



Public Law 93-222
93rd Congress, S. 14
December 29, 1973

An Act

87 STAT. 914

To amend the Public Health Service Act to provide assistance and encouragement for the establishment and expansion of health maintenance organizations, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Maintenance Organization Act of 1973.

SHORT TITLE AND TABLE OF CONTENTS

SECTION 1. This Act, with the following table of contents, may be cited as the "Health Maintenance Organization Act of 1973".

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HEALTH MAINTENANCE ORGANIZATIONS

SEC. 2. The Public Health Service Act is amended by adding after title XII the following new title:

Ante, p. 594.

"TITLE XIII—HEALTH MAINTENANCE ORGANIZATIONS

"REQUIREMENTS FOR HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1301. (a) For purposes of this title, the term 'health maintenance organization' means a legal entity which (1) provides basic and supplemental health services to its members in the manner prescribed by subsection (b), and (2) is organized and operated in the manner prescribed by subsection (c).

Definition.

Basic health
services.

"(b) A health maintenance organization shall provide, without limitations as to time or cost other than those prescribed by or under this title, basic and supplemental health services to its members in the following manner:

"(1) Each member is to be provided basic health services for a basic health services payment which (A) is to be paid on a periodic basis without regard to the dates health services (within the basic health services) are provided; (B) is fixed without regard to the frequency, extent, or kind of health service (within the basic health services) actually furnished; (C) is fixed under a community rating system; and (D) may be supplemented by additional nominal payments which may be required for the provision of specific services (within the basic health services), except that such payments may not be required where or in such a manner that they serve (as determined under regulations of the Secretary) as a barrier to the delivery of health services. Such additional nominal payments shall be fixed in accordance with the regulations of the Secretary.

"(2) For such payment or payments (hereinafter in this title referred to as 'supplemental health services payments') as the health maintenance organization may require in addition to the basic health services payment, the organization shall provide to each of its members each health service (A) which is included in supplemental health services (as defined in section 1302(2)), (B) for which the required health manpower are available in the area served by the organization, and (C) for the provision of which the member has contracted with the organization. Supplemental health services payments which are fixed on a prepayment basis shall be fixed under a community rating system.

"(3) The services of health professionals which are provided as basic health services shall be provided through health professionals who are members of the staff of the health maintenance organization or through a medical group (or groups) or individual practice association (or associations), except that this paragraph shall not apply in the case of (A) health professionals' services which the organization determines, in conformity with regulations of the Secretary, are unusual or infrequently used, or (B) any basic health service provided a member of the health maintenance organization other than by such a health professional because it was medically necessary that the service be provided to the member before he could have it provided by such a health professional. For purposes of this paragraph, the term 'health professionals' means physicians, dentists, nurses, podiatrists, optometrists, and such other individuals engaged in the delivery of health services as the Secretary may by regulation designate.

"(4) Basic health services (and supplemental health services in the case of the members who have contracted therefor) shall within the area served by the health maintenance organization be available and accessible to each of its members promptly as appropriate and in a manner which assures continuity, and when medically necessary be available and accessible twenty-four hours a day and seven days a week. A member of a health maintenance organization shall be reimbursed by the organization for his expenses in securing basic or supplemental health services other than through the organization if it was medically necessary that the services be provided before he could secure them through the organization.

"Health
professionals."

“(c) Each health maintenance organization shall—

“(1) have a fiscally sound operation and adequate provision against the risk of insolvency which is satisfactory to the Secretary;

“(2) assume full financial risk on a prospective basis for the provision of basic health services, except that a health maintenance organization may obtain insurance or make other arrangements (A) for the cost of providing to any member basic health services the aggregate value of which exceeds \$5,000 in any year, (B) for the cost of basic health services provided to its members other than through the organization because medical necessity required their provision before they could be secured through the organization, and (C) for not more than 90 per centum of the amount by which its costs for any of its fiscal years exceed 115 per centum of its income for such fiscal year;

“(3) enroll persons who are broadly representative of the various age, social, and income groups within the area it serves, except that in the case of a health maintenance organization which has a medically underserved population located (in whole or in part) in the area it serves, not more than 75 per centum of the members of that organization may be enrolled from the medically underserved population unless the area in which such population resides is also a rural area (as designated by the Secretary);

“(4) have an open enrollment period of not less than thirty days at least once during each consecutive twelve-month period during which enrollment period it accepts, up to its capacity, individuals in the order in which they apply for enrollment, except that if the organization demonstrates to the satisfaction of the Secretary that—

“(A) it has enrolled, or will be compelled to enroll, a disproportionate number of individuals who are likely to utilize its services more often than an actuarially determined average (as determined under regulations of the Secretary) and enrollment during an open enrollment period of an additional number of such individuals will jeopardize its economic viability, or

“(B) if it maintained an open enrollment period it would not be able to comply with the requirements of paragraph (3), the Secretary may waive compliance by the organization with the open enrollment requirement of this paragraph for not more than three consecutive twelve-month periods and may provide additional waivers to that organization if it makes the demonstration required by subparagraph (A) or (B);

“(5) not expel or refuse to re-enroll any member because of his health status or his requirements for health services;

“(6) be organized in such a manner that assures that (A) at least one-third of the membership of the policymaking body of the health maintenance organization will be members of the organization, and (B) there will be equitable representation on such body of members from medically underserved populations served by the organization;

“(7) be organized in such a manner that provides meaningful procedures for hearing and resolving grievances between the health maintenance organization (including the medical group or groups and other health delivery entities providing health services for the organization) and the members of the organization;

“(8) have organizational arrangements, established in accordance with regulations of the Secretary, for an ongoing quality assurance program for its health services which program (A) stresses health outcomes, and (B) provides review by physicians

and other health professionals of the process followed in the provision of health services;

“(9) provide medical social services for its members and encourage and actively provide for its members health education services, education in the appropriate use of health services, and education in the contribution each member can make to the maintenance of his own health;

“(10) provide, or make arrangements for, continuing education for its health professional staff; and

“(11) provide, in accordance with regulations of the Secretary (including safeguards concerning the confidentiality of the doctor-patient relationship), an effective procedure for developing, compiling, evaluating, and reporting to the Secretary, statistics and other information (which the Secretary shall publish and disseminate on an annual basis and which the health maintenance organization shall disclose, in a manner acceptable to the Secretary, to its members and the general public) relating to (A) the cost of its operations, (B) the patterns of utilization of its services, (C) the availability, accessibility, and acceptability of its services, (D) to the extent practical, developments in the health status of its members, and (E) such other matters as the Secretary may require.

