

42 USC 280g-1: Early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children

Text contains those laws in effect on February 20, 2018
From Title 42-THE PUBLIC HEALTH AND WELFARE
CHAPTER 6A-PUBLIC HEALTH SERVICE
SUBCHAPTER II-GENERAL POWERS AND DUTIES
Part P-Additional Programs

§280g-1. Early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children

(a) Statewide newborn, infant, and young child hearing screening, evaluation and intervention programs and systems

The Secretary, acting through the Administrator of the Health Resources and Services Administration, shall make awards of grants or cooperative agreements to develop statewide newborn, infant, and young child hearing screening, evaluation, diagnosis, and intervention programs and systems, and to assist in the recruitment, retention, education, and training of qualified personnel and health care providers (including, as appropriate, education and training of family members), for the following purposes:

(1) To develop and monitor the efficacy of statewide programs and systems for hearing screening of newborns, infants, and young children (referred to in this section as "children"); prompt evaluation and diagnosis of children referred from screening programs; and appropriate educational, audiological, medical, and communication (or language acquisition) interventions (including family support), for children identified as deaf or hard-of-hearing, consistent with the following:

(A) Early intervention includes referral to, and delivery of, information and services by organizations such as schools and agencies (including community, consumer, and family-based agencies), in health care settings (including medical homes for children), and in programs mandated by part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.], which offer programs specifically designed to meet the unique language and communication needs of deaf and hard-of-hearing children.

(B) Information provided to families should be accurate, comprehensive, up-to-date, and evidence-based, as appropriate, to allow families to make important decisions for their children in a timely manner, including decisions with respect to the full range of assistive hearing technologies and communications modalities, as appropriate.

(C) Programs and systems under this paragraph shall offer mechanisms that foster family-to-family and deaf and hard-of-hearing consumer-to-family supports.

(2) To continue to provide technical support to States, through one or more technical resource centers, to assist in further developing and enhancing State early hearing detection and intervention programs.

(3) To identify or develop efficient models (educational and medical) to ensure that children who are identified as deaf or hard-of-hearing through screening receive follow-up by qualified early intervention providers or qualified health care providers (including those at medical homes for children), and referrals, as appropriate, including to early intervention services under part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.]. State agencies shall be encouraged to effectively increase the rate of such follow-up and referral.

(b) Technical assistance, data management, and applied research

(1) Centers for Disease Control and Prevention

(A) In general

The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make awards of grants or cooperative agreements to provide technical assistance to State agencies or designated entities of States-

- (i) to develop, maintain, and improve data collection systems related to newborn, infant, and young child hearing screening, evaluation (including audiologic, medical, and language acquisition evaluations), diagnosis, and intervention services;
- (ii) to conduct applied research related to newborn, infant, and young child hearing screening, evaluation, and intervention programs and outcomes;
- (iii) to ensure quality monitoring of hearing screening, evaluation, and intervention programs and systems for newborns, infants, and young children; and
- (iv) to support newborn, infant, and young child hearing screening, evaluation, and intervention programs, and information systems.

(B) Use of awards

The awards made under subparagraph (A) may be used-

- (i) to provide technical assistance on data collection and management, including to coordinate and develop standardized procedures for data management;
- (ii) to assess and report on the cost and program effectiveness of newborn, infant, and young child hearing screening, evaluation, and intervention programs and systems;
- (iii) to collect data and report on newborn, infant, and young child hearing screening, evaluation, diagnosis, and intervention programs and systems for applied research, program evaluation, and policy improvement;
- (iv) to identify the causes and risk factors for congenital hearing loss;
- (v) to study the effectiveness of newborn, infant, and young child hearing screening, audiologic and medical evaluations and intervention programs and systems by assessing the health, intellectual and social developmental, cognitive, and hearing status of these children at school age; and
- (vi) to promote the integration and interoperability of data regarding early hearing loss across multiple sources to increase the flow of information between clinical care and public health settings, including the ability of States and territories to exchange and share data.

(2) National Institutes of Health

The Director of the National Institutes of Health, acting through the Director of the National Institute on Deafness and Other Communication Disorders, shall for purposes of this section, continue a program of research and development on the efficacy of new screening techniques and technology, including clinical studies of screening methods, studies on efficacy of intervention, and related research.

