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Remedial and affirmative action by recipients.

(a) Where the Secretary finds that a recipient has unlawfully discriminated on the basis of age, the recipient shall take any action that the Secretary may require to overcome the effects of the discrimination. If another recipient exercises control over a subrecipient that has unlawfully discriminated, the Secretary may require both recipients to take remedial action.

(b) Even in the absence of a finding of discrimination, a recipient may take affirmative action to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity on the basis of age.

(c) If a recipient operating a program which serves the elderly or children in addition to persons of other ages provides special benefits to the elderly or children, the provision of those benefits shall be presumed to be voluntary affirmative action, provided that it does not have the effect of excluding otherwise eligible persons from participation in the program.