“DEFINITIONS

“SEC. 1302. For purposes of this title:

“(1) The term ‘basic health services’ means—

“(A) physician services (including consultant and referral services by a physician);

“(B) inpatient and outpatient hospital services;

“(C) medically necessary emergency health services;

“(D) short-term (not to exceed twenty visits), outpatient evaluative and crisis intervention mental health services;

“(E) medical treatment and referral services (including referral services to appropriate ancillary services) for the abuse of or addiction to alcohol and drugs;

“(F) diagnostic laboratory and diagnostic and therapeutic radiologic services;

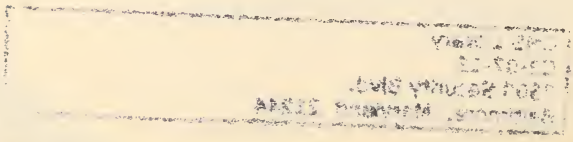
“(G) home health services; and

“(H) preventive health services (including voluntary family planning services, infertility services, preventive dental care for children, and children’s eye examinations conducted to determine the need for vision correction).

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through a dentist, optometrist, or podiatrist (as the case may be) licensed to provide such service. For purposes of this paragraph, the term ‘home health services’ means health services provided at a member’s home by health care personnel, as prescribed or directed by the responsible physician or other authority designated by the health maintenance organization. A health maintenance organization is authorized, in connection with the prescription of drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such service, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

“(2) The term ‘supplemental health services’ means—

“(A) services of facilities for intermediate and long-term care;



“(B) vision care not included as a basic health service under paragraph (1)(A) or (1)(H);

“(C) dental services not included as a basic health service under paragraph (1)(A) or (1)(H);

“(D) mental health services not included as a basic health service under paragraph (1)(D);

“(E) long-term physical medicine and rehabilitative services (including physical therapy); and

“(F) the provision of prescription drugs prescribed in the course of the provision by the health maintenance organization of a basic health service or a service described in the preceding subparagraphs of this paragraph.

If a service of a physician described in the preceding sentence may also be provided under applicable State law by a dentist, optometrist, or podiatrist, a health maintenance organization may provide such service through an optometrist, dentist, or podiatrist (as the case may be) licensed to provide such service. A health maintenance organization is authorized, in connection with the prescription or provision of prescription drugs, to maintain, review, and evaluate (in accordance with regulations of the Secretary) a drug use profile of its members receiving such services, evaluate patterns of drug utilization to assure optimum drug therapy, and provide for instruction of its members and of health professionals in the use of prescription and non-prescription drugs.

“(3) The term ‘member’ when used in connection with a health maintenance organization means an individual who has entered into a contractual arrangement, or on whose behalf a contractual arrangement has been entered into, with the organization under which the organization assumes the responsibility for the provision to such individual of basic health services and of such supplemental health services as may be contracted for.

“(4) The term ‘medical group’ means a partnership, association, or other group—

“(A) which is composed of health professionals licensed to practice medicine or osteopathy and of such other licensed health professionals (including dentists, optometrists, and podiatrists) as are necessary for the provision of health services for which the group is responsible;

“(B) a majority of the members of which are licensed to practice medicine or osteopathy; and

“(C) the members of which (i) as their principal professional activity and as a group responsibility engage in the coordinated practice of their profession for a health maintenance organization; (ii) pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary or drawing account or other plan; (iii) share medical and other records and substantial portions of major equipment and of professional, technical, and administrative staff; (iv) utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the members of the group; and (v) arrange for and encourage continuing education in the field of clinical medicine and related areas for the members of the group.

“(5) The term ‘individual practice association’ means a partnership, corporation, association, or other legal entity which has entered into a services arrangement (or arrangements) with persons who are licensed to practice medicine, osteopathy, dentistry, podiatry, optome-

try, or other health profession in a State and a majority of whom are licensed to practice medicine or osteopathy. Such an arrangement shall provide—

“(A) that such persons shall provide their professional services in accordance with a compensation arrangement established by the entity; and

“(B) to the extent feasible (i) that such persons shall utilize such additional professional personnel, allied health professions personnel, and other health personnel (as specified in regulations of the Secretary) as are available and appropriate for the effective and efficient delivery of the services of the persons who are parties to the arrangement, (ii) for the sharing by such persons of medical and other records, equipment, and professional, technical, and administrative staff, and (iii) for the arrangement and encouragement of the continuing education of such persons in the field of clinical medicine and related areas.

“(6) The term ‘section 314(a) State health planning agency’ means the agency of a State which administers or supervises the administration of a State’s health planning functions under a State plan approved under section 314(a) (hereinafter in this title referred to as a ‘section 314(a) plan’); and the term ‘section 314(b) areawide health planning agency’ means a public or nonprofit private agency or organization which has developed a comprehensive regional, metropolitan, or other local area plan or plans referred to in section 314(b) (hereinafter in this title referred to as a ‘section 314(b) plan’).

“(7) The term ‘medically underserved population’ means the population of an urban or rural area designated by the Secretary as an area with a shortage of personal health services or a population group designated by the Secretary as having a shortage of such services. Such a designation may be made by the Secretary only after consideration of the comments (if any) of (A) each section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides, and (B) each section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) such urban or rural area or the area in which such population group resides.

“(8) The term ‘community rating system’ means a system of fixing rates of payments for health services. Under such a system rates of payments may be determined on a per-person or per-family basis and may vary with the number of persons in a family, but except as otherwise authorized in the next sentence, such rates must be equivalent for all individuals and for all families of similar composition. The following differentials in rates of payments may be established under such system:

“(A) Nominal differentials in such rates may be established to reflect the different administrative costs of collecting payments from the following categories of members:

“(i) Individual members (including their families).

“(ii) Small groups of members (as determined under regulations of the Secretary).

“(iii) Large groups of members (as determined under regulations of the Secretary).

“(B) Differentials in such rates may be established for members enrolled in a health maintenance organization pursuant to a contract with a governmental authority under section 1079 or 1086 of title 10, United States Code, or under any other governmental program (other than the health benefits program authorized by chapter 89 of title 5, United States Code) or any health

80 Stat. 1181.
42 USC 246.

80 Stat. 863.

5 USC 8901.

benefits program for employees of States, political subdivisions of States, and other public entities.

