shortages or be in high demand.

(2) REQUIREMENTS.—

(A) AID AND SUPPORTIVE SERVICES.—

(i) IN GENERAL.—A demonstration project conducted by an eligible entity awarded a grant under this section shall, if appropriate, provide eligible individuals participating in the project with financial aid, child care, case management, and other supportive services.

(ii) TREATMENT.—Any aid, services, or incentives provided to an eligible beneficiary participating in a demonstration project under this section shall not be considered income, and shall not be taken into account for purposes of determining the individual’s eligibility for, or amount of, benefits under any means-tested program.

(B) CONSULTATION AND COORDINATION.—An eligible entity applying for a grant to carry out a demonstration project under this section shall demonstrate in the application that the entity has consulted with the State agency responsible for administering the State TANF program, the local workforce investment board in the area in which

the project is to be conducted (unless the applicant is such board), the State workforce investment board established under section 111 of the Workforce Investment Act of 1998, and the State Apprenticeship Agency recognized under the Act of August 16, 1937 (commonly known as the “National Apprenticeship Act”) (or if no agency has been recognized in the State, the Office of Apprenticeship of the Department of Labor) and that the project will be carried out in coordination with such entities.

(C) ASSURANCE OF OPPORTUNITIES FOR INDIAN POPULATIONS.—The Secretary shall award at least 3 grants under this subsection to an eligible entity that is an Indian tribe, tribal organization, or Tribal College or University.

(3) REPORTS AND EVALUATION.—

(A) ELIGIBLE ENTITIES.—An eligible entity awarded a grant to conduct a demonstration project under this subsection shall submit interim reports to the Secretary on the activities carried out under the project and a final report on such activities upon the conclusion of the entities’ participation in the project. Such reports shall include assessments of the effectiveness of such activities with respect to improving outcomes for the eligible individuals participating in the project and with respect to addressing health professions workforce needs in the areas in which the project is conducted.

(B) EVALUATION.—The Secretary shall, by grant, contract, or interagency agreement, evaluate the demonstration projects conducted under this subsection. Such evaluation shall include identification of successful activities for creating opportunities for developing and sustaining, particularly with respect to low-income individuals and other entry-level workers, a health professions workforce that has accessible entry points, that meets high standards for education, training, certification, and professional development, and that provides increased wages and affordable benefits, including health care coverage, that are responsive to the workforce’s needs.

(C) REPORT TO CONGRESS.—The Secretary shall submit interim reports and, based on the evaluation conducted under subparagraph (B), a final report to Congress on the demonstration projects conducted under this subsection.

(4) DEFINITIONS.—In this subsection:

(A) ELIGIBLE ENTITY.—The term “eligible entity” means a State, an Indian tribe or tribal organization, an institution of higher education, a local workforce investment board established under section 117 of the Workforce Investment Act of 1998, a sponsor of an apprenticeship program registered under the National Apprenticeship Act or a community-based organization.

(B) ELIGIBLE INDIVIDUAL.—

(i) IN GENERAL.—The term “eligible individual” means an individual receiving assistance under the State TANF program.

(ii) OTHER LOW-INCOME INDIVIDUALS.—Such term may include other low-income individuals described by the eligible entity in its application for a grant under this section.

(C) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal organization” have the meaning given such terms in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(D) INSTITUTION OF HIGHER EDUCATION.—The term “institution of higher education” has the meaning given that term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).

(E) STATE.—The term “State” means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, and American Samoa.

(F) STATE TANF PROGRAM.—The term “State TANF program” means the temporary assistance for needy families program funded under part A of title IV.

(G) TRIBAL COLLEGE OR UNIVERSITY.—The term “Tribal College or University” has the meaning given that term in section 316(b) of the Higher Education Act of 1965 (20 U.S.C. 1059c(b)).

(b) DEMONSTRATION PROJECT TO DEVELOP TRAINING AND CERTIFICATION PROGRAMS FOR PERSONAL OR HOME CARE AIDES.—

(1) AUTHORITY TO AWARD GRANTS.—Not later than 18 months after the date of enactment of this section, the Secretary shall award grants to eligible entities that are States to conduct demonstration projects for purposes of developing core training competencies and certification programs for personal or home care aides. The Secretary shall—

(A) evaluate the efficacy of the core training competencies described in paragraph (3)(A) for newly hired personal or home care aides and the methods used by States to implement such core training competencies in accordance with the issues specified in paragraph (3)(B); and

(B) ensure that the number of hours of training provided by States under the demonstration project with respect to such core training competencies are not less than the number of hours of training required under any applicable State or Federal law or regulation.

(2) DURATION.—A demonstration project shall be conducted under this subsection for not less than 3 years.

(3) CORE TRAINING COMPETENCIES FOR PERSONAL OR HOME CARE AIDES.—

(A) IN GENERAL.—The core training competencies for personal or home care aides described in this subparagraph include competencies with respect to the following areas:

(i) The role of the personal or home care aide (including differences between a personal or home care aide employed by an agency and a personal or home care aide employed directly by the health care consumer or an independent provider).

(ii) Consumer rights, ethics, and confidentiality (including the role of proxy decision-makers in the case where a health care consumer has impaired decision-making capacity).

(iii) Communication, cultural and linguistic competence and sensitivity, problem solving, behavior management, and relationship skills.

(iv) Personal care skills.

(v) Health care support.

(vi) Nutritional support.

(vii) Infection control.

(viii) Safety and emergency training.

(ix) Training specific to an individual consumer's needs (including older individuals, younger individuals with disabilities, individuals with developmental disabilities, individuals with dementia, and individuals with mental and behavioral health needs).

(x) Self-Care.

(B) IMPLEMENTATION.—The implementation issues specified in this subparagraph include the following:

(i) The length of the training.

(ii) The appropriate trainer to student ratio.

(iii) The amount of instruction time spent in the classroom as compared to on-site in the home or a facility.

(iv) Trainer qualifications.

(v) Content for a “hands-on” and written certification exam.

(vi) Continuing education requirements.

(4) APPLICATION AND SELECTION CRITERIA.—

(A) IN GENERAL.—

(i) NUMBER OF STATES.—The Secretary shall enter into agreements with not more than 6 States to conduct demonstration projects under this subsection.

