

**42 USC 290bb-1: Residential treatment programs for pregnant and postpartum women**

Text contains those laws in effect on March 29, 2017

**From Title 42-THE PUBLIC HEALTH AND WELFARE**

CHAPTER 6A-PUBLIC HEALTH SERVICE

SUBCHAPTER III-A-SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

Part B-Centers and Programs

subpart 1-center for substance abuse treatment

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**§290bb–1. Residential treatment programs for pregnant and postpartum women****(a) In general**

The Director of the Center for Substance Abuse Treatment (referred to in this section as the "Director") shall provide awards of grants, including the grants under subsection (r), cooperative agreements or contracts to public and nonprofit private entities for the purpose of providing to pregnant and postpartum women treatment for substance use disorders through programs in which, during the course of receiving treatment-

- (1) the women reside in or receive outpatient treatment services from facilities provided by the programs;
- (2) the minor children of the women reside with the women in such facilities, if the women so request; and
- (3) the services described in subsection (d) are available to or on behalf of the women.

**(b) Availability of services for each participant**

A funding agreement for an award under subsection (a) for an applicant is that, in the program operated pursuant to such subsection-

- (1) treatment services and each supplemental service will be available through the applicant, either directly or through agreements with other public or nonprofit private entities; and
- (2) the services will be made available to each woman admitted to the program and her children.

**(c) Individualized plan of services**

A funding agreement for an award under subsection (a) for an applicant is that-

- (1) in providing authorized services for an eligible woman pursuant to such subsection, the applicant will, in consultation with the women, prepare an individualized plan for the provision of services for the woman and her children; and
- (2) treatment services under the plan will include-
  - (A) individual, group, and family counseling, as appropriate, regarding substance use disorders; and
  - (B) follow-up services to assist the woman in preventing a relapse into such a disorder.

**(d) Required supplemental services**

In the case of an eligible woman, the services referred to in subsection (a)(3) are as follows:

- (1) Prenatal and postpartum health care.
- (2) Referrals for necessary hospital services.
- (3) For the infants and children of the woman-
  - (A) pediatric health care, including treatment for any perinatal effects of a maternal substance use disorder and including screenings regarding the physical and mental development of the infants and children;
  - (B) counseling and other mental health services, in the case of children; and
  - (C) comprehensive social services.
- (4) Providing therapeutic, comprehensive child care for children during the periods in which the woman is engaged in therapy or in other necessary health and rehabilitative activities.
- (5) Training in parenting.
- (6) Counseling on the human immunodeficiency virus and on acquired immune deficiency syndrome.
- (7) Counseling on domestic violence and sexual abuse.
- (8) Counseling on obtaining employment, including the importance of graduating from a secondary school.
- (9) Reasonable efforts to preserve and support the family unit of the woman, including promoting the appropriate involvement of parents and others, and counseling the children of the woman.

(10) Planning for and counseling to assist reentry into society, both before and after discharge, including referrals to any public or nonprofit private entities in the community involved that provide services appropriate for the woman and the children of the woman.

(11) Case management services, including-

(A) assessing the extent to which authorized services are appropriate for the woman and any child of such woman;

(B) in the case of the services that are appropriate, ensuring that the services are provided in a coordinated manner;

(C) assistance in establishing eligibility for assistance under Federal, State, and local programs providing health services, mental health services, housing services, employment services, educational services, or social services; and

(D) family reunification with children in kinship or foster care arrangements, where safe and appropriate.

**(e) Minimum qualifications for receipt of award**

**(1) Certification by relevant State agency**

With respect to the principal agency of the State involved that administers programs relating to substance use disorders, the Director may make an award under subsection (a) to an applicant only if the agency has certified to the Director that-

(A) the applicant has the capacity to carry out a program described in subsection (a);

(B) the plans of the applicant for such a program are consistent with the policies of such agency regarding the treatment of substance use disorders; and

(C) the applicant, or any entity through which the applicant will provide authorized services, meets all applicable State licensure or certification requirements regarding the provision of the services involved.

