

norities, the Secretary shall, of the amount appropriated for a fiscal year under subsection (a), reserve the following, as applicable:

- (i) For fiscal year 2007, \$53,400,000.
- (ii) For fiscal year 2008, \$55,400,000.
- (iii) For fiscal year 2009, \$57,400,000.
- (iv) For fiscal year 2010, \$61,343,000.
- (v) For fiscal year 2011, \$64,410,000.
- (vi) For fiscal year 2012, \$67,631,000.
- (vii) For fiscal year 2013, \$71,012,000.

(D) For eliminating racial and ethnic disparities in the delivery of comprehensive, culturally and linguistically appropriate care services for HIV/AIDS for women, infants, children, and youth, the Secretary shall, of the amount appropriated under subsection (a), reserve the following, as applicable:

- (i) For fiscal year 2010, \$20,448,000.
- (ii) For fiscal year 2011, \$21,470,000.
- (iii) For fiscal year 2012, \$22,543,000.
- (iv) For fiscal year 2013, \$23,671,000.

(E) For increasing the training capacity of centers to expand the number of health care professionals with treatment expertise and knowledge about the most appropriate standards of HIV/AIDS-related treatments and medical care for racial and ethnic minority adults, adolescents, and children with HIV/AIDS, the Secretary shall, of the amount appropriated under subsection (a), reserve the following, as applicable:

- (i) For fiscal year 2010, \$8,763,000.
- (ii) For fiscal year 2011, \$9,201,000.
- (iii) For fiscal year 2012, \$9,662,000.
- (iv) For fiscal year 2013, \$10,144,000.

#### (c) Consistency with prior program

With respect to the purpose described in subsection (a), the Secretary shall carry out this section consistent with the activities carried out under this subchapter by the Secretary pursuant to the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002 (Public Law 107-116).

#### (d) Synchronization of minority AIDS initiative

For fiscal year 2010 and each subsequent fiscal year, the Secretary shall incorporate and synchronize the schedule of application submissions and funding availability under this section with the schedule of application submissions and funding availability under the corresponding provisions of this subchapter as follows:

- (1) The schedule for carrying out subsection (b)(1)(A) shall be the same as the schedule applicable to emergency assistance under part A.
- (2) The schedule for carrying out subsection (b)(1)(B) shall be the same as the schedule applicable to care grants under part B.
- (3) The schedule for carrying out subsection (b)(1)(C) shall be the same as the schedule applicable to grants for early intervention services under part C.
- (4) The schedule for carrying out subsection (b)(1)(D) shall be the same as the schedule applicable to grants for services through projects for HIV-related care under part D.
- (5) The schedule for carrying out subsection (b)(1)(E) shall be the same as the schedule ap-

plicable to grants and contracts for activities through education and training centers under section 300ff-111 of this title.

(July 1, 1944, ch. 373, title XXVI, § 2693, as added and amended Pub. L. 109-415, title VI, § 603, title VII, §§ 702(3), 703, Dec. 19, 2006, 120 Stat. 2818, 2820; Pub. L. 111-87, § 2(a)(1), (3)(A), (f)(2), Oct. 30, 2009, 123 Stat. 2885, 2886.)

#### REFERENCES IN TEXT

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2002, referred to in subsec. (c), is Pub. L. 107-116, Jan. 10, 2002, 115 Stat. 2177. For complete classification of this Act to the Code, see Tables.

#### AMENDMENTS

2009—Pub. L. 111-87, § 2(a)(1), (3)(A), repealed Pub. L. 109-415, § 703, and revived the provisions of this section as in effect on Sept. 30, 2009. See 2006 Amendment note and Effective Date of 2009 Amendment; Revival of Section note below.

Subsec. (a). Pub. L. 111-87, § 2(f)(2)(A), substituted “\$139,100,000 for fiscal year 2009, \$146,055,000 for fiscal year 2010, \$153,358,000 for fiscal year 2011, \$161,026,000 for fiscal year 2012, and \$169,077,000 for fiscal year 2013. The Secretary shall develop a formula for the awarding of grants under subsections (b)(1)(A) and (b)(1)(B) that ensures that funding is provided based on the distribution of populations disproportionately impacted by HIV/AIDS.” for “and \$139,100,000 for fiscal year 2009.”