“(9) The term ‘non-metropolitan area’ means an area no part of which is within an area designated as a standard metropolitan statistical area by the Office of Management and Budget and which does not contain a city whose population exceeds fifty thousand individuals.

“GRANTS AND CONTRACTS FOR FEASIBILITY SURVEYS

“SEC. 1303. (a) The Secretary may make grants to and enter into contracts with public or nonprofit private entities for projects for surveys or other activities to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations.

“(b) An application for a grant or contract under this section shall contain—

“(1) assurances satisfactory to the Secretary that, in conducting surveys or other activities with assistance under a grant or contract under this section, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area for which the survey or other activity will be conducted, and (B) notify the medical society serving such area of such surveys or other activities; and

80 Stat. 1181;
84 Stat. 1304.
42 USC 246.

“(2) such other information as the Secretary may by regulation prescribe.

“(c) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application or proposal is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

“(d) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants and contracts made under this section:

Limitations.

“(A) If a project has been assisted with a grant or contract under subsection (a), the Secretary may not make any other grant or enter into any other contract under this section for such project.

“(B) Any project for which a grant is made or contract entered into must be completed within twelve months from the date the grant is made or contract entered into.

“(2) The Secretary may make not more than one additional grant or enter into not more than one additional contract for a project for which a grant has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

“(e) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) shall be determined by the Secretary, except that (1) the amount to be paid by the United States under any single grant or contract for any project may not exceed \$50,000, and (2) the aggregate of the amounts to be paid by the United States for any project under such subsection under grants or contracts, or both, may not exceed the greater of (A) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (B) in the case of a project for a health maintenance organization which will serve a medically underserved

population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants and contracts for such project should be determined by such greater percentage.

“(f) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

“(g) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

“(h) Payments under grants and contracts under this section shall be made from appropriations made under section 1309(a).

Post, p.930.

“(i) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (1) to determine the feasibility of developing and operating or expanding the operation of health maintenance organizations which the Secretary determines may reasonably be expected to have after their development or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (2) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under this section in the succeeding fiscal year for projects other than those described in clause (1) of such sentence.

“GRANTS, CONTRACTS, AND LOAN GUARANTEES FOR PLANNING AND FOR INITIAL DEVELOPMENT COSTS

“Sec. 1304. (a) The Secretary may—

“(1) make grants to and enter into contracts with public or nonprofit private entities for planning projects for the establishment of health maintenance organizations or for the significant expansion of the membership of, or areas served by, health maintenance organizations; and

“(2) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to private entities (other than nonprofit private entities) for planning projects for the establishment or expansion of health maintenance organizations to serve medically underserved populations.

Planning projects assisted under this subsection shall include development of plans for the marketing of the services of the health maintenance organization.

“(b)(1) The Secretary may—

“(A) make grants to and enter into contracts with public or nonprofit private entities for projects for the initial development of health maintenance organizations; and

“(B) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private entity (other than a nonprofit private entity) for a project for the initial development of a health maintenance organization which will serve a medically underserved population.

“Initial development.”

“(2) For purposes of this section, the term ‘initial development’ when used to describe a project for which assistance is authorized by this subsection includes significant expansion of the membership of, or the area served by, a health maintenance organization. Funds under

grants and contracts under this subsection and under loans guaranteed under this subsection may only be utilized for such purposes as the Secretary may prescribe in regulations. Such purposes may include (A) the implementation of an enrollment campaign for such an organization, (B) the detailed design of and arrangements for the health services to be provided by such an organization, (C) the development of administrative and internal organizational arrangements, including fiscal control and fund accounting procedures, and the development of a capital financing program, (D) the recruitment of personnel for such an organization and the conduct of training activities for such personnel, and (E) the payment of architects' and engineers' fees.

“(3) A grant or contract under this subsection may only be made or entered into for initial development costs in the one-year period beginning on the first day of the first month in which such grant or contract is made or entered into. The number of grants made for any initial development project under this subsection when added to the number of contracts entered into for such project under this subsection may not exceed three. A loan guarantee under this subsection may only be made for a loan (or loans) for such costs incurred in a period not to exceed three years.

“(c) (1) An application for a grant, contract, or loan guarantee under subsection (a) for a planning project shall contain assurances satisfactory to the Secretary that in carrying out the planning project for which the grant, contract, or loan guarantee is sought, the applicant will (A) cooperate with the section 314(b) areawide health planning agency (if any) whose section 314(b) plan covers (in whole or in part) the area proposed to be served by the health maintenance organization for which the planning project will be conducted, and (B) notify the medical society serving such area of the planning project.

80 Stat. 1181;
84 Stat. 1304.
42 USC 246.

“(2) If the Secretary makes a grant or loan guarantee or enters into a contract under subsection (a) for a planning project for a health maintenance organization, he may, within the period in which the planning project must be completed, make a grant or loan guarantee or enter into a contract under subsection (b) for the initial development of that health maintenance organization; but no grant or loan guarantee may be made or contract entered into under subsection (b) for initial development of a health maintenance organization unless the Secretary determines that (A) sufficient planning for its establishment or expansion (as the case may be) has been conducted by the applicant for the grant, contract, or loan guarantee, and (B) the feasibility of establishing and operating, or of expanding, the health maintenance organization has been established by the applicant.

“(d) In considering applications for grants and contracts under this section, the Secretary shall give priority to an application which contains or is supported by assurances satisfactory to the Secretary that at the time the health maintenance organization for which such application is submitted first becomes operational not less than 30 per centum of its members will be members of a medically underserved population.

“(e) (1) Except as provided in paragraph (2), the following limitations apply with respect to grants, loan guarantees, and contracts made under subsection (a) of this section:

Limitations.

“(A) If a planning project has been assisted with grant, loan guarantee, or contract under subsection (a), the Secretary may not make any other planning grant or loan guarantee or enter into any other planning contract for such project under this section.

“(B) Any project for which a grant or loan guarantee is made or contract entered into must be completed within twelve months

from the date the grant or loan guarantee is made or contract entered into.

“(2) The Secretary may not make more than one additional grant or loan guarantee or enter into not more than one additional contract for a planning project for which a grant or loan guarantee has previously been made or a contract previously entered into, and he may permit additional time (up to twelve months) for completion of the project if he determines that the additional grant, loan guarantee, or contract (as the case may be), or additional time, or both, is needed to adequately complete the project.