**(2) Status as medicaid provider**

**(A) In general**

Subject to subparagraphs (B) and (C), the Director may make an award under subsection (a) only if, in the case of any authorized service that is available pursuant to the State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for the State involved-

(i) the applicant for the award will provide the service directly, and the applicant has entered into a participation agreement under the State plan and is qualified to receive payments under such plan; or

(ii) the applicant will enter into an agreement with a public or nonprofit private entity under which the entity will provide the service, and the entity has entered into such a participation agreement plan and is qualified to receive such payments.

**(B) Waiver of participation agreements**

**(i) In general**

In the case of an entity making an agreement pursuant to subparagraph (A)(ii) regarding the provision of services, the requirement established in such subparagraph regarding a participation agreement shall be waived by the Director if the entity does not, in providing health care services, impose a charge or accept reimbursement available from any third-party payor, including reimbursement under any insurance policy or under any Federal or State health benefits plan.

**(ii) Donations**

A determination by the Director of whether an entity referred to in clause (i) meets the criteria for a waiver under such clause shall be made without regard to whether the entity accepts voluntary donations regarding the provision of services to the public.

**(C) Nonapplication of certain requirements**

With respect to any authorized service that is available pursuant to the State plan described in subparagraph (A), the requirements established in such subparagraph shall not apply to the provision of any such service by an institution for mental diseases to an individual who has attained 21 years of age and who has not attained 65 years of age. For purposes of the preceding sentence, the term "institution for mental diseases" has the meaning given such term in section 1905(i) of the Social Security Act [42 U.S.C. 1396d(i)].

**(f) Requirement of matching funds**

**(1) In general**

With respect to the costs of the program to be carried out by an applicant pursuant to subsection (a), a funding agreement for an award under such subsection is that the applicant will make available (directly or through donations from public or private entities) non-Federal contributions toward such costs in an amount that-

(A) for the first fiscal year for which the applicant receives payments under an award under such subsection, is not less than \$1 for each \$9 of Federal funds provided in the award;

(B) for any second such fiscal year, is not less than \$1 for each \$9 of Federal funds provided in the award; and

(C) for any subsequent such fiscal year, is not less than \$1 for each \$3 of Federal funds provided in the award.

**(2) Determination of amount contributed**

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

**(g) Outreach**

A funding agreement for an award under subsection (a) for an applicant is that the applicant will provide outreach services in the community involved to identify women who have a substance use disorder and to encourage the women to undergo treatment for such disorder.

**(h) Accessibility of program; cultural context of services**

A funding agreement for an award under subsection (a) for an applicant is that-

- (1) the program operated pursuant to such subsection will be operated at a location that is accessible to low-income pregnant and postpartum women; and
- (2) authorized services will be provided in the language and the cultural context that is most appropriate.

**(i) Continuing education**

A funding agreement for an award under subsection (a) is that the applicant involved will provide for continuing education in treatment services for the individuals who will provide treatment in the program to be operated by the applicant pursuant to such subsection.

**(j) Imposition of charges**

A funding agreement for an award under subsection (a) for an applicant is that, if a charge is imposed for the provision of authorized services to or on behalf of an eligible woman, such charge-

- (1) will be made according to a schedule of charges that is made available to the public;
- (2) will be adjusted to reflect the income of the woman involved; and
- (3) will not be imposed on any such woman with an income of less than 185 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 9902(2) of this title.

**(k) Reports to Director**

A funding agreement for an award under subsection (a) is that the applicant involved will submit to the Director a report-

- (1) describing the utilization and costs of services provided under the award;
- (2) specifying the number of women served, the number of infants served, and the type and costs of services provided; and
- (3) providing such other information as the Director determines to be appropriate.