(ii) REQUIREMENTS FOR STATES.—An agreement entered into under clause (i) shall require that a participating State—

(I) implement the core training competencies described in paragraph (3)(A); and

(II) develop written materials and protocols for such core training competencies, including the development of a certification test for personal or home care aides who have completed such training competencies.

(iii) CONSULTATION AND COLLABORATION WITH COMMUNITY AND VOCATIONAL COLLEGES.—The Secretary shall encourage participating States to consult with community and vocational colleges regarding the development of curricula to implement the project with respect to activities, as applicable, which may include consideration of such colleges as partners in such implementation.

(B) APPLICATION AND ELIGIBILITY.—A State seeking to participate in the project shall—

(i) submit an application to the Secretary containing such information and at such time as the Secretary may specify;

(ii) meet the selection criteria established under subparagraph (C); and

(iii) meet such additional criteria as the Secretary may specify.

(C) SELECTION CRITERIA.—In selecting States to participate in the program, the Secretary shall establish criteria to ensure (if applicable with respect to the activities involved)—

(i) geographic and demographic diversity;

(ii) that participating States offer medical assistance for personal care services under the State Medicaid plan;

(iii) that the existing training standards for personal or home care aides in each participating State—  
(I) are different from such standards in the other participating States; and

(II) are different from the core training competencies described in paragraph (3)(A);

(iv) that participating States do not reduce the number of hours of training required under applicable State law or regulation after being selected to participate in the project; and

(v) that participating States recruit a minimum number of eligible health and long-term care providers to participate in the project.

(D) TECHNICAL ASSISTANCE.—The Secretary shall provide technical assistance to States in developing written materials and protocols for such core training competencies.

(5) EVALUATION AND REPORT.—

(A) EVALUATION.—The Secretary shall develop an experimental or control group testing protocol in consultation with an independent evaluation contractor selected by the Secretary. Such contractor shall evaluate—

(i) the impact of core training competencies described in paragraph (3)(A), including curricula developed to implement such core training competencies, for personal or home care aides within each participating State on job satisfaction, mastery of job skills, beneficiary and family caregiver satisfaction with services, and additional measures determined by the Secretary in consultation with the expert panel;

(ii) the impact of providing such core training competencies on the existing training infrastructure and resources of States; and

(iii) whether a minimum number of hours of initial training should be required for personal or home care aides and, if so, what minimum number of hours should be required.

(B) REPORTS.—

(i) REPORT ON INITIAL IMPLEMENTATION.—Not later than 2 years after the date of enactment of this section, the Secretary shall submit to Congress a report on the initial implementation of activities conducted under the demonstration project, including any available results of the evaluation conducted under subparagraph (A) with respect to such activities, together with such recommendations for legislation or administrative action as the Secretary determines appropriate.

(ii) FINAL REPORT.—Not later than 1 year after the completion of the demonstration project, the Secretary shall submit to Congress a report containing the results of the evaluation conducted under subparagraph (A), together with such recommendations for legislation or administrative action as the Secretary determines appropriate.

(6) DEFINITIONS.—In this subsection:

(A) ELIGIBLE HEALTH AND LONG-TERM CARE PROVIDER.—The term “eligible health and long-term care provider” means a personal or home care agency (including personal or home care public authorities), a nursing home, a home health agency (as defined in section 1861(o)), or any other health care provider the Secretary determines appropriate which—

(i) is licensed or authorized to provide services in a participating State; and

(ii) receives payment for services under title XIX.

(B) PERSONAL CARE SERVICES.—The term “personal care services” has the meaning given such term for purposes of title XIX.

(C) PERSONAL OR HOME CARE AIDE.—The term “personal or home care aide” means an individual who helps individuals who are elderly, disabled, ill, or mentally disabled (including an individual with Alzheimer’s disease or other dementia) to live in their own home or a residential care facility (such as a nursing home, assisted living facility, or any other facility the Secretary determines appropriate) by providing routine personal care services and other appropriate services to the individual.

(D) STATE.—The term “State” has the meaning given that term for purposes of title XIX.

(c) FUNDING.—

(1) IN GENERAL.—Subject to paragraph (2), out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary to carry out subsections (a) and (b), \$85,000,000 for each of fiscal years 2010 through 2014.

(2) TRAINING AND CERTIFICATION PROGRAMS FOR PERSONAL AND HOME CARE AIDES.—With respect to the demonstration projects under subsection (b), the Secretary shall use \$5,000,000 of the amount appropriated under paragraph (1) for each of fiscal years 2010 through 2012 to carry out such projects. No funds appropriated under paragraph (1) shall be

used to carry out demonstration projects under subsection (b) after fiscal year 2012.

(d) NONAPPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the preceding sections of this title shall not apply to grant awarded under this section.

(2) LIMITATIONS ON USE OF GRANTS.—Section 2005(a) (other than paragraph (6)) shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this title.

**SEC. 2009. [42 U.S.C. 1397h] PROGRAM FOR EARLY DETECTION OF CERTAIN MEDICAL CONDITIONS RELATED TO ENVIRONMENTAL HEALTH HAZARDS.**

(a) PROGRAM ESTABLISHMENT.—The Secretary shall establish a program in accordance with this section to make competitive grants to eligible entities specified in subsection (b) for the purpose of—

(1) screening at-risk individuals (as defined in subsection (c)(1)) for environmental health conditions (as defined in subsection (c)(3)); and

(2) developing and disseminating public information and education concerning—

(A) the availability of screening under the program under this section;

(B) the detection, prevention, and treatment of environmental health conditions; and

(C) the availability of Medicare benefits for certain individuals diagnosed with environmental health conditions under section 1881A.

(b) ELIGIBLE ENTITIES.—

(1) IN GENERAL.—For purposes of this section, an eligible entity is an entity described in paragraph (2) which submits an application to the Secretary in such form and manner, and containing such information and assurances, as the Secretary determines appropriate.

(2) TYPES OF ELIGIBLE ENTITIES.—The entities described in this paragraph are the following:

(A) A hospital or community health center.

(B) A Federally qualified health center.

(C) A facility of the Indian Health Service.

(D) A National Cancer Institute-designated cancer center.

(E) An agency of any State or local government.

(F) A nonprofit organization.

(G) Any other entity the Secretary determines appropriate.