“(f) (1) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (a) for a planning project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for a planning project which may be guaranteed under such subsection, shall be determined by the Secretary, except that (A) the amount to be paid by the United States under any single grant or contract, and the amount of principal of any single loan guaranteed under such subsection, may not exceed \$125,000, and (B) the aggregate of the amounts to be paid for any project by the United States under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

“(2) The amount to be paid by the United States under a grant made, or contract entered into, under subsection (b) for an initial development project, and (except as provided in paragraph (3) of this subsection) the amount of principal of a loan for an initial development project which may be guaranteed under such subsection, shall be determined by the Secretary; except that the amounts to be paid by the United States for any initial development project under grants or contracts, or both, under such subsection, and the aggregate amount of principal of loans guaranteed under such subsection for any project, may not exceed the lesser of—

“(A) \$1,000,000, or

“(B) an amount equal to the greater of (i) 90 per centum of the cost of such project (as determined under regulations of the Secretary), or (ii) in the case of a project for a health maintenance organization which will serve a medically underserved population, such greater percentage (up to 100 per centum) of such cost as the Secretary may prescribe if he determines that the ceiling on the grants, contracts, and loan guarantees (or any combination thereof) for such project should be determined by such greater percentage.

“(3) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this section may not exceed such limitations as may be specified in appropriation Acts.

“(g) Payments under grants under this section may be made in advance or by way of reimbursement and at such intervals and on such conditions as the Secretary finds necessary.

“(h) Contracts may be entered into under this section without regard to sections 3648 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(i) Payments under grants and contracts under this section shall be made from appropriations under section 1309(a). Post, p.930.

"(j) Loan guarantees under subsection (a) (2) for planning projects may be made through the fiscal year ending June 30, 1976; and loan guarantees under subsection (b) (1) (B) for initial development projects may be made through the fiscal year ending June 30, 1977.

"(k) (1) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (a) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) to plan the establishment or expansion of health maintenance organizations which the Secretary determines may reasonably be expected to have after their establishment or expansion not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or June 30, 1975, for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (a) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

"(2) Of the sums appropriated for any fiscal year under section 1309(a) for grants and contracts under subsection (b) of this section, not less than 20 per centum shall be set aside and obligated in such fiscal year for projects (A) for the initial development of health maintenance organizations which the Secretary determines may reasonably be expected to have after their initial development not less than 66 per centum of their membership drawn from residents of non-metropolitan areas, and (B) the applications for which meet the requirements of this title for approval. Sums set aside in the fiscal year ending June 30, 1974, or in either of the next two fiscal years for projects described in the preceding sentence but not obligated in such fiscal year for grants and contracts under subsection (b) of this section because of a lack of applicants for projects meeting the requirements of such sentence shall remain available for obligation under such subsection in the succeeding fiscal year for projects other than those described in clause (A) of such sentence.

"LOANS AND LOAN GUARANTEES FOR INITIAL OPERATION COSTS

"SEC. 1305. (a) The Secretary may—

"(1) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs in the period of the first thirty-six months of their operation exceed their revenues in that period;

"(2) make loans to public or nonprofit private health maintenance organizations to assist them in meeting the amount by which their operating costs, which the Secretary determines are attributable to significant expansion in their membership or area served and which are incurred in the period of the first thirty-six months of their operation after such expansion, exceed their revenues in that period which the Secretary determines are attributable to such expansion; and

"(3) guarantee to non-Federal lenders payment of the principal of and the interest on loans made to any private health maintenance organization (other than a private nonprofit health maintenance organization) for the amounts referred to in paragraph (1) or (2), but only if such health maintenance organization will serve a medically underserved population.

Non-Federal
lenders,
guaranteed
payment,
condition.

No loan or loan guarantee may be made under this subsection for the operating costs of a health maintenance organization unless the Secretary determines that the organization has made all reasonable attempts to meet such costs.

Limitations.

“(b) (1) Except as provided in paragraph (2), the principal amount of any loan made or guaranteed under subsection (a) in any fiscal year for a health maintenance organization may not exceed \$1,000,000 and the aggregate amount of principal of loans made or guaranteed, or both, under this section for a health maintenance organization may not exceed \$2,500,000.

“(2) The cumulative total of the principal of the loans outstanding at any time which have been directly made, or with respect to which guarantees have been issued, under subsection (a) may not exceed such limitations as may be specified in appropriation Acts.

Post, p. 930.

“(c) Loans under this section shall be made from the fund established under section 1308(e).

“(d) A loan or loan guarantee may be made under this section through the fiscal year ending June 30, 1978.

“(e) Of the sums used for loans under this section in any fiscal year from the loan fund established under section 1308(e), not less than 20 per centum shall be used for loans for projects (1) for the initial operation of health maintenance organizations which the Secretary determines have not less than 66 per centum of their membership drawn from residents of nonmetropolitan areas, and (2) the applications for which meet the requirements of this title for approval.

“APPLICATION REQUIREMENTS

“SEC. 1306. (a) No grant, contract, loan, or loan guarantee may be made under this title unless an application therefor has been submitted to, and approved by, the Secretary.

“(b) The Secretary may not approve an application for a grant, contract, loan, or loan guarantee under this title unless—

Ante, pp. 920,
921.

“(1) in the case of an application for assistance under section 1303 or 1304, such application meets the application requirements of such section and in the case of an application for a loan or loan guarantee, such application meets the requirements of section 1308;

“(2) he determines that the applicant making the application would not be able to complete the project or undertaking for which the application is submitted without the assistance applied for;

“(3) the application contains satisfactory specification of the existing or anticipated (A) population group or groups to be served by the proposed or existing health maintenance organization described in the application, (B) membership of such organization, (C) methods, terms, and periods of the enrollment of members of such organization, (D) estimated costs per member of the health and educational services to be provided by such organization and the nature of such costs, (E) sources of professional services for such organization, and organizational arrangements of such organization for providing health and educational services, (F) organizational arrangements of such organization for an ongoing quality assurance program in conformity with the requirements of section 1301(c), (G) sources of prepayment and other forms of payment for the services to be provided by such organization, (H) facilities, and additional capital investments and sources of financing therefor, available to such organization to provide the level and scope of services proposed, (I) administrative, managerial, and financial arrangements and capabilities

Ante, p. 914.

of such organization, (J) role for members in the planning and policymaking for such organization, (K) grievance procedures for members of such organization, and (L) evaluations of the support for and acceptance of such organization by the population to be served, the sources of operating support, and the professional groups to be involved or affected thereby;

“(4) contains or is supported by assurances satisfactory to the Secretary that the applicant making the application will, in accordance with such criteria as the Secretary shall by regulation prescribe, enroll, and maintain an enrollment of the maximum number of members that its available and potential resources (as determined under regulations of the Secretary) will enable it to effectively serve;

“(5) the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary under subsection (c) of this section, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application or if under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the required approval has been obtained;

80 Stat. 1181;
84 Stat. 1304.
42 USC 246.

“(6) in the case of an application made for a project which previously received a grant, contract, loan, or loan guarantee under this title, such application contains or is supported by assurances satisfactory to the Secretary that the applicant making the application has the financial capability to adequately carry out the purposes of such project and has developed and operated such project in accordance with the requirements of this title and with the plans contained in previous applications for such assistance; and

“(7) the application is submitted in such form and manner, and contains such additional information, as the Secretary shall prescribe in regulations.