**(l) Requirement of application**

The Director may make an award under subsection (a) only if an application for the award is submitted to the Director containing such agreements, and the application is in such form, is made in such manner, and contains such other agreements and such assurances and information as the Director determines to be necessary to carry out this section.

**(m) Allocation of awards**

In making awards under subsection (a), the Director shall give priority to an applicant that agrees to use the award for a program serving an area that is a rural area, an area designated under section 254e of this title by the Secretary as a health professional shortage area, or an area determined by the Director to have a shortage of family-based substance use disorder treatment options.

**(n) Duration of award**

The period during which payments are made to an entity from an award under subsection (a) may not exceed 5 years. The provision of such payments shall be subject to annual approval by the Director of the payments and subject to the availability of appropriations for the fiscal year involved to make the payments. This subsection may not be construed to establish a limitation on the number of awards under such subsection that may be made to an entity.

**(o) Evaluations; dissemination of findings**

The Director shall, directly or through contract, provide for the conduct of evaluations of programs carried out pursuant to subsection (a). The Director shall disseminate to the States the findings made as a result of the evaluations.

**(p) Reports to Congress**

Not later than October 1, 1994, the Director shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing programs carried out pursuant to this section (other than subsection (r)). Every 2 years thereafter, the Director shall prepare a report describing such programs carried out during the preceding 2 years, and shall submit the report to the

Assistant Secretary for inclusion in the biennial report under section 290aa(m) of this title. Each report under this subsection shall include a summary of any evaluations conducted under subsection (m) during the period with respect to which the report is prepared.

**(q) Definitions**

For purposes of this section:

- (1) The term "authorized services" means treatment services and supplemental services.
- (2) The term "eligible woman" means a woman who has been admitted to a program operated pursuant to subsection (a).
- (3) The term "funding agreement", with respect to an award under subsection (a), means that the Director may make the award only if the applicant makes the agreement involved.
- (4) The term "treatment services" means treatment for a substance use disorder, including the counseling and services described in subsection (c)(2).
- (5) The term "supplemental services" means the services described in subsection (d).

**(r) Pilot program for State substance abuse agencies**

**(1) In general**

From amounts made available under subsection (s), the Director of the Center for Substance Abuse Treatment shall carry out a pilot program under which competitive grants are made by the Director to State substance abuse agencies-

- (A) to enhance flexibility in the use of funds designed to support family-based services for pregnant and postpartum women with a primary diagnosis of a substance use disorder, including **opioid** use disorders;
- (B) to help State substance abuse agencies address identified gaps in services furnished to such women along the continuum of care, including services provided to women in nonresidential-based settings; and
- (C) to promote a coordinated, effective, and efficient State system managed by State substance abuse agencies by encouraging new approaches and models of service delivery.

**(2) Requirements**

In carrying out the pilot program under this subsection, the Director shall-

- (A) require State substance abuse agencies to submit to the Director applications, in such form and manner and containing such information as specified by the Director, to be eligible to receive a grant under the program;
- (B) identify, based on such submitted applications, State substance abuse agencies that are eligible for such grants;
- (C) require services proposed to be furnished through such a grant to support family-based treatment and other services for pregnant and postpartum women with a primary diagnosis of a substance use disorder, including **opioid** use disorders;
- (D) not require that services furnished through such a grant be provided solely to women that reside in facilities;
- (E) not require that grant recipients under the program make available through use of the grant all the services described in subsection (d); and
- (F) consider not applying the requirements described in paragraphs (1) and (2) of subsection (f) to an applicant, depending on the circumstances of the applicant.

**(3) Required services**

**(A) In general**

The Director shall specify a minimum set of services required to be made available to eligible women through a grant awarded under the pilot program under this subsection. Such minimum set of services-

- (i) shall include the services requirements described in subsection (c) and be based on the recommendations submitted under subparagraph (B); and
- (ii) may be selected from among the services described in subsection (d) and include other services as appropriate.

