

Substance Abuse Prevention and Treatment Block Grant (SABG)
Set-Aside for Pregnant Women and Women with Dependent Children for FY 1993 and FY 1994
and
Fiscal Expenditure Performance Requirement for FY 1995 and Subsequent Fiscal Years

Prior to federal fiscal year (FY) 1993, the States were required to expend not less than 10 percent of the amount allotted to a State under the Alcohol, Drug Abuse, and Mental Health Services (ADMS) Block Grant for alcohol and drug abuse programs and services designed for women (especially pregnant women and women with dependent children) and demonstration projects for the provision of residential treatment services to pregnant women. Under the statute governing these awards, the federal government deferred to the states' interpretation of this provision unless the interpretation was clearly erroneous. States which used the set-aside to provide services to women but did not provide services designed for pregnant women and/or women with dependent children were considered to have been in compliance with the statute.

In May 1991, the Government Accounting Office (GAO) published a report (GAO/HRD-91-80), ADMS Block Grant: Women's Set-Aside Does Not Assure Drug Treatment for Pregnant Women, which found that the women's set-aside did not assure that States would fund treatment specifically designed for pregnant women and women with young children. The report noted that "the set-aside encourages, but does not require, states to fund treatment specifically designed for these women" and that "what programs or services designed for women should include was not defined.

In July 1992, the ADAMHA Reorganization Act (P.L. 102-321) repealed the 10 percent set-aside for women and replaced it, in Section 1922(c)(1)(A) and (B) of Title XIX, Part B, Subpart II of the Public Health Service Act (See 42 300x-22(b)(1)(A)(B), Allocations for Women)¹ with a requirement that the states expend not less than 5 percent of the FY 1993 SABG to increase (relative to fiscal year 1992) the availability of treatment services designed for pregnant women and women with dependent children either by establishing new programs or expanding the capacity of existing programs. In FY 1994, states were required to expend not less than less than 5 percent of the SABG to so increase (relative to fiscal year 1993) the availability of services for such women. The requirement that states increases such services "relative to fiscal year 1992," "relative to fiscal year 1993," and "by establishing new programs or expanding the capacity of existing programs," implied the need to establish a fiscal expenditure base for women's services.

On March 31, 1993, the Department of Health and Human Services (HHS) published the Substance Abuse Prevention and Treatment Block Grant; Interim Final Rule (45 CFR § 96.120-96.137) implementing the Title XIX, Part B, Subpart II and Subpart III of the Public Health Services (PHS) Act.. The Interim Final Rule attempts to quantify those services which were available to pregnant women and women with dependent children in FY 1992 by requiring states to establish a fiscal expenditure base for FY 1993 which is equal to the states' FY 1992 ADMS Block Grant expenditures for pregnant women and women with dependent children as described in 45 CFR § 96.124(e), and to add at least 5 percent of the FY 1993 SABG to this fiscal expenditure base. The Interim Final Rule at 45 CFR § 96.124(e) requires that five core services be provided in programs designated by the State as set-aside programs which are designed for pregnant women and women with dependent children.

The women's set-aside, i.e., the requirement that States expend a percentage of their annual SABG allotment on services designed for pregnant women and women with dependent children, is applicable to FY 1993 and FY 1994 only. For FY 1995 and subsequent fiscal years, states are required to "expend for such services for such women not less than an amount equal to the amount expended by states in fiscal year 1994." Therefore, for FY 1995 and subsequent fiscal years, the women's set-aside became a performance requirement that provides states with the flexibility to expend a combination of Federal and non-Federal funds to support treatment services for pregnant women and women with dependent children. States are not required to establish additional new programs or expand existing treatment capacity above the capacity developed in FY 1994.

The conference committee report accompanying the ADAMHA Reorganization Act of 1992 also contains language

¹ The Children's Health Act of 2000 (P.L. 106-310) amended Title XIX, Part B, Subpart II of the Public Health Service Act. As a result, Section 1922(a) was repealed and Section 1922(b) and Section 1922(c) were renamed Section 1992(a) and Section 1922(b), respectively.

regarding the intent of the women's set-aside.

For additional information, please refer to the Title XIX, Part B, Subpart II of the PHS Act (42 USC § 300x-22(c)(1)(C)), Allocations for Women) and the Interim Final Rule (45 CFR § 96.122(e)(viii), Application Content and Procedures, and 45 CFR § 96.124(c)(d)(e), Certain Allocations).

Reference documents

1. Alcohol and Drug Abuse Amendments of 1983 (P.L. 98-24)
2. Alcohol, Drug Abuse, and Mental Health Amendments of 1984 (P.L. 98-509)-Included 5 percent set-aside for women's services
3. Anti-Drug Abuse Act of 1988 (P.L. 100-690)-Included 10 percent set-aside for women's services, Section 1916(c)(14) of Title XIX, Part B, Subpart I of the Public Health Service Act (See 42 USC 300x-4(c)(14))
4. ADMS Block Grant: Women's Set-Aside Does Not Assure Drug Treatment for Pregnant Women (GAO/HRD-91-80)
5. ADAMHA Reorganization Act of 1992 (P.L. 102-321), Section 1922(c) of Title XIX, Part B, Subpart II of the Public Health Service (PHS) Act (See 42 USC 300x-22(c), Allocations for Women)
6. March 31, 1993 notice published in the Federal Register (58 FR 17062) Substance Abuse Prevention and Treatment Block Grant; Interim Final Rule (See 45 C.F.R. Part 96.124(c), Certain Allocations)
7. Children's Health Act of 2000 (P.L. 106-310), Section 1922(b) Title XIX, Part B, Subpart II and Subpart III of the Public Health Service (PHS) Act (See 42 USC 300x-22(b), Allocations for Women)
8. Substance Abuse Prevention and Treatment Block Grant Fact Sheet
9. Web Block Grant Application System