An organization making multiple applications for more than one grant, contract, loan, or loan guarantee under this title, simultaneously or over the course of time, shall not be required to submit duplicate or redundant information but shall be required to update the specifications (required by paragraph (3)) respecting the existing or proposed health maintenance organization in such manner and with such frequency as the Secretary may by regulation prescribe.

Multiple applications.

“(c) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for grants, contracts, loans, and loan guarantees under this title.

“ADMINISTRATION OF ASSISTANCE PROGRAMS

“SEC. 1307. (a) (1) Each recipient of a grant, contract, loan, or loan guarantee under this title shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of the grant, contract, or

Record-keeping.

loan (directly made or guaranteed), the total cost of the undertaking in connection with which such assistance was given or used, the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit.

“(2) The Secretary, or any of his duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipients of a grant, contract, loan, or loan guarantee under this title which relate to such assistance.

“(b) Upon expiration of the period for which a grant, contract, loan, or loan guarantee was provided an entity under this title, such entity shall make a full and complete report to the Secretary in such manner as he may by regulation prescribe. Each such report shall contain, among such other matters as the Secretary may by regulation require, descriptions of plans, developments, and operations relating to the matters referred to in section 1306 (b) (3).

“(c) If in any fiscal year the funds appropriated under section 1309 are insufficient to fund all applications approved under this title for that fiscal year, the Secretary shall, after applying the applicable priorities under sections 1303 and 1304, give priority to the funding of applications for projects which the Secretary determines are the most likely to be economically viable.

“(d) An entity which provides health services to a defined population on a prepaid basis and which has members who are entitled to insurance benefits under title XVIII of the Social Security Act or to medical assistance under a State plan approved under title XIX of such Act may be considered as a health maintenance organization for purposes of receiving assistance under this title if—

“(1) with respect to its members who are entitled to such insurance benefits or to such medical assistance it (A) provides health services in accordance with section 1301 (b), except that (i) it does not furnish to those members the health services (within the basic health services) for which it may not be compensated under such title XVIII or such State plan, and (ii) it does not fix the basic or supplemental health services payment for such members under a community rating system, and (B) is organized and operated in the manner prescribed by section 1301 (c), except that it does not assume full financial risk on a prospective basis for the provision to such members of basic or supplemental health services with respect to which it is not required under such title XVIII or such State plan to assume such financial risk; and

“(2) with respect to its other members it provides health services in accordance with section 1301 (b) and is organized and operated in the manner prescribed by section 1301 (c).

“(e) In any fiscal year no loan guarantee may be made under this title if the making of such guarantee would cause the cumulative total of the principal of the loans guaranteed under this title in such fiscal year to exceed the amount of grant and contract funds obligated under this title in such fiscal year; except that this subsection shall not apply if the amount of grant and contract funds obligated under this title in such fiscal year equals the sums appropriated under section 1309 for grants and contracts for such fiscal year.

“GENERAL PROVISIONS RELATING TO LOAN GUARANTEES AND LOANS

“SEC. 1308. (a) (1) The Secretary may not approve an application for a loan guarantee under this title unless he determines that (A) the terms, conditions, security (if any), and schedule and amount of repayments with respect to the loan are sufficient to protect the finan-

Report to
Secretary of
H.E.W.

Ante, p. 925.

Post, p. 930.

79 Stat. 291;
86 Stat. 1370.
42 USC 1395.
42 USC 1396.

cial interests of the United States and are otherwise reasonable, including a determination that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Secretary determines to be reasonable, taking into account the range of interest rates prevailing in the private market for similar loans and the risks assumed by the United States, and (B) the loan would not be available on reasonable terms and conditions without the guarantee under this title.

“(2) (A) The United States shall be entitled to recover from the applicant for a loan guarantee under this title the amount of any payment made pursuant to such guarantee, unless the Secretary for good cause waives such right of recovery; and, upon making any such payment, the United States shall be subrogated to all of the rights of the recipient of the payments with respect to which the guarantee was made.

“(B) To the extent permitted by subparagraph (C), any terms and conditions applicable to a loan guarantee under this title (including terms and conditions imposed under subparagraph (D)) may be modified by the Secretary to the extent he determines it to be consistent with the financial interest of the United States.

“(C) Any loan guarantee made by the Secretary under this title shall be incontestable (i) in the hands of an applicant on whose behalf such guarantee is made unless the applicant engaged in fraud or misrepresentation in securing such guarantee, and (ii) as to any person (or his successor in interest) who makes or contracts to make a loan to such applicant in reliance thereon unless such person (or his successor in interest) engaged in fraud or misrepresentation in making or contracting to make such loan.

“(D) Guarantees of loans under this title shall be subject to such further terms and conditions as the Secretary determines to be necessary to assure that the purposes of this title will be achieved.

“(b) (1) The Secretary may not approve an application for a loan under this title unless—

Application requirements.

“(A) the Secretary is reasonably satisfied that the applicant therefor will be able to make payments of principal and interest thereon when due, and

“(B) the applicant provides the Secretary with reasonable assurances that there will be available to it such additional funds as may be necessary to complete the project or undertaking with respect to which such loan is requested.

“(2) Any loan made under this title shall (A) have such security, (B) have such maturity date, (C) be repayable in such installments, (D) bear interest at a rate comparable to the current rate of interest prevailing, on the date the loan is made, with respect to loans guaranteed under this title, and (E) be subject to such other terms and conditions (including provisions for recovery in case of default), as the Secretary determines to be necessary to carry out the purposes of this title while adequately protecting the financial interests of the United States.