**(B) Stakeholder input**

The Director shall convene and solicit recommendations from stakeholders, including State substance abuse agencies, health care providers, persons in recovery from substance abuse, and other appropriate individuals, for the minimum set of services described in subparagraph (A).

**(4) Duration**

The pilot program under this subsection shall not exceed 5 years.

**(5) Evaluation and report to Congress**

**(A) In general**

The Director of the Center for Behavioral Health Statistics and Quality shall evaluate the pilot program at the conclusion of the first grant cycle funded by the pilot program.

**(B) Report**

The Director of the Center for Behavioral Health Statistics and Quality, in coordination with the Director of the Center for Substance Abuse Treatment shall submit to the relevant committees of jurisdiction of the House of Representatives and the Senate a report on the evaluation under subparagraph (A). The report shall include, at a minimum-

- (i) outcomes information from the pilot program, including any resulting reductions in the use of alcohol and other drugs;
- (ii) engagement in treatment services;
- (iii) retention in the appropriate level and duration of services;
- (iv) increased access to the use of medications approved by the Food and Drug Administration for the treatment of substance use disorders in combination with counseling; and
- (v) other appropriate measures.

### **(C) Recommendation**

The report under subparagraph (B) shall include a recommendation by the Director of the Center for Substance Abuse Treatment as to whether the pilot program under this subsection should be extended.

### **(6) State substance abuse agencies defined**

For purposes of this subsection, the term "State substance abuse agency" means, with respect to a State, the agency in such State that manages the Substance Abuse Prevention and Treatment Block Grant under part B of subchapter XVII.

### **(s) Authorization of appropriations**

For the purpose of carrying out this section, there are authorized to be appropriated \$16,900,000 for each of fiscal years 2017 through 2021. Of the amounts made available for a year pursuant to the previous sentence to carry out this section, not more than 25 percent of such amounts shall be made available for such year to carry out subsection (r), other than paragraph (5) of such subsection. Notwithstanding the preceding sentence, no funds shall be made available to carry out subsection (r) for a fiscal year unless the amount made available to carry out this section for such fiscal year is more than the amount made available to carry out this section for fiscal year 2016.

(July 1, 1944, ch. 373, title V, §508, as added Pub. L. 102-321, title I, §108(a), July 10, 1992, 106 Stat. 336 ; amended Pub. L. 106-310, div. B, title XXXIII, §3301(a), Oct. 17, 2000, 114 Stat. 1207 ; Pub. L. 114-198, title V, §501, July 22, 2016, 130 Stat. 724 ; Pub. L. 114-255, div. B, title VI, §§6001(c)(2), 6006(b), Dec. 13, 2016, 130 Stat. 1203, 1212.)

## **REFERENCES IN TEXT**

The Social Security Act, referred to in subsec. (e)(2)(A), is act [Aug. 14, 1935, ch. 531](#), 49 Stat. 620 , as amended. Title XIX of the Act is classified generally to subchapter XIX (§1396 et seq.) of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

## **PRIOR PROVISIONS**

A prior section 290bb-1, act July 1, 1944, ch. 373, title V, §511, formerly Pub. L. 91-616, title V, §503, formerly §504, as added Pub. L. 94-371, §7, [July 26, 1976](#), 90 Stat. 1039 ; amended Pub. L. 95-622, [title I, §110\(d\), Nov. 9, 1978](#), 92 Stat. 3420 ; Pub. L. 96-180, §16, [Jan. 2, 1980](#), 93 Stat. 1305 ; renumbered §503 of Pub. L. 91-616 and amended Pub. L. 97-35, [title IX, §965\(b\), \(c\), Aug. 13, 1981](#), 95 Stat. 594 ; renumbered §511 of act July 1, 1944, and amended Apr. 26, 1983, Pub. L. 98-24, §2(b)(9), 97 Stat. 179 ; Oct. 27, 1986, Pub. L. 99-570, [title IV, §4008](#), 100 Stat. 3207-115 , which related to National Alcohol Research Centers and a mandatory grant for research of the effects of alcohol on the elderly, was renumbered section 464J of title IV of act July 1, 1944, by Pub. L. 102-321 and transferred to section 285n-2 of this title.