(c) Coordination and collaboration

(1) In general

In carrying out programs under this section, the Administrator of the Health Resources and Services Administration, the Director of the Centers for Disease Control and Prevention, and the Director of the National Institutes of Health shall collaborate and consult with-

- (A) other Federal agencies;
- (B) State and local agencies, including agencies responsible for early intervention services pursuant to title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] (Medicaid Early and Periodic Screening, Diagnosis and Treatment Program); title XXI of the Social Security Act [42 U.S.C. 1397aa et seq.] (State Children's Health Insurance Program); title V of the Social Security Act [42 U.S.C. 701 et seq.] (Maternal and Child Health Block Grant Program); and part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.];
- (C) consumer groups of, and that serve, individuals who are deaf and hard-of-hearing and their families;
- (D) appropriate national medical and other health and education specialty organizations;
- (E) individuals who are deaf or hard-of-hearing and their families;

(F) other qualified professional personnel who are proficient in deaf or hard-of-hearing children's language and who possess the specialized knowledge, skills, and attributes needed to serve deaf and hard-of-hearing children, and their families;

(G) third-party payers and managed care organizations; and

(H) related commercial industries.

(2) Policy development

The Administrator of the Health Resources and Services Administration, the Director of the Centers for Disease Control and Prevention, and the Director of the National Institutes of Health shall coordinate and collaborate on recommendations for policy development at the Federal and State levels and with the private sector, including consumer, medical and other health and education professional-based organizations, with respect to newborn and infant hearing screening, evaluation, diagnosis, and intervention programs and systems.

(3) State early detection, diagnosis, and intervention programs and systems; data collection

The Administrator of the Health Resources and Services Administration and the Director of the Centers for Disease Control and Prevention shall coordinate and collaborate in assisting States-

(A) to establish newborn, infant, and young child hearing screening, evaluation, diagnosis, and intervention programs and systems under subsection (a); and

(B) to develop a data collection system under subsection (b).

(d) Rule of construction; religious accommodation

Nothing in this section shall be construed to preempt or prohibit any State law, including State laws that do not require the screening for hearing loss of children of parents who object to the screening on the grounds that such screening conflicts with the parent's religious beliefs.

(e) Definitions

For purposes of this section:

(1) The term "audiologic", when used in connection with evaluation, means procedures-

(A) to assess the status of the auditory system;

(B) to establish the site of the auditory disorder, the type and degree of hearing loss, and the potential effects of hearing loss on communication; and

(C) to identify appropriate treatment and referral options, including-

(i) linkage to State coordinating agencies under part C of the Individuals with Disabilities Education Act [20 U.S.C. 1431 et seq.] or other appropriate agencies;

(ii) medical evaluation;

(iii) assessment for the full range of assistive hearing technologies appropriate for newborns, infants, and young children;

(iv) audiology rehabilitation treatment; and

(v) referral to national and local consumer, self-help, parent, family, and education organizations, and other family-centered services.

(2) The term "early intervention" means-

(A) providing appropriate services for the child who is deaf or hard-of-hearing, including nonmedical services; and

(B) ensuring that the family of the child is-

(i) provided comprehensive, consumer-oriented information about the full range of family support, training, information services, and language acquisition in oral and visual modalities; and

(ii) given the opportunity to consider and obtain the full range of such appropriate services, educational and program placements, and other options for the child from highly qualified providers.

The ¹ term "medical evaluation" means key components performed by a physician including history, examination, and medical decisionmaking focused on symptomatic and related body systems for the purpose of diagnosing the etiology of hearing loss and related physical conditions, and for identifying appropriate treatment and referral options.

(4) The term "medical intervention" means the process by which a physician provides medical diagnosis and direction for medical or surgical treatment options for hearing loss or other medical disorders associated with hearing loss.

(5) The term "newborn, infant, and young child hearing screening" means objective physiologic procedures to detect possible hearing loss and to identify newborns, infants, and young children under 3 years of age who require further audiology and medical evaluations.

(f) Authorization of appropriations

(1) Statewide newborn and infant hearing screening, evaluation and intervention programs and systems

For the purpose of carrying out subsection (a), there are authorized to be appropriated to the Health Resources and Services Administration \$17,818,000 for fiscal year 2018, \$18,173,800 for fiscal year 2019, \$18,628,145 for fiscal year 2020, \$19,056,592 for fiscal year 2021, and \$19,522,758 for fiscal year 2022.

(2) Technical assistance, data management, and applied research; Centers for Disease Control and Prevention

For the purpose of carrying out subsection (b)(1), there are authorized to be appropriated to the Centers for Disease Control and Prevention \$10,800,000 for fiscal year 2018, \$11,026,800 for fiscal year 2019, \$11,302,470 for fiscal year 2020, \$11,562,427 for fiscal year 2021, and \$11,851,488 for fiscal year 2022.