Subsec. (b)(2)(A). Pub. L. 111-87, § 2(f)(2)(B)(i), struck out “competitive,” before “supplemental” in introductory provisions and added cls. (iv) to (vii).

Subsec. (b)(2)(B). Pub. L. 111-87, § 2(f)(2)(B)(ii), struck out “competitive” before “grants” in introductory provisions and added cls. (iv) to (vii).

Subsec. (b)(2)(C)(iv) to (vii). Pub. L. 111-87, § 2(f)(2)(B)(iii), added cls. (iv) to (vii).

Subsec. (b)(2)(D). Pub. L. 111-87, § 2(f)(2)(B)(iv), substituted “the following, as applicable:” for “\$18,500,000 for each of the fiscal years 2007 through 2009.” and added cls. (i) to (iv).

Subsec. (b)(2)(E). Pub. L. 111-87, § 2(f)(2)(B)(v), substituted “the following, as applicable:” for “\$8,500,000 for each of the fiscal years 2007 through 2009.” and added cls. (i) to (iv).

Subsec. (d). Pub. L. 111-87, § 2(f)(2)(C), added subsec. (d).

2006—Pub. L. 109-415, § 703, which directed repeal of this section effective Oct. 1, 2009, was itself repealed by Pub. L. 111-87, § 2(a)(1), effective Sept. 30, 2009.

Subsec. (b)(2)(D), (E). Pub. L. 109-415, § 702(3), substituted “HIV/AIDS” for “HIV disease” wherever appearing.

#### EFFECTIVE DATE OF 2009 AMENDMENT; REVIVAL OF SECTION

For provisions that repeal by section 2(a)(1) of Pub. L. 111-87 of section 703 of Pub. L. 109-415 be effective Sept. 30, 2009, that the provisions of this section as in effect on Sept. 30, 2009, be revived, and that amendment by section 2(f)(2) of Pub. L. 111-87 be applicable to this section as so revived and effective as if enacted on Sept. 30, 2009, see section 2(a)(2), (3) of Pub. L. 111-87, set out as a note under section 300ff-11 of this title.

#### PART G—NOTIFICATION OF POSSIBLE EXPOSURE TO INFECTIOUS DISEASES

### § 300ff-131. Infectious diseases and circumstances relevant to notification requirements

#### (a) In general

Not later than 180 days after October 30, 2009, the Secretary shall complete the development of—

(1) a list of potentially life-threatening infectious diseases, including emerging infectious diseases, to which emergency response employees may be exposed in responding to emergencies;

(2) guidelines describing the circumstances in which such employees may be exposed to such diseases, taking into account the conditions under which emergency response is provided; and

(3) guidelines describing the manner in which medical facilities should make determinations for purposes of section 300ff-133(d) of this title.

**(b) Specification of airborne infectious diseases**

The list developed by the Secretary under subsection (a)(1) shall include a specification of those infectious diseases on the list that are routinely transmitted through airborne or aerosolized means.

**(c) Dissemination**

The Secretary shall—

(1) transmit to State public health officers copies of the list and guidelines developed by the Secretary under subsection (a) with the request that the officers disseminate such copies as appropriate throughout the States; and

(2) make such copies available to the public.

(July 1, 1944, ch. 373, title XXVI, §2695, as added Pub. L. 111-87, §13, Oct. 30, 2009, 123 Stat. 2897.)

**EFFECTIVE DATE**

Part effective as if enacted on Sept. 30, 2009, see section 2(a)(3)(B) of Pub. L. 111-87, set out as an Effective Date of 2009 Amendment; Revival of Section note under section 300ff-11 of this title.

**§ 300ff-132. Routine notifications with respect to airborne infectious diseases in victims assisted**

**(a) Routine notification of designated officer**

**(1) Determination by treating facility**

If a victim of an emergency is transported by emergency response employees to a medical facility and the medical facility makes a determination that the victim has an airborne infectious disease, the medical facility shall notify the designated officer of the emergency response employees who transported the victim to the medical facility of the determination.