(c) DEFINITIONS.—In this section:

(1) AT-RISK INDIVIDUAL.—The term “at-risk individual” means an individual who—

(A)(i) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to an emergency declaration specified under paragraph (2), during a period ending—



(I) not less than 10 years prior to the date of such individual's application under subparagraph (B); and

(II) prior to the implementation of all the remedial and removal actions specified in the Record of Decision for Operating Unit 4 and the Record of Decision for Operating Unit 7; or

(ii) meets such other criteria as the Secretary determines appropriate considering the type of environmental health condition at issue; and

(B) has submitted an application (or has an application submitted on the individual's behalf), to an eligible entity receiving a grant under this section, for screening under the program under this section.

(2) EMERGENCY DECLARATION.—The term “emergency declaration” means a declaration of a public health emergency under section 104(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(3) ENVIRONMENTAL HEALTH CONDITION.—The term “environmental health condition” means—

(A) asbestosis, pleural thickening, or pleural plaques, as established by—

(i) interpretation by a “B Reader” qualified physician of a plain chest x-ray or interpretation of a computed tomographic radiograph of the chest by a qualified physician, as determined by the Secretary; or

(ii) such other diagnostic standards as the Secretary specifies;

(B) mesothelioma, or malignancies of the lung, colon, rectum, larynx, stomach, esophagus, pharynx, or ovary, as established by—

(i) pathologic examination of biopsy tissue;

(ii) cytology from bronchioalveolar lavage; or

(iii) such other diagnostic standards as the Secretary specifies; and

(C) any other medical condition which the Secretary determines is caused by exposure to a hazardous substance or pollutant or contaminant at a Superfund site to which an emergency declaration applies, based on such criteria and as established by such diagnostic standards as the Secretary specifies.

(4) HAZARDOUS SUBSTANCE; POLLUTANT; CONTAMINANT.—The terms “hazardous substance”, “pollutant”, and “contaminant” have the meanings given those terms in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(5) SUPERFUND SITE.—The term “Superfund site” means a site included on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)).

(d) HEALTH COVERAGE UNAFFECTED.—Nothing in this section shall be construed to affect any coverage obligation of a governmental or private health plan or program relating to an at-risk individual.

## (e) FUNDING.—

(1) IN GENERAL.—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary, to carry out the program under this section—

(A) \$23,000,000 for the period of fiscal years 2010 through 2014; and

(B) \$20,000,000 for each 5-fiscal year period thereafter.

(2) AVAILABILITY.—Funds appropriated under paragraph (1) shall remain available until expended.

## (f) NONAPPLICATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), the preceding sections of this title shall not apply to grants awarded under this section.

(2) LIMITATIONS ON USE OF GRANTS.—Section 2005(a) shall apply to a grant awarded under this section to the same extent and in the same manner as such section applies to payments to States under this title, except that paragraph (4) of such section shall not be construed to prohibit grantees from conducting screening for environmental health conditions as authorized under this section.

## Subtitle B—Elder Justice

### SEC. 2011. [42 U.S.C. 1397j] DEFINITIONS.

In this subtitle:

(1) ABUSE.—The term “abuse” means the knowing infliction of physical or psychological harm or the knowing deprivation of goods or services that are necessary to meet essential needs or to avoid physical or psychological harm.

(2) ADULT PROTECTIVE SERVICES.—The term “adult protective services” means such services provided to adults as the Secretary may specify and includes services such as—

(A) receiving reports of adult abuse, neglect, or exploitation;

(B) investigating the reports described in subparagraph (A);

(C) case planning, monitoring, evaluation, and other case work and services; and

(D) providing, arranging for, or facilitating the provision of medical, social service, economic, legal, housing, law enforcement, or other protective, emergency, or support services.

(3) CAREGIVER.—The term “caregiver” means an individual who has the responsibility for the care of an elder, either voluntarily, by contract, by receipt of payment for care, or as a result of the operation of law, and means a family member or other individual who provides (on behalf of such individual or of a public or private agency, organization, or institution) compensated or uncompensated care to an elder who needs supportive services in any setting.

(4) DIRECT CARE.—The term “direct care” means care by an employee or contractor who provides assistance or long-term care services to a recipient.

(5) ELDER.—The term “elder” means an individual age 60 or older.

(6) ELDER JUSTICE.—The term “elder justice” means—

(A) from a societal perspective, efforts to—

(i) prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation; and

(ii) protect elders with diminished capacity while maximizing their autonomy; and

(B) from an individual perspective, the recognition of an elder’s rights, including the right to be free of abuse, neglect, and exploitation.

(7) ELIGIBLE ENTITY.—The term “eligible entity” means a State or local government agency, Indian tribe or tribal organization, or any other public or private entity that is engaged in and has expertise in issues relating to elder justice or in a field necessary to promote elder justice efforts.

(8) EXPLOITATION.—The term “exploitation” means the fraudulent or otherwise illegal, unauthorized, or improper act or process of an individual, including a caregiver or fiduciary, that uses the resources of an elder for monetary or personal benefit, profit, or gain, or that results in depriving an elder of rightful access to, or use of, benefits, resources, belongings, or assets.

(9) FIDUCIARY.—The term “fiduciary”—

(A) means a person or entity with the legal responsibility—

(i) to make decisions on behalf of and for the benefit of another person; and

(ii) to act in good faith and with fairness; and

(B) includes a trustee, a guardian, a conservator, an executor, an agent under a financial power of attorney or health care power of attorney, or a representative payee.

(10) GRANT.—The term “grant” includes a contract, cooperative agreement, or other mechanism for providing financial assistance.

(11) GUARDIANSHIP.—The term “guardianship” means—

(A) the process by which a State court determines that an adult individual lacks capacity to make decisions about self-care or property, and appoints another individual or entity known as a guardian, as a conservator, or by a similar term, as a surrogate decisionmaker;

(B) the manner in which the court-appointed surrogate decisionmaker carries out duties to the individual and the court; or

(C) the manner in which the court exercises oversight of the surrogate decisionmaker.