(3) Technical assistance, data management, and applied research; National Institute on Deafness and Other Communication Disorders

For the purpose of carrying out subsection (b)(2), there are authorized to be appropriated to the National Institute on Deafness and Other Communication Disorders such sums as may be necessary for fiscal years 2011 through 2015.

(July 1, 1944, ch. 373, title III, §399M, as added [Pub. L. 106–310, div. A, title VII, §702, Oct. 17, 2000, 114 Stat. 1121](#); amended [Pub. L. 111–337, §2, Dec. 22, 2010, 124 Stat. 3588](#); [Pub. L. 115–71, §2, Oct. 18, 2017, 131 Stat. 1218](#).)

References in Text

The Individuals with Disabilities Education Act, referred to in subsecs. (a)(1)(A), (3), (c)(1)(B), and (e)(1)(C)(i), is title VI of [Pub. L. 91–230, Apr. 13, 1970, 84 Stat. 175](#). Part C of the Act is classified generally to subchapter III (§1431 et seq.) of chapter 33 of Title 20, Education. For complete classification of this Act to the Code, see section 1400 of Title 20 and Tables.

The Social Security Act, referred to in subsec. (c)(1)(B), is act [Aug. 14, 1935, ch. 531, 49 Stat. 620](#). Titles V, XIX, and XXI of the Act are classified generally to subchapters V (§701 et seq.), XIX (§1396 et seq.), and XXI (§1397aa et seq.), respectively, of chapter 7 of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

Amendments

2017-Pub. L. 115–71, §2(a), substituted "Early detection, diagnosis, and treatment regarding deaf and hard-of-hearing newborns, infants, and young children" for "Early detection, diagnosis, and treatment regarding hearing loss in newborns and infants" in section catchline.

Subsec. (a). Pub. L. 115–71, §2(b)(2), substituted "newborn, infant, and young child" for "newborn and infant" and "providers (including, as appropriate, education and training of family members)," for "providers," in introductory provisions.

Pub. L. 115–71, §2(b)(1), substituted "newborn, infant, and young child" for "newborn and infant" in heading.

Subsec. (a)(1). Pub. L. 115–71, §2(b)(3), in first sentence, substituted "newborns, infants, and young children (referred to in this section as 'children')" for "newborns and infants" and "medical, and communication (or language acquisition) interventions (including family support), for children identified as deaf or hard-of-hearing, consistent with the following:" for "and medical interventions for children identified with hearing loss."; designated second sentence as subparagraph. (A) and substituted ", and delivery of," for "and delivery of", "by organizations such as schools and agencies (including community, consumer, and family-based agencies), in health care settings (including medical homes for children), and in programs mandated" for "by schools and agencies, including community, consumer, and parent-based agencies and organizations and other programs mandated", and "hard-of-hearing children." for "hard of hearing newborns, infants, toddlers, and children."; struck out third sentence which read "Programs and systems under this paragraph shall establish and foster family-to-family support mechanisms that are critical in the first months after a child is identified with hearing loss."; and added subparagraphs. (B) and (C).

Subsec. (a)(2). Pub. L. 115–71, §2(b)(4), substituted "To continue to provide technical support to States, through one or more technical resource centers, to assist in further developing and enhancing State early hearing detection and intervention programs." for "To collect data on statewide newborn and infant hearing screening, evaluation and intervention programs and systems that can be used for applied research, program evaluation and policy development."

Subsec. (a)(3). Pub. L. 115–71, §2(b)(5), added paragraph. (3) and struck out former paragraph. (3) which read as follows: "Other activities may include developing efficient models to ensure that newborns and infants who are identified with a hearing loss through screening receive follow-up by a qualified health care provider, and State agencies shall be encouraged to adopt models that effectively increase the rate of occurrence of such follow-up."

Subsec. (b)(1). Pub. L. 115–71, §2(c), made extensive amendments to text and structure of paragraph. (1). Prior to amendments, text of paragraph. (1) read as follows: "The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall make awards of grants or cooperative agreements to provide technical assistance to State agencies to complement an intramural program and to conduct applied research related to newborn and infant hearing screening, evaluation and intervention programs and systems. The program shall develop standardized procedures for data management and program effectiveness and costs, such as-

"(A) to ensure quality monitoring of newborn and infant hearing loss screening, evaluation, diagnosis, and intervention programs and systems;

"(B) to provide technical assistance on data collection and management;

"(C) to study the costs and effectiveness of newborn and infant hearing screening, evaluation and intervention programs and systems conducted by State-based programs in order to answer issues of importance to State and national policymakers;

"(D) to identify the causes and risk factors for congenital hearing loss;

"(E) to study the effectiveness of newborn and infant hearing screening, audiologic and medical evaluations and intervention programs and systems by assessing the health, intellectual and social developmental, cognitive, and language status of these children at school age; and

"(F) to promote the sharing of data regarding early hearing loss with State-based birth defects and developmental disabilities monitoring programs for the purpose of identifying previously unknown causes of hearing loss."