**(2) Determination by facility ascertaining cause of death**

If a victim of an emergency is transported by emergency response employees to a medical facility and the victim dies at or before reaching the medical facility, the medical facility ascertaining the cause of death shall notify the designated officer of the emergency response employees who transported the victim to the initial medical facility of any determination by the medical facility that the victim had an airborne infectious disease.

**(b) Requirement of prompt notification**

With respect to a determination described in paragraph (1) or (2) of subsection (a), the notification required in each of such paragraphs shall

be made as soon as is practicable, but not later than 48 hours after the determination is made.

(July 1, 1944, ch. 373, title XXVI, §2695A, as added Pub. L. 111-87, §13, Oct. 30, 2009, 123 Stat. 2898.)

**§ 300ff-133. Request for notification with respect to victims assisted**

**(a) Initiation of process by employee**

If an emergency response employee believes that the employee may have been exposed to an infectious disease by a victim of an emergency who was transported to a medical facility as a result of the emergency, and if the employee attended, treated, assisted, or transported the victim pursuant to the emergency, then the designated officer of the employee shall, upon the request of the employee, carry out the duties described in subsection (b) regarding a determination of whether the employee may have been exposed to an infectious disease by the victim.

**(b) Initial determination by designated officer**

The duties referred to in subsection (a) are that—

(1) the designated officer involved collect the facts relating to the circumstances under which, for purposes of subsection (a), the employee involved may have been exposed to an infectious disease; and

(2) the designated officer evaluate such facts and make a determination of whether, if the victim involved had any infectious disease included on the list issued under paragraph (1) of section 300ff-131(a) of this title, the employee would have been exposed to the disease under such facts, as indicated by the guidelines issued under paragraph (2) of such section.

**(c) Submission of request to medical facility**

**(1) In general**

If a designated officer makes a determination under subsection (b)(2) that an emergency response employee may have been exposed to an infectious disease, the designated officer shall submit to the medical facility to which the victim involved was transported a request for a response under subsection (d) regarding the victim of the emergency involved.

**(2) Form of request**

A request under paragraph (1) shall be in writing and be signed by the designated officer involved, and shall contain a statement of the facts collected pursuant to subsection (b)(1).

**(d) Evaluation and response regarding request to medical facility**

**(1) In general**

If a medical facility receives a request under subsection (c), the medical facility shall evaluate the facts submitted in the request and make a determination of whether, on the basis of the medical information possessed by the facility regarding the victim involved, the emergency response employee was exposed to an infectious disease included on the list issued under paragraph (1) of section 300ff-131(a) of this title, as indicated by the guidelines issued under paragraph (2) of such section.

**(2) Notification of exposure**

If a medical facility makes a determination under paragraph (1) that the emergency re-

sponse employee involved has been exposed to an infectious disease, the medical facility shall, in writing, notify the designated officer who submitted the request under subsection (c) of the determination.

**(3) Finding of no exposure**

If a medical facility makes a determination under paragraph (1) that the emergency response employee involved has not been exposed to an infectious disease, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the determination.

**(4) Insufficient information**

(A) If a medical facility finds in evaluating facts for purposes of paragraph (1) that the facts are insufficient to make the determination described in such paragraph, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of the facts.

(B)(i) If a medical facility finds in making a determination under paragraph (1) that the facility possesses no information on whether the victim involved has an infectious disease included on the list under section 300ff-131(a) of this title, the medical facility shall, in writing, inform the designated officer who submitted the request under subsection (c) of the insufficiency of such medical information.

(ii) If after making a response under clause (i) a medical facility determines that the victim involved has an infectious disease, the medical facility shall make the determination described in paragraph (1) and provide the applicable response specified in this subsection.

**(e) Time for making response**

After receiving a request under subsection (c) (including any such request resubmitted under subsection (g)(2)), a medical facility shall make the applicable response specified in subsection (d) as soon as is practicable, but not later than 48 hours after receiving the request.