“(3) The Secretary may, for good cause but with due regard to the financial interests of the United States, waive any right of recovery which he has by reason of the failure of a borrower to make payments of principal of and interest on a loan made under this title, except that if such loan is sold and guaranteed, any such waiver shall have no effect upon the Secretary's guarantee of timely payment of principal and interest.

Right of recovery, waiver.

“(c) (1) The Secretary may from time to time, but with due regard to the financial interests of the United States, sell loans made by him under this title.

Sale of loans.

"(2) The Secretary may agree, prior to his sale of any such loan, to guarantee to the purchaser (and any successor in interest of the purchaser) compliance by the borrower with the terms and conditions of such loan. Any such agreement shall contain such terms and conditions as the Secretary considers necessary to protect the financial interests of the United States or as otherwise appropriate. Any such agreement may (A) provide that the Secretary shall act as agent of any such purchaser for the purpose of collecting from the borrower to which such loan was made and paying over to such purchaser, any payments of principal and interest payable by such organization under such loan; and (B) provide for the repurchase by the Secretary of any such loan on such terms and conditions as may be specified in the agreement. The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any guarantee under this paragraph.

"(3) After any loan under this title to a public health maintenance organization has been sold and guaranteed under this subsection, interest paid on such loan which is received by the purchaser thereof (or his successor in interest) shall be included in the gross income of the purchaser of the loan (or his successor in interest) for the purpose of chapter 1 of the Internal Revenue Code of 1954.

"(4) Amounts received by the Secretary as proceeds from the sale of loans under this subsection shall be deposited in the loan fund established under subsection (e).

"(d) (1) There is established in the Treasury a loan guarantee fund (hereinafter in this subsection referred to as the 'fund') which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to discharge his responsibilities under loan guarantees issued by him under this title. There are authorized to be appropriated from time to time such amounts as may be necessary to provide the sums required for the fund. To the extent authorized in appropriation Acts, there shall also be deposited in the fund amounts received by the Secretary in connection with loan guarantees under this title and other property or assets derived by him from his operations respecting such loan guarantees, including any money derived from the sale of assets.

"(2) If at any time the sums in the funds are insufficient to enable the Secretary to discharge his responsibilities under guarantees issued by him under this title, he is authorized to issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary with the approval of the Secretary of the Treasury. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes and other obligations issued under this paragraph and for that purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which the securities may be issued under that Act are extended to include any purchase of such notes and obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States. Sums borrowed under this paragraph shall be deposited in the fund

68A Stat. 3.
26 USC 1
et seq.

Loan guarantee
fund.
Establishment.

40 Stat. 288.
31 USC 774.

and redemption of such notes and obligations shall be made by the Secretary from the fund.

“(e) There is established in the Treasury a loan fund (hereinafter in this subsection referred to as the ‘fund’) which shall be available to the Secretary without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Acts, to enable him to make loans under this title. There shall also be deposited in the fund amounts received by the Secretary as interest payments and repayment of principal on loans made under this title and other property or assets derived by him from his operations respecting such loans, from the sale of loans under subsection (c) of this section, or from the sale of assets.

Loan fund.
Establishment.

“AUTHORIZATIONS OF APPROPRIATIONS

“Sec. 1309. (a) For the purpose of making payments under grants and contracts under sections 1303, 1304(a), and 1304(b), there are authorized to be appropriated \$25,000,000 for the fiscal year ending June 30, 1974, \$55,000,000 for the fiscal year ending June 30, 1975, and \$85,000,000 for the fiscal year ending June 30, 1976; and for the purpose of making payments under grants and contracts under section 1304(b) for the fiscal year ending June 30, 1977, there is authorized to be appropriated \$85,000,000.

“(b) There is authorized to be appropriated to the loan fund established under section 1308(e) \$75,000,000 in the aggregate for the fiscal years ending June 30, 1974, and June 30, 1975.

“EMPLOYEES’ HEALTH BENEFITS PLANS

“Sec. 1310. (a) Each employer which is required during any calendar quarter to pay its employees the minimum wage specified by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay his employees such wage but for section 13(a) of such Act), and which during such calendar quarter employed an average number of employees of not less than twenty-five, shall, in accordance with regulations which the Secretary shall prescribe, include in any health benefits plan offered to its employees in the calendar year beginning after such calendar quarter the option of membership in qualified health maintenance organizations which are engaged in the provision of basic and supplemental health services in the areas in which such employees reside.

52 Stat. 1062;
77 Stat. 56;
80 Stat. 838.
29 USC 201.
75 Stat. 71;
80 Stat. 833;
86 Stat. 375.
29 USC 213.

“(b) If there is more than one qualified health maintenance organization which is engaged in the provision of basic and supplemental health services in the area in which the employees of an employer subject to subsection (a) reside and if—

“(1) one or more of such organizations provides basic health services through professionals who are members of the staff of the organization or a medical group (or groups), and

“(2) one or more of such organizations provides such services through an individual practice association (or associations), then of the qualified health maintenance organizations included in a health benefits plan of such employer pursuant to subsection (a) at least one shall be an organization which provides basic health services as described in clause (1) and at least one shall be an organization which provides basic health services as described in clause (2).

“(c) No employer shall be required to pay more for health benefits as a result of the application of this section than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer and its employees. Failure of any employer to

52 Stat. 1068;
63 Stat. 919.
29 USC 215.
"Qualified
health
maintenance
organization."

comply with the requirements of subsection (a) shall be considered a willful violation of section 15 of the Fair Labor Standards Act of 1938.

"(d) For purposes of this section, the term 'qualified health maintenance organization' means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301(b) and that it is organized and operated in the manner prescribed by section 1301(c), and (2) an entity which proposes to become a health maintenance organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 1301(b) and will be organized and operated in the manner prescribed by section 1301(c).

"RESTRICTIVE STATE LAWS AND PRACTICES

"SEC. 1311. (a) In the case of any entity—

"(1) which cannot do business as a health maintenance organization in a State in which it proposes to furnish basic and supplemental health services because that State by law, regulation, or otherwise—

"(A) requires as a condition to doing business in that State that a medical society approve the furnishing of services by the entity,

"(B) requires that physicians constitute all or a percentage of its governing body,

"(C) requires that all physicians or a percentage of physicians in the locale participate or be permitted to participate in the provision of services for the entity, or

"(D) requires that the entity meet requirements for insurers of health care services doing business in that State respecting initial capitalization and establishment of financial reserves against insolvency, and

"(2) for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans),

such requirements shall not apply to that entity so as to prevent it from operating as a health maintenance organization in accordance with section 1301.