Subsec. (c)(1). Pub. L. 115–71, §2(d)(1), substituted "consult with—" for "consult with", "(A) other Federal" for "other Federal", "(B) State and local agencies, including agencies" for "State and local agencies, including those", "(C) consumer groups of, and that serve," for "consumer groups of and that serve", "(D) appropriate national" for "appropriate national", "(E) individuals who are deaf or" for "persons who are deaf and", "(F) other qualified" for "other qualified", "children," for "newborns, infants, toddlers, children,", "(G) third-party" for "third-party", and "(H) related commercial" for "related commercial".

Subsec. (c)(3). Pub. L. 115–71, §2(d)(2), substituted "States—" for "States", "(A) to establish newborn, infant, and

young child" for "to establish newborn and infant", "subsection (a); and" for "subsection (a) and", and "(B) to develop" for "to develop".

Subsec. (d). Pub. L. 115–71, §2(e), substituted "that do not" for "which do not" and "parent's" for "parents' " and struck out "newborn infants or young" after "hearing loss of".

Subsec. (e)(1). Pub. L. 115–71, §2(f)(1), made extensive amendments to text and structure of par. (1). Prior to amendments, par. (1) read as follows: "The term 'audiologic evaluation' refers to procedures to assess the status of the auditory system; to establish the site of the auditory disorder; the type and degree of hearing loss, and the potential effects of hearing loss on communication; and to identify appropriate treatment and referral options. Referral options should include linkage to State coordinating agencies under part C of the Individuals with Disabilities Education Act or other appropriate agencies, medical evaluation, hearing aid/sensory aid assessment, audiologic rehabilitation treatment, national and local consumer, self-help, parent, and education organizations, and other family-centered services."

Subsec. (e)(2). Pub. L. 115–71, §2(f)(4), made extensive amendments to text and structure of par. (2). Prior to amendments, par. (2) read as follows: "The term 'early intervention' refers to providing appropriate services for the child with hearing loss, including nonmedical services, and ensuring that families of the child are provided comprehensive, consumer-oriented information about the full range of family support, training, information services, and language and communication options and are given the opportunity to consider and obtain the full range of such appropriate services, educational and program placements, and other options for their child from highly qualified providers."

Pub. L. 115–71, §2(f)(2), (3), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: "The terms 'audiologic rehabilitation' and 'audiologic intervention' refer to procedures, techniques, and technologies to facilitate the receptive and expressive communication abilities of a child with hearing loss."

Subsec. (e)(3). Pub. L. 115–71, §2(f)(5), substituted "The term 'medical evaluation' means key components performed by a physician including history, examination, and medical decisionmaking" for "(3) The term 'medical evaluation by a physician' refers to key components including history, examination, and medical decision making".

Pub. L. 115–71, §2(f)(3), redesignated par. (4) as (3). Former par. (3) redesignated (2).

Subsec. (e)(4). Pub. L. 115–71, §2(f)(6), substituted "means" for "refers to", "or surgical" for "and/or surgical", and "for hearing loss or other medical disorders" for "of hearing loss and/or related medical disorder".

Pub. L. 115–71, §2(f)(3), redesignated par. (5) as (4). Former par. (4) redesigned (3).

Subsec. (e)(5). Pub. L. 115–71, §2(f)(7), substituted "The term 'newborn, infant, and young child hearing screening' means" for "The term 'newborn and infant hearing screening' refers to" and ", infants, and young children under 3 years of age" for "and infants".

Pub. L. 115–71, §2(f)(3), redesignated par. (6) as (5). Former par. (5) redesignated (4).

Subsec. (e)(6). Pub. L. 115–71, §2(f)(3), redesignated par. (6) as (5).

Subsec. (f)(1). Pub. L. 115–71, §2(g)(1), substituted "\$17,818,000 for fiscal year 2018, \$18,173,800 for fiscal year 2019, \$18,628,145 for fiscal year 2020, \$19,056,592 for fiscal year 2021, and \$19,522,758 for fiscal year 2022." for "such sums as may be necessary for fiscal years 2011 through 2015."