(12) INDIAN TRIBE.—

(A) IN GENERAL.—The term “Indian tribe” has the meaning given such term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

- (B) INCLUSION OF PUEBLO AND RANCHERIA.—The term “Indian tribe” includes any Pueblo or Rancheria.
- (13) LAW ENFORCEMENT.—The term “law enforcement” means the full range of potential responders to elder abuse, neglect, and exploitation including—
- (A) police, sheriffs, detectives, public safety officers, and corrections personnel;
  - (B) prosecutors;
  - (C) medical examiners;
  - (D) investigators; and
  - (E) coroners.
- (14) LONG-TERM CARE.—
- (A) IN GENERAL.—The term “long-term care” means supportive and health services specified by the Secretary for individuals who need assistance because the individuals have a loss of capacity for self-care due to illness, disability, or vulnerability.
- (B) LOSS OF CAPACITY FOR SELF-CARE.—For purposes of subparagraph (A), the term “loss of capacity for self-care” means an inability to engage in 1 or more activities of daily living, including eating, dressing, bathing, management of one’s financial affairs, and other activities the Secretary determines appropriate.
- (15) LONG-TERM CARE FACILITY.—The term “long-term care facility” means a residential care provider that arranges for, or directly provides, long-term care.
- (16) NEGLECT.—The term “neglect” means—
- (A) the failure of a caregiver or fiduciary to provide the goods or services that are necessary to maintain the health or safety of an elder; or
  - (B) self-neglect.
- (17) NURSING FACILITY.—
- (A) IN GENERAL.—The term “nursing facility” has the meaning given such term under section 1919(a).
- (B) INCLUSION OF SKILLED NURSING FACILITY.—The term “nursing facility” includes a skilled nursing facility (as defined in section 1819(a)).
- (18) SELF-NEGLECT.—The term “self-neglect” means an adult’s inability, due to physical or mental impairment or diminished capacity, to perform essential self-care tasks including—
- (A) obtaining essential food, clothing, shelter, and medical care;
  - (B) obtaining goods and services necessary to maintain physical health, mental health, or general safety; or
  - (C) managing one’s own financial affairs.
- (19) SERIOUS BODILY INJURY.—
- (A) IN GENERAL.—The term “serious bodily injury” means an injury—
- (i) involving extreme physical pain;
  - (ii) involving substantial risk of death;
  - (iii) involving protracted loss or impairment of the function of a bodily member, organ, or mental faculty;
- or

(iv) requiring medical intervention such as surgery, hospitalization, or physical rehabilitation.

(B) CRIMINAL SEXUAL ABUSE.—Serious bodily injury shall be considered to have occurred if the conduct causing the injury is conduct described in section 2241 (relating to aggravated sexual abuse) or 2242 (relating to sexual abuse) of title 18, United States Code, or any similar offense under State law.

(20) SOCIAL.—The term “social”, when used with respect to a service, includes adult protective services.

(21) STATE LEGAL ASSISTANCE DEVELOPER.—The term “State legal assistance developer” means an individual described in section 731 of the Older Americans Act of 1965.

(22) STATE LONG-TERM CARE OMBUDSMAN.—The term “State Long-Term Care Ombudsman” means the State Long-Term Care Ombudsman described in section 712(a)(2) of the Older Americans Act of 1965.

**SEC. 2012. [42 U.S.C. 1397j-1] GENERAL PROVISIONS.**

(a) PROTECTION OF PRIVACY.—In pursuing activities under this subtitle, the Secretary shall ensure the protection of individual health privacy consistent with the regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 and applicable State and local privacy regulations.

(b) RULE OF CONSTRUCTION.—Nothing in this subtitle shall be construed to interfere with or abridge an elder’s right to practice his or her religion through reliance on prayer alone for healing when this choice—

(1) is contemporaneously expressed, either orally or in writing, with respect to a specific illness or injury which the elder has at the time of the decision by an elder who is competent at the time of the decision;

(2) is previously set forth in a living will, health care proxy, or other advance directive document that is validly executed and applied under State law; or

(3) may be unambiguously deduced from the elder’s life history.

**PART I—NATIONAL COORDINATION OF ELDER JUSTICE ACTIVITIES AND RESEARCH**

**Subpart A—Elder Justice Coordinating Council and Advisory Board on Elder Abuse, Neglect, and Exploitation**

**SEC. 2021. [42 U.S.C. 1397k] ELDER JUSTICE COORDINATING COUNCIL.**

(a) ESTABLISHMENT.—There is established within the Office of the Secretary an Elder Justice Coordinating Council (in this section referred to as the “Council”).

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be composed of the following members:

(A) The Secretary (or the Secretary's designee).

(B) The Attorney General (or the Attorney General's designee).

(C) The head of each Federal department or agency or other governmental entity identified by the Chair referred to in subsection (d) as having responsibilities, or administering programs, relating to elder abuse, neglect, and exploitation.

(2) REQUIREMENT.—Each member of the Council shall be an officer or employee of the Federal Government.

(c) VACANCIES.—Any vacancy in the Council shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(d) CHAIR.—The member described in subsection (b)(1)(A) shall be Chair of the Council.

(e) MEETINGS.—The Council shall meet at least 2 times per year, as determined by the Chair.

(f) DUTIES.—

(1) IN GENERAL.—The Council shall make recommendations to the Secretary for the coordination of activities of the Department of Health and Human Services, the Department of Justice, and other relevant Federal, State, local, and private agencies and entities, relating to elder abuse, neglect, and exploitation and other crimes against elders.

(2) REPORT.—Not later than the date that is 2 years after the date of enactment of the Elder Justice Act of 2009 and every 2 years thereafter, the Council shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report that—

(A) describes the activities and accomplishments of, and challenges faced by—

(i) the Council; and

(ii) the entities represented on the Council; and

(B) makes such recommendations for legislation, model laws, or other action as the Council determines to be appropriate.

(g) POWERS OF THE COUNCIL.—

(1) INFORMATION FROM FEDERAL AGENCIES.—Subject to the requirements of section 2012(a), the Council may secure directly from any Federal department or agency such information as the Council considers necessary to carry out this section. Upon request of the Chair of the Council, the head of such department or agency shall furnish such information to the Council.

(2) POSTAL SERVICES.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.

(h) TRAVEL EXPENSES.—The members of the Council shall not receive compensation for the performance of services for the Council. The members shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States

Code, while away from their homes or regular places of business in the performance of services for the Council. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Council.