**(f) Death of victim of emergency**

**(1) Facility ascertaining cause of death**

If a victim described in subsection (a) dies at or before reaching the medical facility involved, and the medical facility receives a request under subsection (c), the medical facility shall provide a copy of the request to the medical facility ascertaining the cause of death of the victim, if such facility is a different medical facility than the facility that received the original request.

**(2) Responsibility of facility**

Upon the receipt of a copy of a request for purposes of paragraph (1), the duties otherwise established in this part regarding medical facilities shall apply to the medical facility ascertaining the cause of death of the victim in the same manner and to the same extent as such duties apply to the medical facility originally receiving the request.

**(g) Assistance of public health officer**

**(1) Evaluation of response of medical facility regarding insufficient facts**

(A) In the case of a request under subsection (c) to which a medical facility has made the

response specified in subsection (d)(4)(A) regarding the insufficiency of facts, the public health officer for the community in which the medical facility is located shall evaluate the request and the response, if the designated officer involved submits such documents to the officer with the request that the officer make such an evaluation.

(B) As soon as is practicable after a public health officer receives a request under subparagraph (A), but not later than 48 hours after receipt of the request, the public health officer shall complete the evaluation required in such paragraph and inform the designated officer of the results of the evaluation.

**(2) Findings of evaluation**

(A) If an evaluation under paragraph (1)(A) indicates that the facts provided to the medical facility pursuant to subsection (c) were sufficient for purposes of determinations under subsection (d)(1)—

(i) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(ii) the medical facility shall provide to the designated officer the applicable response specified in subsection (d).

(B) If an evaluation under paragraph (1)(A) indicates that the facts provided in the request to the medical facility were insufficient for purposes of determinations specified in subsection (c)—

(i) the public health officer shall provide advice to the designated officer regarding the collection and description of appropriate facts; and

(ii) if sufficient facts are obtained by the designated officer—

(I) the public health officer shall, on behalf of the designated officer involved, resubmit the request to the medical facility; and

(II) the medical facility shall provide to the designated officer the appropriate response under subsection (c).

(July 1, 1944, ch. 373, title XXVI, §2695B, as added Pub. L. 111-87, §13, Oct. 30, 2009, 123 Stat. 2898.)

**§ 300ff-134. Procedures for notification of exposure**

**(a) Contents of notification to officer**

In making a notification required under section 300ff-132 of this title or section 300ff-133(d)(2) of this title, a medical facility shall provide—

(1) the name of the infectious disease involved; and

(2) the date on which the victim of the emergency involved was transported by emergency response employees to the medical facility involved.

**(b) Manner of notification**

If a notification under section 300ff-132 of this title or section 300ff-133(d)(2) of this title is mailed or otherwise indirectly made—

(1) the medical facility sending the notification shall, upon sending the notification, inform the designated officer to whom the noti-

fication is sent of the fact that the notification has been sent; and

(2) such designated officer shall, not later than 10 days after being informed by the medical facility that the notification has been sent, inform such medical facility whether the designated officer has received the notification.

(July 1, 1944, ch. 373, title XXVI, § 2695C, as added Pub. L. 111-87, § 13, Oct. 30, 2009, 123 Stat. 2901.)

### **§ 300ff-135. Notification of employee**

#### **(a) In general**

After receiving a notification for purposes of section 300ff-132 or 300ff-133(d)(2) of this title, a designated officer of emergency response employees shall, to the extent practicable, immediately notify each of such employees who—

- (1) responded to the emergency involved; and
- (2) as indicated by guidelines developed by the Secretary, may have been exposed to an infectious disease.

#### **(b) Certain contents of notification to employee**

A notification under this subsection to an emergency response employee shall inform the employee of—

- (1) the fact that the employee may have been exposed to an infectious disease and the name of the disease involved;
- (2) any action by the employee that, as indicated by guidelines developed by the Secretary, is medically appropriate; and
- (3) if medically appropriate under such criteria, the date of such emergency.

#### **(c) Responses other than notification of exposure**

After receiving a response under paragraph (3) or (4) of subsection (d) of section 300ff-133 of this title, or a response under subsection (g)(1) of such section, the designated officer for the employee shall, to the extent practicable, immediately inform the employee of the response.