"(b) No State may establish or enforce any law which prevents a health maintenance organization for which a grant, contract, loan, or loan guarantee was made under this title or which is a qualified health maintenance organization for purposes of section 1310 (relating to employees' health benefits plans), from soliciting members through advertising its services, charges, or other nonprofessional aspects of its operation. This subsection does not authorize any advertising which identifies, refers to, or makes any qualitative judgment concerning, any health professional who provides services for a health maintenance organization.

"CONTINUED REGULATION OF HEALTH MAINTENANCE ORGANIZATIONS

"SEC. 1312. (a) If the Secretary determines that an entity which received a grant, contract, loan, or loan guarantee under this title as a health maintenance organization or which was included in a health benefits plan offered to employees pursuant to section 1310—

"(1) fails to provide basic and supplemental services to its members,

“(2) fails to provide such services in the manner prescribed by section 1301(b), or

“(3) is not organized or operated in the manner prescribed by section 1301(c),

the Secretary may, in addition to any other remedies available to him, bring a civil action in the United States district court for the district in which such entity is located to enforce its compliance with any assurances it furnished him respecting the provision of basic and supplemental health services or its organization or operation, as the case may be, which assurances were made under section 1310 or when application was made under this title for a grant, contract, loan, or loan guarantee.

“(b) The Secretary, through the Assistant Secretary for Health, shall administer subsection (a) in the Office of the Assistant Secretary for Health.

“LIMITATION ON SOURCE OF FUNDING FOR HEALTH MAINTENANCE ORGANIZATIONS

“SEC. 1313. No funds appropriated under any provision of this Act other than this title may be used—

“(1) for grants or contracts for surveys or other activities to determine the feasibility of developing or expanding health maintenance organizations or other entities which provide, directly or indirectly, health services to a defined population on a prepaid basis;

“(2) for grants or contracts, or for payments under loan guarantees, for planning projects for the establishment or expansion of such organizations or entities;

“(3) for grants or contracts, or for payments under loan guarantees, for projects for the initial development or expansion of such organizations or entities; or

“(4) for loans, or for payments under loan guarantees, to assist in meeting the costs of the initial operation after establishment or expansion of such organizations or entities.

“PROGRAM EVALUATION

“SEC. 1314. (a) The Comptroller General shall evaluate the operations of at least fifty of the health maintenance organizations for which assistance was provided under section 1303, 1304, or 1305. The period of operation of such health maintenance organizations which shall be evaluated under this subsection shall be not less than thirty-six months. The Comptroller General shall report to the Congress the results of the evaluation not later than ninety days after at least fifty of such health maintenance organizations have been in operation for at least thirty-six months. Such report shall contain findings—

Report to
Congress.

“(1) with respect to the ability of the organizations evaluated to operate on a fiscally sound basis without continued Federal financial assistance,

“(2) with respect to the ability of such organizations to meet the requirements of section 1301(c) respecting their organization and operation,

“(3) with respect to the ability of such organizations to provide basic and supplemental health services in the manner prescribed by section 1301(b),

“(4) with respect to the ability of such organizations to include indigent and high-risk individuals in their membership, and

“(5) with respect to the ability of such organizations to provide services to medically underserved populations.

Study.

“(b) The Comptroller General shall also conduct a study of the economic effects on employers resulting from their compliance with the requirements of section 1310. The Comptroller General shall report to the Congress the results of such study not later than thirty-six months after the date of the enactment of this title.

Report to Congress.

“(c) The Comptroller General shall evaluate (1) the operations of distinct categories of health maintenance organizations in comparison with each other, (2) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and (3) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public. The Comptroller General shall report to the Congress the results of such evaluation not later than thirty-six months after the date of the enactment of this title.

“ANNUAL REPORT

Review, report to Congress.

“SEC. 1315. (a) The Secretary shall periodically review the programs of assistance authorized by this title and make an annual report to the Congress of a summary of the activities under each program. The Secretary shall include in such summary—

“(1) a summary of each grant, contract, loan, or loan guarantee made under this title in the period covered by the report and a list of the health maintenance organizations which during such period became qualified health maintenance organizations for purposes of section 1310;

“(2) the statistics and other information reported in such period to the Secretary in accordance with section 1301(c)(11);

“(3) findings with respect to the ability of the health maintenance organizations assisted under this title—

“(A) to operate on a fiscally sound basis without continued Federal financial assistance,

“(B) to meet the requirements of section 1301(c) respecting their organization and operation,

“(C) to provide basic and supplemental health services in the manner prescribed by section 1301(b),

“(D) to include indigent and high-risk individuals in their membership, and

“(E) to provide services to medically underserved populations; and

“(4) findings with respect to—

“(A) the operation of distinct categories of health maintenance organizations in comparison with each other,

“(B) health maintenance organizations as a group in comparison with alternative forms of health care delivery, and

“(C) the impact that health maintenance organizations, individually, by category, and as a group, have on the health of the public.

Review.

“(b) The Office of Management and Budget may review the Secretary's report under subsection (a) before its submission to the Congress, but the Office may not revise the report or delay its submission, and it may submit to the Congress its comments (and those of other departments or agencies of the Government) respecting such report.”

Comments, submittal to Congress.

QUALITY ASSURANCE

58 Stat. 691;
85 Stat. 65.
42 USC 241.

SEC. 3. Title III of the Public Health Service Act is amended by adding at the end thereof the following new part:

"PART K—QUALITY ASSURANCE

"QUALITY ASSURANCE

"SEC. 399c. (a) (1) The Secretary, through the Assistant Secretary for Health, shall conduct research and evaluation programs respecting the effectiveness, administration, and enforcement of quality assurance programs. Such research and evaluation programs shall be carried out in cooperation with the entity within the Department which administers the programs of assistance under section 304.

Research and evaluation programs.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated \$4,000,000 for the fiscal year ending June 30, 1974, \$8,000,000 for the fiscal year ending June 30, 1975, \$9,000,000 for the fiscal year ending June 30, 1976, \$9,000,000 for the fiscal year ending June 30, 1977, and \$10,000,000 for the fiscal year ending June 30, 1978.