(i) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.

(j) **STATUS AS PERMANENT COUNCIL.**—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 2022. [42 U.S.C. 1397k-1] ADVISORY BOARD ON ELDER ABUSE, NEGLECT, AND EXPLOITATION.**

(a) **ESTABLISHMENT.**—There is established a board to be known as the “Advisory Board on Elder Abuse, Neglect, and Exploitation” (in this section referred to as the “Advisory Board”) to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council established under section 2021.

(b) **COMPOSITION.**—The Advisory Board shall be composed of 27 members appointed by the Secretary from among members of the general public who are individuals with experience and expertise in elder abuse, neglect, and exploitation prevention, detection, treatment, intervention, or prosecution.

(c) **SOLICITATION OF NOMINATIONS.**—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the Advisory Board under subsection (b).

(d) **TERMS.**—

(1) **IN GENERAL.**—Each member of the Advisory Board shall be appointed for a term of 3 years, except that, of the members first appointed—

- (A) 9 shall be appointed for a term of 3 years;
- (B) 9 shall be appointed for a term of 2 years; and
- (C) 9 shall be appointed for a term of 1 year.

(2) **VACANCIES.**—

(A) **IN GENERAL.**—Any vacancy on the Advisory Board shall not affect its powers, but shall be filled in the same manner as the original appointment was made.

(B) **FILLING UNEXPIRED TERM.**—An individual chosen to fill a vacancy shall be appointed for the unexpired term of the member replaced.

(3) **EXPIRATION OF TERMS.**—The term of any member shall not expire before the date on which the member’s successor takes office.

(e) **ELECTION OF OFFICERS.**—The Advisory Board shall elect a Chair and Vice Chair from among its members. The Advisory Board shall elect its initial Chair and Vice Chair at its initial meeting.

(f) **DUTIES.**—

(1) ENHANCE COMMUNICATION ON PROMOTING QUALITY OF, AND PREVENTING ABUSE, NEGLECT, AND EXPLOITATION IN, LONG-TERM CARE.—The Advisory Board shall develop collaborative and innovative approaches to improve the quality of, including preventing abuse, neglect, and exploitation in, long-term care.

(2) COLLABORATIVE EFFORTS TO DEVELOP CONSENSUS AROUND THE MANAGEMENT OF CERTAIN QUALITY-RELATED FACTORS.—

(A) IN GENERAL.—The Advisory Board shall establish multidisciplinary panels to address, and develop consensus on, subjects relating to improving the quality of long-term care. At least 1 such panel shall address, and develop consensus on, methods for managing resident-to-resident abuse in long-term care.

(B) ACTIVITIES CONDUCTED.—The multidisciplinary panels established under subparagraph (A) shall examine relevant research and data, identify best practices with respect to the subject of the panel, determine the best way to carry out those best practices in a practical and feasible manner, and determine an effective manner of distributing information on such subject.

(3) REPORT.—Not later than the date that is 18 months after the date of enactment of the Elder Justice Act of 2009, and annually thereafter, the Advisory Board shall prepare and submit to the Elder Justice Coordinating Council, the Committee on Finance of the Senate, and the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives a report containing—

(A) information on the status of Federal, State, and local public and private elder justice activities;

(B) recommendations (including recommended priorities) regarding—

(i) elder justice programs, research, training, services, practice, enforcement, and coordination;

(ii) coordination between entities pursuing elder justice efforts and those involved in related areas that may inform or overlap with elder justice efforts, such as activities to combat violence against women and child abuse and neglect; and

(iii) activities relating to adult fiduciary systems, including guardianship and other fiduciary arrangements;

(C) recommendations for specific modifications needed in Federal and State laws (including regulations) or for programs, research, and training to enhance prevention, detection, and treatment (including diagnosis) of, intervention in (including investigation of), and prosecution of elder abuse, neglect, and exploitation;

(D) recommendations on methods for the most effective coordinated national data collection with respect to elder justice, and elder abuse, neglect, and exploitation; and



- (E) recommendations for a multidisciplinary strategic plan to guide the effective and efficient development of the field of elder justice.
- (g) **POWERS OF THE ADVISORY BOARD.**—
- (1) **INFORMATION FROM FEDERAL AGENCIES.**—Subject to the requirements of section 2012(a), the Advisory Board may secure directly from any Federal department or agency such information as the Advisory Board considers necessary to carry out this section. Upon request of the Chair of the Advisory Board, the head of such department or agency shall furnish such information to the Advisory Board.
- (2) **SHARING OF DATA AND REPORTS.**—The Advisory Board may request from any entity pursuing elder justice activities under the Elder Justice Act of 2009 or an amendment made by that Act, any data, reports, or recommendations generated in connection with such activities.
- (3) **POSTAL SERVICES.**—The Advisory Board may use the United States mails in the same manner and under the same conditions as other departments and agencies of the Federal Government.
- (h) **TRAVEL EXPENSES.**—The members of the Advisory Board shall not receive compensation for the performance of services for the Advisory Board. The members shall be allowed travel expenses for up to 4 meetings per year, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Advisory Board. Notwithstanding section 1342 of title 31, United States Code, the Secretary may accept the voluntary and uncompensated services of the members of the Advisory Board.
- (i) **DETAIL OF GOVERNMENT EMPLOYEES.**—Any Federal Government employee may be detailed to the Advisory Board without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege.
- (j) **STATUS AS PERMANENT ADVISORY COMMITTEE.**—Section 14 of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory board.
- (k) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

**SEC. 2023. [42 U.S.C. 1397k–2] RESEARCH PROTECTIONS.**

- (a) **GUIDELINES.**—The Secretary shall promulgate guidelines to assist researchers working in the area of elder abuse, neglect, and exploitation, with issues relating to human subject protections.
- (b) **DEFINITION OF LEGALLY AUTHORIZED REPRESENTATIVE FOR APPLICATION OF REGULATIONS.**—For purposes of the application of subpart A of part 46 of title 45, Code of Federal Regulations, to research conducted under this subpart, the term “legally authorized representative” means, unless otherwise provided by law, the individual or judicial or other body authorized under the applicable law to consent to medical treatment on behalf of another person.

