ALLOCATION OF FUNDS TO FAMILY PLANNING SERVICES
Act 360 of 2002

AN ACT to revise the priority of allocation of funds for certain programs and services administered by the department of community health; and to prescribe the powers and duties of certain state agencies and departments.

History: 2002, Act 360, Eff. Mar. 31, 2003.

The People of the State of Michigan enact:

333.1091 Family planning or reproductive services; allocation of funds.

Sec. 1. (1) Except as otherwise provided in this section, it is the policy of this state for the department of community health to give priority under this subsection in the allocation of funds through grants or contracts for educational and other programs and services administered by the department of community health and primarily pertaining to family planning or reproductive health services, or both. This subsection applies to grants or contracts awarded to a qualified entity that does not engage in 1 or more of the following activities:

(a) Performing elective abortions or allowing the performance of elective abortions within a facility owned or operated by the qualified entity.

(b) Referring a pregnant woman to an abortion provider for an elective abortion.

(c) Adopting or maintaining a policy in writing that elective abortion is considered part of a continuum of family planning or reproductive health services, or both.

(2) If each of the entities applying for a grant or contract described in subsection (1) engages in 1 or more of the activities listed in subsection (1)(a) to (c), the department of community health shall give priority to those entities that engage in the least number of activities listed in subsection (1)(a) to (c).

(3) Subsection (1) does not apply if the only applying entity for a grant or contract described in subsection (1) engages in 1 or more of the activities listed in subsection (1)(a) to (c).

(4) Subsection (1) does not apply to grants or contracts awarded by the department of community health other than family planning and pregnancy prevention awards under subpart a of part 59 of title 42 of the Code of Federal Regulations or state appropriated family planning or pregnancy prevention funds.

(5) In applying the priority established in subsection (1), the department of community health shall not take into consideration an activity listed in subsection (1)(a) to (c) if participating in that activity is required under federal law as a qualification for receiving federal funding.

(6) If an entity applying for a contract or grant described in subsection (1) is affiliated with another entity that engages in 1 or more of the activities listed in subsection (1)(a) to (c), the applying entity shall, for purposes of awarding a grant or contract under subsection (1), be considered independent of the affiliated entity if all of the following conditions are met:

(a) The physical properties and equipment of the applying entity are separate and not shared with the affiliated entity.

(b) The financial records of the applying entity and affiliated entity demonstrate that the affiliated entity receives no funds from the applying entity.

(c) The paid personnel of the applying entity do not perform any function or duty on behalf of the affiliated entity while on the physical property of the applying entity or during the hours the personnel are being paid by the applying entity.

(7) The department of community health shall award grants and contracts to qualified entities under this act to ensure that family planning services are adequately available and distributed in a manner that is reflective of the geographic and population diversity of this state. A qualified entity that is awarded a grant or contract must also be capable of serving the patient census reflected in the contract or grant for which the qualified entity is applying.

(8) As used in this act:

(a) "Affiliated" means the sharing between entities of 1 or more of the following:

(*i*) A common name or other identifier.

(*ii*) Members of a governing board.

(*iii*) A director.

(*iv*) Paid personnel.

(b) "Elective abortion" means the performance of a procedure involving the intentional use of an instrument, drug, or other substance or device to terminate a woman's pregnancy for a purpose other than to increase the probability of a live birth, to preserve the life or health of the child after live birth, or to remove a dead fetus. Elective abortion does not include either of the following:

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(*i*) The use or prescription of a drug or device intended as a contraceptive.

(*ii*) The intentional use of an instrument, drug, or other substance or device by a physician to terminate a woman's pregnancy if the woman's physical condition, in the physician's reasonable medical judgment, necessitates the termination of the woman's pregnancy to avert her death.

(c) “Entity” means a local agency, organization, or corporation or a subdivision, contractee, subcontractee, or grant recipient of a local agency, organization, or corporation.

(d) “Qualified entity” means an entity reviewed and determined by the department of community health to be technically and logistically capable of providing the quality and quantity of services required within a cost range considered appropriate by the department.

History: 2002, Act 360, Eff. Mar. 31, 2003.

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