Subsec. (f)(2). Pub. L. 115–71, §2(g)(2), substituted "\$10,800,000 for fiscal year 2018, \$11,026,800 for fiscal year 2019, \$11,302,470 for fiscal year 2020, \$11,562,427 for fiscal year 2021, and \$11,851,488 for fiscal year 2022." for "such sums as may be necessary for fiscal years 2011 through 2015."

2010-Pub. L. 111–337, §2(1), substituted "newborns and infants" for "infants" in section catchline.

Subsec. (a). Pub. L. 111–337, §2(2)(A), substituted "screening, evaluation, diagnosis, and intervention programs and systems, and to assist in the recruitment, retention, education, and training of qualified personnel and health care providers," for "screening, evaluation and intervention programs and systems" in introductory provisions.

Subsec. (a)(1). Pub. L. 111–337, §2(2)(B), amended par. (1) generally. Prior to amendment, par. (1) read as follows:

"To develop and monitor the efficacy of state-wide newborn and infant hearing screening, evaluation and intervention programs and systems. Early intervention includes referral to schools and agencies, including community, consumer, and parent-based agencies and organizations and other programs mandated by part C of the Individuals with Disabilities Education Act, which offer programs specifically designed to meet the unique language and communication needs of deaf and hard of hearing newborns, infants, toddlers, and children."

Subsec. (a)(3). Pub. L. 111–337, §2(2)(C), added par. (3).

Subsec. (b)(1)(A). Pub. L. 111–337, §2(3), substituted "hearing loss screening, evaluation, diagnosis, and intervention programs" for "hearing loss screening, evaluation, and intervention programs".

Subsec. (c)(2), (3). Pub. L. 111–337, §2(4), substituted "hearing screening, evaluation, diagnosis, and intervention programs" for "hearing screening, evaluation and intervention programs".

Subsec. (e)(3). Pub. L. 111–337, §2(5)(A), substituted "ensuring that families of the child are provided comprehensive, consumer-oriented information about the full range of family support, training, information services, and language and communication options and are given the opportunity to consider and obtain the full range of such appropriate services, educational and program placements, and other options for their child from highly qualified providers." for "ensuring that families of the child are provided comprehensive, consumer-oriented information about the full range of family support, training, information services, communication options and are given the opportunity to consider the full range of educational and program placements and options for their child."

Subsec. (e)(6). Pub. L. 111–337, §2(5)(B), struck out ", after rescreening," after "infants who".

Subsec. (f). Pub. L. 111–337, §2(6), substituted "fiscal years 2011 through 2015" for "fiscal year 2002" in pars. (1) to (3).

James T. Walsh Universal Newborn Hearing Screening Program

[Pub. L. 111–8, div. F, title II, §224, Mar. 11, 2009, 123 Stat. 784](#), provided that: "Hereafter, the activities authorized under section 399M of the Public Health Service Act [42 U.S.C. 280g–1] shall be known as the 'James T. Walsh Universal Newborn Hearing Screening Program.' "

Purposes

[Pub. L. 106–310, div. A, title VII, §701, Oct. 17, 2000, 114 Stat. 1120](#), provided that: "The purposes of this title [enacting this section] are to clarify the authority within the Public Health Service Act [42 U.S.C. 201 et seq.] to authorize statewide newborn and infant hearing screening, evaluation and intervention programs and systems, technical assistance, a national applied research program, and interagency and private sector collaboration for policy development, in order to assist the States in making progress toward the following goals:

"(1) All babies born in hospitals in the United States and its territories should have a hearing screening before leaving the birthing facility. Babies born in other countries and residing in the United States via immigration or adoption should have a hearing screening as early as possible.

"(2) All babies who are not born in hospitals in the United States and its territories should have a hearing screening within the first 3 months of life.

"(3) Appropriate audiology and medical evaluations should be conducted by 3 months for all newborns and infants suspected of having hearing loss to allow appropriate referral and provisions for audiology rehabilitation, medical and early intervention before the age of 6 months.

"(4) All newborn and infant hearing screening programs and systems should include a component for audiology rehabilitation, medical and early intervention options that ensure linkage to any new and existing state-wide systems of intervention and rehabilitative services for newborns and infants with hearing loss.

"(5) Public policy in regard to newborn and infant hearing screening and intervention should be based on applied research and the recognition that newborns, infants, toddlers, and children who are deaf or hard-of-hearing have unique language, learning, and communication needs, and should be the result of consultation with pertinent public and private sectors."

1. So_in_original_Probably_should_be_preceded_by "(3)".