**SEC. 2024. [42 U.S.C. 1397k-3] AUTHORIZATION OF APPROPRIATIONS.**

There are authorized to be appropriated to carry out this subpart—

- (1) for fiscal year 2011, \$6,500,000; and
- (2) for each of fiscal years 2012 through 2014, \$7,000,000.

### **Subpart B—Elder Abuse, Neglect, and Exploitation Forensic Centers**

**SEC. 2031. [42 U.S.C. 1397I] ESTABLISHMENT AND SUPPORT OF ELDER ABUSE, NEGLECT, AND EXPLOITATION FORENSIC CENTERS.**

(a) **IN GENERAL.**—The Secretary, in consultation with the Attorney General, shall make grants to eligible entities to establish and operate stationary and mobile forensic centers, to develop forensic expertise regarding, and provide services relating to, elder abuse, neglect, and exploitation.

(b) **STATIONARY FORENSIC CENTERS.**—The Secretary shall make 4 of the grants described in subsection (a) to institutions of higher education with demonstrated expertise in forensics or commitment to preventing or treating elder abuse, neglect, or exploitation, to establish and operate stationary forensic centers.

(c) **MOBILE CENTERS.**—The Secretary shall make 6 of the grants described in subsection (a) to appropriate entities to establish and operate mobile forensic centers.

(d) **AUTHORIZED ACTIVITIES.**—

(1) **DEVELOPMENT OF FORENSIC MARKERS AND METHODOLOGIES.**—An eligible entity that receives a grant under this section shall use funds made available through the grant to assist in determining whether abuse, neglect, or exploitation occurred and whether a crime was committed and to conduct research to describe and disseminate information on—

(A) forensic markers that indicate a case in which elder abuse, neglect, or exploitation may have occurred; and

(B) methodologies for determining, in such a case, when and how health care, emergency service, social and protective services, and legal service providers should intervene and when the providers should report the case to law enforcement authorities.

(2) **DEVELOPMENT OF FORENSIC EXPERTISE.**—An eligible entity that receives a grant under this section shall use funds made available through the grant to develop forensic expertise regarding elder abuse, neglect, and exploitation in order to provide medical and forensic evaluation, therapeutic intervention, victim support and advocacy, case review, and case tracking.

(3) **COLLECTION OF EVIDENCE.**—The Secretary, in coordination with the Attorney General, shall use data made available by grant recipients under this section to develop the capacity of geriatric health care professionals and law enforcement to collect forensic evidence, including collecting forensic evidence relating to a potential determination of elder abuse, neglect, or exploitation.

(e) APPLICATION.—To be eligible to receive a grant under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

- (1) for fiscal year 2011, \$4,000,000;
- (2) for fiscal year 2012, \$6,000,000; and
- (3) for each of fiscal years 2013 and 2014, \$8,000,000.

## PART II—PROGRAMS TO PROMOTE ELDER JUSTICE

### SEC. 2041. [42 U.S.C. 1397m] ENHANCEMENT OF LONG-TERM CARE.

(a) GRANTS AND INCENTIVES FOR LONG-TERM CARE STAFFING.—

(1) IN GENERAL.—The Secretary shall carry out activities, including activities described in paragraphs (2) and (3), to provide incentives for individuals to train for, seek, and maintain employment providing direct care in long-term care.

(2) SPECIFIC PROGRAMS TO ENHANCE TRAINING, RECRUITMENT, AND RETENTION OF STAFF.—

(A) COORDINATION WITH SECRETARY OF LABOR TO RECRUIT AND TRAIN LONG-TERM CARE STAFF.—The Secretary shall coordinate activities under this subsection with the Secretary of Labor in order to provide incentives for individuals to train for and seek employment providing direct care in long-term care.

(B) CAREER LADDERS AND WAGE OR BENEFIT INCREASES TO INCREASE STAFFING IN LONG-TERM CARE.—

(i) IN GENERAL.—The Secretary shall make grants to eligible entities to carry out programs through which the entities—

(I) offer, to employees who provide direct care to residents of an eligible entity or individuals receiving community-based long-term care from an eligible entity, continuing training and varying levels of certification, based on observed clinical care practices and the amount of time the employees spend providing direct care; and

(II) provide, or make arrangements to provide, bonuses or other increased compensation or benefits to employees who achieve certification under such a program.

(ii) APPLICATION.—To be eligible to receive a grant under this subparagraph, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the eligible entity is located with respect to carrying out activities funded under the grant).

(iii) AUTHORITY TO LIMIT NUMBER OF APPLICANTS.—Nothing in this subparagraph shall be con-

strued as prohibiting the Secretary from limiting the number of applicants for a grant under this subparagraph.

(3) SPECIFIC PROGRAMS TO IMPROVE MANAGEMENT PRACTICES.—

(A) IN GENERAL.—The Secretary shall make grants to eligible entities to enable the entities to provide training and technical assistance.

(B) AUTHORIZED ACTIVITIES.—An eligible entity that receives a grant under subparagraph (A) shall use funds made available through the grant to provide training and technical assistance regarding management practices using methods that are demonstrated to promote retention of individuals who provide direct care, such as—

(i) the establishment of standard human resource policies that reward high performance, including policies that provide for improved wages and benefits on the basis of job reviews;

(ii) the establishment of motivational and thoughtful work organization practices;

(iii) the creation of a workplace culture that respects and values caregivers and their needs;

(iv) the promotion of a workplace culture that respects the rights of residents of an eligible entity or individuals receiving community-based long-term care from an eligible entity and results in improved care for the residents or the individuals; and

(v) the establishment of other programs that promote the provision of high quality care, such as a continuing education program that provides additional hours of training, including on-the-job training, for employees who are certified nurse aides.

(C) APPLICATION.—To be eligible to receive a grant under this paragraph, an eligible entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the eligible entity is located with respect to carrying out activities funded under the grant).

(D) AUTHORITY TO LIMIT NUMBER OF APPLICANTS.—Nothing in this paragraph shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this paragraph.

(4) ACCOUNTABILITY MEASURES.—The Secretary shall develop accountability measures to ensure that the activities conducted using funds made available under this subsection benefit individuals who provide direct care and increase the stability of the long-term care workforce.

(5) DEFINITIONS.—In this subsection:

(A) COMMUNITY-BASED LONG-TERM CARE.—The term “community-based long-term care” has the meaning given such term by the Secretary.