(July 1, 1944, ch. 373, title XXVI, § 2695D, as added Pub. L. 111-87, § 13, Oct. 30, 2009, 123 Stat. 2901.)

### **§ 300ff-136. Selection of designated officers**

#### **(a) In general**

For the purposes of receiving notifications and responses and making requests under this part on behalf of emergency response employees, the public health officer of each State shall designate 1 official or officer of each employer of emergency response employees in the State.

#### **(b) Preference in making designations**

In making the designations required in subsection (a), a public health officer shall give preference to individuals who are trained in the provision of health care or in the control of infectious diseases.

(July 1, 1944, ch. 373, title XXVI, § 2695E, as added Pub. L. 111-87, § 13, Oct. 30, 2009, 123 Stat. 2901.)

### **§ 300ff-137. Limitation with respect to duties of medical facilities**

The duties established in this part for a medical facility—

- (1) shall apply only to medical information possessed by the facility during the period in

which the facility is treating the victim for conditions arising from the emergency, or during the 60-day period beginning on the date on which the victim is transported by emergency response employees to the facility, whichever period expires first; and

(2) shall not apply to any extent after the expiration of the 30-day period beginning on the expiration of the applicable period referred to in paragraph (1), except that such duties shall apply with respect to any request under section 300ff-133(c) of this title received by a medical facility before the expiration of such 30-day period.

(July 1, 1944, ch. 373, title XXVI, § 2695F, as added Pub. L. 111-87, § 13, Oct. 30, 2009, 123 Stat. 2901.)

### **§ 300ff-138. Miscellaneous provisions**

#### **(a) Liability of medical facilities, designated officers, public health officers, and governing entities**

This part may not be construed to authorize any cause of action for damages or any civil penalty against any medical facility, any designated officer, any other public health officer, or any governing entity of such facility or officer for failure to comply with the duties established in this part.

#### **(b) Testing**

This part may not, with respect to victims of emergencies, be construed to authorize or require a medical facility to test any such victim for any infectious disease.

#### **(c) Confidentiality**

This part may not be construed to authorize or require any medical facility, any designated officer of emergency response employees, or any such employee, to disclose identifying information with respect to a victim of an emergency or with respect to an emergency response employee.

#### **(d) Failure to provide emergency services**

This part may not be construed to authorize any emergency response employee to fail to respond, or to deny services, to any victim of an emergency.

#### **(e) Notification and reporting deadlines**

In any case in which the Secretary determines that, wholly or partially as a result of a public health emergency that has been determined pursuant to section 247d(a) of this title, individuals or public or private entities are unable to comply with the requirements of this part, the Secretary may, notwithstanding any other provision of law, temporarily suspend, in whole or in part, the requirements of this part as the circumstances reasonably require. Before or promptly after such a suspension, the Secretary shall notify the Congress of such action and publish in the Federal Register a notice of the suspension.

#### **(f) Continued application of State and local law**

Nothing in this part shall be construed to limit the application of State or local laws that require the provision of data to public health authorities.

(July 1, 1944, ch. 373, title XXVI, § 2695G, as added Pub. L. 111-87, § 13, Oct. 30, 2009, 123 Stat. 2902.)

### § 300ff–139. Injunctions regarding violation of prohibition

#### (a) In general

The Secretary may, in any court of competent jurisdiction, commence a civil action for the purpose of obtaining temporary or permanent injunctive relief with respect to any violation of this part.

#### (b) Facilitation of information on violations

The Secretary shall establish an administrative process for encouraging emergency response employees to provide information to the Secretary regarding violations of this part. As appropriate, the Secretary shall investigate alleged such<sup>1</sup> violations and seek appropriate injunctive relief.

(July 1, 1944, ch. 373, title XXVI, § 2695H, as added Pub. L. 111–87, § 13, Oct. 30, 2009, 123 Stat. 2902.)

### § 300ff–140. Applicability of part

This part shall not apply in a State if the chief executive officer of the State certifies to the Secretary that the law of the State is substantially consistent with this part.

(July 1, 1944, ch. 373, title XXVI, § 2695I, as added Pub. L. 111–87, § 13, Oct. 30, 2009, 123 Stat. 2903.)