81 Stat. 534.
42 USC 242b.
Appropriation.

"(b) The Secretary shall make an annual report to the Congress and the President on (1) the quality of health care in the United States, (2) the operation of quality assurance programs, and (3) advances made through research and evaluation of the effectiveness, administration, and enforcement of quality assurance programs. The first annual report under this subsection shall be made with respect to calendar year 1974 and shall be submitted not later than March 1, 1975. The Office of Management and Budget may review the Secretary's report under this subsection before its submission to the Congress, but the Office may not revise the report or delay its submission to the Congress, and it may submit to the Secretary and the Congress its comments (and those of other departments and agencies of the Government) with respect to such report."

Annual report to President and Congress.

HEALTH CARE QUALITY ASSURANCE PROGRAMS STUDY

SEC. 4. (a) The Secretary of Health, Education, and Welfare shall contract, in accordance with subsection (b), for the conduct of a study to—

(1) analyze past and present mechanisms (both required by law and voluntary) to assure the quality of health care, identify the strengths and weaknesses of current major prototypes of health care quality assurance systems, and identify on a comparable basis the costs of such prototypes;

(2) provide a set of basic principles to be followed by any effective health care quality assurance system, including principles affecting the scope of the system, methods for assessing care, data requirements, specifications for the development of criteria and standards which relate to desired outcomes of care, and means for assessing the responsiveness of such care to the needs and perceptions of the consumers of such care;

(3) provide an assessment of programs for improving the performance of health practitioners and institutions in providing high-quality health care, including a study of the effectiveness of sanctions and educational programs;

(4) define the specific needs for a program of research and evaluation in health care quality assurance methods, including the design of prospective evaluations protocols for health care quality assurance systems; and

(5) provide methods for assessing the quality of health care from the point of view of consumers of such care.

(b) The Secretary shall contract for the conduct of the study required by subsection (a) with a nonprofit private organization which—

Contract with private organization.

(1) has a national reputation for objectivity in the conduct of studies for the Federal Government;

(2) has the capacity to readily marshal the widest possible range of expertise and advice relevant to the conduct of such study;

(3) has a membership and competent staff which have backgrounds in government, the health sciences, and the social sciences;

(4) has a history of interest and activity in health policy issues related to such study; and

(5) has extensive existing contracts with interested public and private agencies and organizations.

The Secretary shall enter into such contract within 90 days of the date of the enactment of the first Act making an appropriation under subsection (d).

Reports to congressional committees.

(c) An interim report providing a plan for the study required by subsection (a) shall be submitted by the organization conducting the study to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by June 30, 1974; and a final report giving the results of the study and providing specifications for an effective quality assurance system shall be submitted by such organization to the Committee on Interstate and Foreign Commerce of the House of Representatives and the Committee on Labor and Public Welfare of the Senate by January 31, 1976.

Appropriation.

(d) There is authorized to be appropriated \$10,000,000, which shall be available without fiscal year limitation, for the conduct of the study required by subsection (a).

REPORTS RESPECTING MEDICALLY UNDERSERVED AREAS AND POPULATION GROUPS AND NON-METROPOLITAN AREAS

Reports to Congress.

SEC. 5. Within three months of the date of the enactment of this Act, the Secretary of Health, Education, and Welfare shall report to the Congress the criteria used by him in the designation of medically underserved areas and population groups for the purposes of section 1302(7) of the Public Health Service Act. Within one year of such date, the Secretary shall report to the Congress (1) the areas and population groups designated by him under such section 1302(7) as having a shortage of personal health services, (2) the comments (if any) submitted by State and areawide comprehensive health planning agencies under such section with respect to any such designation, and (3) the areas which meet the definitional standards under section 1302(9) of such Act for non-metropolitan areas. The Office of Management and Budget may review the Secretary's report under this section before its submission to the Congress, but the Office may not revise the report or delay its submission beyond the date prescribed for its submission, and it may submit to Congress its comments (and those of other departments and agencies of the Government) respecting such report.

Ante, p. 917.

Review.

Comments, submittal to Congress.

HEALTH SERVICES FOR INDIANS AND DOMESTIC AGRICULTURAL MIGRATORY AND SEASONAL WORKERS

68 Stat. 674.

SEC. 6. (a) The first section of the Act of August 5, 1954 (42 U.S.C. 2001), is amended by inserting "(a)" after "That" and by adding at the end thereof the following new subsection:

"(b) In carrying out his functions, responsibilities, authorities, and duties under this Act, the Secretary is authorized, with the consent of the Indian people served, to contract with private or other non-

Federal health agencies or organizations for the provision of health services to such people on a fee-for-service basis or on a prepayment or other similar basis.”

(b) The Secretary of Health, Education, and Welfare, in connection with existing authority (except section 310 of the Public Health Service Act) for the provision of health services to domestic agricultural migratory workers, to persons who perform seasonal agricultural services similar to the services performed by such workers, and to the families of such workers and persons, is authorized to arrange for the provision of health services to such workers and persons and their families through health maintenance organizations. In carrying out this subsection the Secretary may only use sums appropriated after the date of the enactment of this Act.

76 Stat. 882.
42 USC 242h.

CONFORMING AMENDMENTS

SEC. 7. (a) Section 1 of the Public Health Service Act is amended to read as follows:

58 Stat. 682;
86 Stat. 137.
42 USC 201 note.

“SHORT TITLE

“SECTION 1. This Act may be cited as the ‘Public Health Service Act.’”

(b) Title XIII of the Act of July 1, 1944 (58 Stat. 682) (as so designated by section 2(b) of the Emergency Medical Services Systems Act of 1973 (Public Law 93-154)) is repealed.

Repeal.
Ante, p. 604.

(c) Section 306(g) of the Federal National Mortgage Association Act (12 U.S.C. 1721(g)) is amended by inserting “, or which are guaranteed under title XIII of the Public Health Service Act” after “chapter 37 of title 38, United States Code”.

82 Stat. 542.
38 USC 1801.

Approved December 29, 1973.

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LEGISLATIVE HISTORY:

- HOUSE REPORTS: No. 93-451 accompanying H. R. 7974 (Comm. on Interstate and Foreign Commerce) and No. 93-714 (Comm. of Conference).
- SENATE REPORTS: No. 93-129 (Comm. on Labor and Public Welfare) and No. 93-621 (Comm. of Conference).
- CONGRESSIONAL RECORD, Vol. 119 (1973):
May 14, 15, considered and passed Senate.
Sept. 12, considered and passed House, amended, in lieu of H. R. 7974.
Dec. 18, House agreed to conference report.
Dec. 19, Senate agreed to conference report.
- WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 10, No. 1 (1974):
Dec. 29, 1973, Presidential statement.

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