(B) ELIGIBLE ENTITY.—The term “eligible entity” means the following:

- (i) A long-term care facility.
  - (ii) A community-based long-term care entity (as defined by the Secretary).
- (b) CERTIFIED EHR TECHNOLOGY GRANT PROGRAM.—
- (1) GRANTS AUTHORIZED.—The Secretary is authorized to make grants to long-term care facilities for the purpose of assisting such entities in offsetting the costs related to purchasing, leasing, developing, and implementing certified EHR technology (as defined in section 1848(o)(4)) designed to improve patient safety and reduce adverse events and health care complications resulting from medication errors.
- (2) USE OF GRANT FUNDS.—Funds provided under grants under this subsection may be used for any of the following:
- (A) Purchasing, leasing, and installing computer software and hardware, including handheld computer technologies.
  - (B) Making improvements to existing computer software and hardware.
  - (C) Making upgrades and other improvements to existing computer software and hardware to enable e-prescribing.
  - (D) Providing education and training to eligible long-term care facility staff on the use of such technology to implement the electronic transmission of prescription and patient information.
- (3) APPLICATION.—
- (A) IN GENERAL.—To be eligible to receive a grant under this subsection, a long-term care facility shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require (which may include evidence of consultation with the State in which the long-term care facility is located with respect to carrying out activities funded under the grant).
- (B) AUTHORITY TO LIMIT NUMBER OF APPLICANTS.—Nothing in this subsection shall be construed as prohibiting the Secretary from limiting the number of applicants for a grant under this subsection.
- (4) PARTICIPATION IN STATE HEALTH EXCHANGES.—A long-term care facility that receives a grant under this subsection shall, where available, participate in activities conducted by a State or a qualified State-designated entity (as defined in section 3013(f) of the Public Health Service Act) under a grant under section 3013 of the Public Health Service Act to coordinate care and for other purposes determined appropriate by the Secretary.
- (5) ACCOUNTABILITY MEASURES.—The Secretary shall develop accountability measures to ensure that the activities conducted using funds made available under this subsection help improve patient safety and reduce adverse events and health care complications resulting from medication errors.
- (c) ADOPTION OF STANDARDS FOR TRANSACTIONS INVOLVING CLINICAL DATA BY LONG-TERM CARE FACILITIES.—

(1) **STANDARDS AND COMPATIBILITY.**—The Secretary shall adopt electronic standards for the exchange of clinical data by long-term care facilities, including, where available, standards for messaging and nomenclature. Standards adopted by the Secretary under the preceding sentence shall be compatible with standards established under part C of title XI, standards established under subsections (b)(2)(B)(i) and (e)(4) of section 1860D–4, standards adopted under section 3004 of the Public Health Service Act, and general health information technology standards.

(2) **ELECTRONIC SUBMISSION OF DATA TO THE SECRETARY.**—

(A) **IN GENERAL.**—Not later than 10 years after the date of enactment of the Elder Justice Act of 2009, the Secretary shall have procedures in place to accept the optional electronic submission of clinical data by long-term care facilities pursuant to the standards adopted under paragraph (1).

(B) **RULE OF CONSTRUCTION.**—Nothing in this subsection shall be construed to require a long-term care facility to submit clinical data electronically to the Secretary.

(3) **REGULATIONS.**—The Secretary shall promulgate regulations to carry out this subsection. Such regulations shall require a State, as a condition of the receipt of funds under this part, to conduct such data collection and reporting as the Secretary determines are necessary to satisfy the requirements of this subsection.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section—

(1) for fiscal year 2011, \$20,000,000;

(2) for fiscal year 2012, \$17,500,000; and

(3) for each of fiscal years 2013 and 2014, \$15,000,000.

**SEC. 2042. [42 U.S.C. 1397m–1] ADULT PROTECTIVE SERVICES FUNCTIONS AND GRANT PROGRAMS.**

(a) **SECRETARIAL RESPONSIBILITIES.**—

(1) **IN GENERAL.**—The Secretary shall ensure that the Department of Health and Human Services—

(A) provides funding authorized by this part to State and local adult protective services offices that investigate reports of the abuse, neglect, and exploitation of elders;

(B) collects and disseminates data annually relating to the abuse, exploitation, and neglect of elders in coordination with the Department of Justice;

(C) develops and disseminates information on best practices regarding, and provides training on, carrying out adult protective services;

(D) conducts research related to the provision of adult protective services; and

(E) provides technical assistance to States and other entities that provide or fund the provision of adult protective services, including through grants made under subsections (b) and (c).

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this subsection, \$3,000,000

for fiscal year 2011 and \$4,000,000 for each of fiscal years 2012 through 2014.

(b) GRANTS TO ENHANCE THE PROVISION OF ADULT PROTECTIVE SERVICES.—

(1) ESTABLISHMENT.—There is established an adult protective services grant program under which the Secretary shall annually award grants to States in the amounts calculated under paragraph (2) for the purposes of enhancing adult protective services provided by States and local units of government.

(2) AMOUNT OF PAYMENT.—

(A) IN GENERAL.—Subject to the availability of appropriations and subparagraphs (B) and (C), the amount paid to a State for a fiscal year under the program under this subsection shall equal the amount appropriated for that year to carry out this subsection multiplied by the percentage of the total number of elders who reside in the United States who reside in that State.

(B) GUARANTEED MINIMUM PAYMENT AMOUNT.—

(i) 50 STATES.—Subject to clause (ii), if the amount determined under subparagraph (A) for a State for a fiscal year is less than 0.75 percent of the amount appropriated for such year, the Secretary shall increase such determined amount so that the total amount paid under this subsection to the State for the year is equal to 0.75 percent of the amount so appropriated.

(ii) TERRITORIES.—In the case of a State other than 1 of the 50 States, clause (i) shall be applied as if each reference to “0.75” were a reference to “0.1”.

(C) PRO RATA REDUCTIONS.—The Secretary shall make such pro rata reductions to the amounts described in subparagraph (A) as are necessary to comply with the requirements of subparagraph (B).

(3) AUTHORIZED ACTIVITIES.—

(A) ADULT PROTECTIVE SERVICES.—Funds made available pursuant to this subsection may only be used by States and local units of government to provide adult protective services and may not be used for any other purpose.