## SUBCHAPTER XXV—REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE

### PRIOR PROVISIONS

A prior subchapter XXV (§ 300aaa et seq.), comprised of title XXVII of the Public Health Service Act, act July 1, 1944, ch. 373, §§ 2701 to 2714, was renumbered title II, part B, §§ 231 to 244, of the Public Health Service Act, and transferred to part B (§ 238 et seq.) of subchapter I of this chapter.

### AMENDMENTS

1996—Pub. L. 104–204, title VI, § 604(a)(1), Sept. 26, 1996, 110 Stat. 2938, substituted “REQUIREMENTS RELATING TO HEALTH INSURANCE COVERAGE” for “ASSURING PORTABILITY, AVAILABILITY, AND RENEWABILITY OF HEALTH INSURANCE COVERAGE” as subchapter heading.

### PART A—INDIVIDUAL AND GROUP MARKET REFORMS

### AMENDMENTS

2010—Pub. L. 111–148, title I, § 1001(1), Mar. 23, 2010, 124 Stat. 130, substituted “Individual and Group Market Reforms” for “Group Market Reforms” in part heading.

### SUBPART 1—GENERAL REFORM

### AMENDMENTS

2010—Pub. L. 111–148, title I, §§ 1201(1), 1255, formerly § 1253, title X, § 10103(e), (f)(1), Mar. 23, 2010, 124 Stat. 154, 162, 895, substituted “general reform” for “portability, access, and renewability requirements” in subpart heading, effective for plan years beginning on or after Jan. 1, 2014.

### § 300gg. Fair health insurance premiums

#### (a)<sup>1</sup> Prohibiting discriminatory premium rates

##### (1) In general

With respect to the premium rate charged by a health insurance issuer for health insur-

ance coverage offered in the individual or small group market—

(A) such rate shall vary with respect to the particular plan or coverage involved only by—

(i) whether such plan or coverage covers an individual or family;

(ii) rating area, as established in accordance with paragraph (2);

(iii) age, except that such rate shall not vary by more than 3 to 1 for adults (consistent with section 300gg–6(c) of this title); and

(iv) tobacco use, except that such rate shall not vary by more than 1.5 to 1; and

(B) such rate shall not vary with respect to the particular plan or coverage involved by any other factor not described in subparagraph (A).

#### (2) Rating area

##### (A) In general

Each State shall establish 1 or more rating areas within that State for purposes of applying the requirements of this subchapter.

##### (B) Secretarial review

The Secretary shall review the rating areas established by each State under subparagraph (A) to ensure the adequacy of such areas for purposes of carrying out the requirements of this subchapter. If the Secretary determines a State’s rating areas are not adequate, or that a State does not establish such areas, the Secretary may establish rating areas for that State.

#### (3) Permissible age bands

The Secretary, in consultation with the National Association of Insurance Commissioners, shall define the permissible age bands for rating purposes under paragraph (1)(A)(iii).

#### (4) Application of variations based on age or tobacco use

With respect to family coverage under a group health plan or health insurance coverage, the rating variations permitted under clauses (iii) and (iv) of paragraph (1)(A) shall be applied based on the portion of the premium that is attributable to each family member covered under the plan or coverage.

#### (5) Special rule for large group market

If a State permits health insurance issuers that offer coverage in the large group market in the State to offer such coverage through the State Exchange (as provided for under section 18032(f)(2)(B) of this title), the provisions of this subsection shall apply to all coverage offered in such market (other than self-insured group health plans offered in such market) in the State.

(July 1, 1944, ch. 373, title XXVII, § 2701, as added and amended Pub. L. 111–148, title I, § 1201(4), title X, § 10103(a), Mar. 23, 2010, 124 Stat. 155, 892.)

### ENACTMENT OF SECTION

*For delayed effective date of section, see Effective Date note below.*

### PRIOR PROVISIONS

A prior section 300gg, act July 1, 1944, ch. 373, title XXVII, § 2701, as added Pub. L. 104–191, title I, § 102(a),

<sup>1</sup> So in original.

<sup>1</sup> So in original. No subsec. (b) has been enacted.