A prior section 508 of act July 1, 1944, which was classified to section 290aa-6 of this title, was renumbered section 515 of act July 1, 1944, by Pub. L. 102-321 and transferred to section 290bb-21 of this title.

## **AMENDMENTS**

**2016-Subsec. (a).** Pub. L. 114-198, §501(a)(1)(A), in introductory provisions, inserted "(referred to in this section as the 'Director')" after "Substance Abuse Treatment" and substituted "grants, including the grants under subsection (r), cooperative agreements" for "grants, cooperative agreement," and "for substance use disorders" for "for substance abuse".

**Subsec. (a)(1).** Pub. L. 114-198, §501(a)(1)(B), inserted "or receive outpatient treatment services from" after "reside in".

**Subsec. (b)(2).** Pub. L. 114-198, §501(a)(2), inserted "and her children" before period at end.

**Subsec. (c)(1).** Pub. L. 114-198, §501(a)(3)(A), substituted "of services for the woman and her children" for "to the woman of the services".

**Subsec. (c)(2)(A).** Pub. L. 114-198, §501(a)(3)(B)(i), substituted "substance use disorders" for "substance abuse".

- Subsec. (c)(2)(B). Pub. L. 114–198, §501(a)(3)(B)(ii), substituted "such a disorder" for "such abuse".
- Subsec. (d)(3)(A). Pub. L. 114–198, §501(a)(4)(A), substituted "a maternal substance use disorder" for "maternal substance abuse".
- Subsec. (d)(4). Pub. L. 114–198, §501(a)(4)(B), amended par. (4) generally. Prior to amendment, par. (4) read as follows: "Providing supervision of children during periods in which the woman is engaged in therapy or in other necessary health or rehabilitative activities."
- Subsec. (d)(9). Pub. L. 114–198, §501(a)(4)(D), substituted "unit" for "units".
- Pub. L. 114–198, §501(a)(4)(C), substituted "woman" for "women" in two places.
- Subsec. (d)(10). Pub. L. 114–198, §501(a)(4)(C), substituted "woman" for "women" in two places.
- Subsec. (d)(11)(A). Pub. L. 114–198, §501(a)(4)(E)(i), substituted "any child of such woman" for "their children".
- Pub. L. 114–198, §501(a)(4)(C), substituted "the woman" for "the women".
- Subsec. (d)(11)(D). Pub. L. 114–198, §501(a)(4)(E)(ii)–(iv), added subpar. (D).
- Subsec. (e)(1). Pub. L. 114–198, §501(a)(5)(A), substituted "substance use disorders" for "substance abuse" in introductory provisions and in subpar. (B).
- Subsec. (e)(2). Pub. L. 114–198, §501(a)(5)(B), inserted headings for subpars. (A) to (C) and for cls. (i) and (ii) of subpar. (B).
- Subsec. (g). Pub. L. 114–198, §501(a)(6), substituted "who have a substance use disorder" for "who are engaging in substance abuse" and "such disorder" for "such abuse".
- Subsec. (j). Pub. L. 114–198, §501(a)(7)(A), substituted "to or on" for "to on" in introductory provisions.
- Subsec. (j)(3). Pub. L. 114–198, §501(a)(7)(B), substituted "Office of" for "Office for".
- Subsec. (m). Pub. L. 114–198, §501(a)(8), amended subsec. (m) generally. Prior to amendment, text read as follows: "In making awards under subsection (a) of this section, the Director shall ensure that the awards are equitably allocated among the principal geographic regions of the United States, subject to the availability of qualified applicants for the awards."
- Subsec. (p). Pub. L. 114–255, §6006(b), substituted "section 290aa(m)" for "section 290aa(k)".
- Pub. L. 114–255, §6001(c)(2), substituted "Assistant Secretary" for "Administrator".
- Pub. L. 114–198, §501(b)(1), inserted "(other than subsection (r))" after "pursuant to this section".
- Subsec. (q)(3). Pub. L. 114–198, §501(a)(9)(A), substituted "funding agreement" for "funding agreement under subsection (a)".
- Subsec. (q)(4). Pub. L. 114–198, §501(a)(9)(B), substituted "a substance use disorder" for "substance abuse".
- Subsec. (r). Pub. L. 114–198, §501(c)(1)(B), added subsec. (r). Former subsec. (r) redesignated (s).
- Pub. L. 114–198, §501(b)(2), substituted "\$16,900,000 for each of fiscal years 2017 through 2021" for "such sums as may be necessary to fiscal years 2001 through 2003".
- Subsec. (s). Pub. L. 114–198, §501(c)(2), inserted at end "Of the amounts made available for a year pursuant to the previous sentence to carry out this section, not more than 25 percent of such amounts shall be made available for such year to carry out subsection (r), other than paragraph (5) of such subsection. Notwithstanding the preceding sentence, no funds shall be made available to carry out subsection (r) for a fiscal year unless the amount made available to carry out this section for such fiscal year is more than the amount made available to carry out this section for fiscal year 2016."
- Pub. L. 114–198, §501(c)(1)(A), redesignated subsec. (r) as (s).
- 2000-Subsec. (r).** Pub. L. 106–310 reenacted heading without change and amended text generally, substituting provisions authorizing appropriations for fiscal years 2001 to 2003 for provisions authorizing appropriations for fiscal years 1993 and 1994 and authorizing appropriations from the special forfeiture fund of the Director of the Office of National Drug Control Policy.