(B) USE BY AGENCY.—Each State receiving funds pursuant to this subsection shall provide such funds to the agency or unit of State government having legal responsibility for providing adult protective services within the State.

(C) SUPPLEMENT NOT SUPPLANT.—Each State or local unit of government shall use funds made available pursuant to this subsection to supplement and not supplant other Federal, State, and local public funds expended to provide adult protective services in the State.

(4) STATE REPORTS.—Each State receiving funds under this subsection shall submit to the Secretary, at such time and in such manner as the Secretary may require, a report on the number of elders served by the grants awarded under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, \$100,000,000 for each of fiscal years 2011 through 2014.

(c) STATE DEMONSTRATION PROGRAMS.—

(1) ESTABLISHMENT.—The Secretary shall award grants to States for the purposes of conducting demonstration programs in accordance with paragraph (2).

(2) DEMONSTRATION PROGRAMS.—Funds made available pursuant to this subsection may be used by States and local units of government to conduct demonstration programs that test—

(A) training modules developed for the purpose of detecting or preventing elder abuse;

(B) methods to detect or prevent financial exploitation of elders;

(C) methods to detect elder abuse;

(D) whether training on elder abuse forensics enhances the detection of elder abuse by employees of the State or local unit of government; or

(E) other matters relating to the detection or prevention of elder abuse.

(3) APPLICATION.—To be eligible to receive a grant under this subsection, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

(4) STATE REPORTS.—Each State that receives funds under this subsection shall submit to the Secretary a report at such time, in such manner, and containing such information as the Secretary may require on the results of the demonstration program conducted by the State using funds made available under this subsection.

(5) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, \$25,000,000 for each of fiscal years 2011 through 2014.

**SEC. 2043. [42 U.S.C. 1397m-2] LONG-TERM CARE OMBUDSMAN PROGRAM GRANTS AND TRAINING.**

(a) GRANTS TO SUPPORT THE LONG-TERM CARE OMBUDSMAN PROGRAM.—

(1) IN GENERAL.—The Secretary shall make grants to eligible entities with relevant expertise and experience in abuse and neglect in long-term care facilities or long-term care ombudsman programs and responsibilities, for the purpose of—

(A) improving the capacity of State long-term care ombudsman programs to respond to and resolve complaints about abuse and neglect;

(B) conducting pilot programs with State long-term care ombudsman offices or local ombudsman entities; and

(C) providing support for such State long-term care ombudsman programs and such pilot programs (such as through the establishment of a national long-term care ombudsman resource center).

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection—

(A) for fiscal year 2011, \$5,000,000;



- (B) for fiscal year 2012, \$7,500,000; and  
(C) for each of fiscal years 2013 and 2014,  
\$10,000,000.
- (b) OMBUDSMAN TRAINING PROGRAMS.—
- (1) IN GENERAL.—The Secretary shall establish programs to provide and improve ombudsman training with respect to elder abuse, neglect, and exploitation for national organizations and State long-term care ombudsman programs.
- (2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection, for each of fiscal years 2011 through 2014, \$10,000,000.

**SEC. 2044. [42 U.S.C. 1397m-3] PROVISION OF INFORMATION REGARDING, AND EVALUATIONS OF, ELDER JUSTICE PROGRAMS.**

- (a) PROVISION OF INFORMATION.—To be eligible to receive a grant under this part, an applicant shall agree—
- (1) except as provided in paragraph (2), to provide the eligible entity conducting an evaluation under subsection (b) of the activities funded through the grant with such information as the eligible entity may require in order to conduct such evaluation; or
- (2) in the case of an applicant for a grant under section 2041(b), to provide the Secretary with such information as the Secretary may require to conduct an evaluation or audit under subsection (c).
- (b) USE OF ELIGIBLE ENTITIES TO CONDUCT EVALUATIONS.—
- (1) EVALUATIONS REQUIRED.—Except as provided in paragraph (2), the Secretary shall—
- (A) reserve a portion (not less than 2 percent) of the funds appropriated with respect to each program carried out under this part; and
- (B) use the funds reserved under subparagraph (A) to provide assistance to eligible entities to conduct evaluations of the activities funded under each program carried out under this part.
- (2) CERTIFIED EHR TECHNOLOGY GRANT PROGRAM NOT INCLUDED.—The provisions of this subsection shall not apply to the certified EHR technology grant program under section 2041(b).
- (3) AUTHORIZED ACTIVITIES.—A recipient of assistance described in paragraph (1)(B) shall use the funds made available through the assistance to conduct a validated evaluation of the effectiveness of the activities funded under a program carried out under this part.
- (4) APPLICATIONS.—To be eligible to receive assistance under paragraph (1)(B), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a proposal for the evaluation.
- (5) REPORTS.—Not later than a date specified by the Secretary, an eligible entity receiving assistance under paragraph (1)(B) shall submit to the Secretary, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report containing the results of the evaluation

conducted using such assistance together with such recommendations as the entity determines to be appropriate.

(c) EVALUATIONS AND AUDITS OF CERTIFIED EHR TECHNOLOGY GRANT PROGRAM BY THE SECRETARY.—

(1) EVALUATIONS.—The Secretary shall conduct an evaluation of the activities funded under the certified EHR technology grant program under section 2041(b). Such evaluation shall include an evaluation of whether the funding provided under the grant is expended only for the purposes for which it is made.

(2) AUDITS.—The Secretary shall conduct appropriate audits of grants made under section 2041(b).

**SEC. 2045. [42 U.S.C. 1397m-4] REPORT.**

Not later than October 1, 2014, the Secretary shall submit to the Elder Justice Coordinating Council established under section 2021, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report—

(1) compiling, summarizing, and analyzing the information contained in the State reports submitted under subsections (b)(4) and (c)(4) of section 2042; and

(2) containing such recommendations for legislative or administrative action as the Secretary determines to be appropriate.

**SEC. 2046. [42 U.S.C. 1397m-5] RULE OF CONSTRUCTION.**

Nothing in this subtitle shall be construed as—

(1) limiting any cause of action or other relief related to obligations under this subtitle that is available under the law of any State, or political subdivision thereof; or

(2) creating a private cause of action for a violation of this subtitle.