## CHANGE OF NAME

Committee on Labor and Human Resources of Senate changed to Committee on Health, Education, Labor, and Pensions of Senate by Senate Resolution No. 20, One Hundred Sixth Congress, Jan. 19, 1999.

Committee on Energy and Commerce of House of Representatives treated as referring to Committee on Commerce of House of Representatives by section 1(a) of Pub. L. 104–14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

## EFFECTIVE DATE

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

this title.

## **TRANSITIONAL AND SAVINGS PROVISIONS**

Pub. L. 102-321, title I, §108(b), July 10, 1992, 106 Stat. 341 , provided that:

"(1) SAVINGS PROVISION FOR COMPLETION OF CURRENT PROJECTS.-

"(A) Subject to paragraph (2), in the case of any project for which a grant under former section 509F [former 42 U.S.C. 290aa-13] was provided for fiscal year 1992, the Secretary of Health and Human Services may continue in effect the grant for fiscal year 1993 and subsequent fiscal years, subject to the duration of any such grant not exceeding the period determined by the Secretary in first approving the grant. Subject to approval by the Administrator, such grants may be administered by the Center for Substance Abuse Prevention.

"(B) Subparagraph (A) shall apply with respect to a project notwithstanding that the project is not eligible to receive a grant under current section 508 or 509 [42 U.S.C. 290bb-1, 290bb-2].

"(2) LIMITATION ON FUNDING FOR CERTAIN PROJECTS.-With respect to the amounts appropriated for any fiscal year under current section 508, any such amounts appropriated in excess of the amount appropriated for fiscal year 1992 under former section 509F shall be available only for grants under current section 508.

"(3) DEFINITIONS.-For purposes of this subsection:

"(A) The term 'former section 509F' means section 509F of the Public Health Service Act [former 42 U.S.C. 290aa-13], as in effect for fiscal year 1992.

"(B) The term 'current section 508' means section 508 of the Public Health Service Act [42 U.S.C. 290bb-1], as in effect for fiscal year 1993 and subsequent fiscal years.

"(C) The term 'current section 509' means section 509 of the Public Health Service Act [42 U.S.C. 290bb-2], as in effect for fiscal year 1993 and subsequent fiscal years."