(c) Remedies. If the Secretary determines, based on the criteria in paragraph (b) of this section, that the rule in paragraph (a) of this section applies, an issuer or a group health plan will be billed for the medical expenses incurred by the PCIP. The issuer or group health plan also will be referred to appropriate Federal and State authorities for other enforcement actions that may be warranted based on the behavior at issue.

(d) Other. Nothing in this section may be construed as constituting exclusive remedies for violations of this section or as preventing States from applying or enforcing this section or other provisions of law with respect to health insurance issuers.

Subpart F—Funding

§152.32 Use of funds.

(a) Limitation on use of funding. All funds awarded through the contracts established under this program must be used exclusively to pay allowable claims and administrative costs incurred in the development and operation of the PCIP that are in excess of the amounts of premiums collected from individuals enrolled in the program.

(b) Limitation on administrative expenses. No more than 10 percent of available funds shall be used for administrative expenses over the life of the contract with the PCIP, absent approval from HHS.

§152.33 Initial allocation of funds.

HHS will establish an initial ceiling for the amount of the $5 billion in Federal funds allocated for PCIPs in each State using a methodology consistent with that used to established allocations under the Children’s Health Insurance Program, as set forth under 42 CFR Part 457, Subpart F, Payment to States.

§152.34 Reallocation of funds.

If HHS determines, based on actual and projected enrollment and claims experience, that the PCIP in a given State will not make use of the total estimated funding allocated to that State, HHS may reallocate unused funds to other States, as needed.

§152.35 Insufficient funds.

(a) Adjustments by a PCIP to eliminate a deficit. In the event that a PCIP determines, based on actual and projected enrollment and claims data, that its allocated funds are insufficient to cover projected PCIP expenses, the PCIP shall report such insufficiency to HHS, and identify and implement necessary adjustments to eliminate such deficit, subject to HHS approval.

(b) Adjustment by the Secretary. If the Secretary estimates that aggregate amounts available for PCIP expenses will be less than the actual amount of expenses, HHS reserves the right to make such adjustments as are necessary to eliminate such deficit.

(c) Payment rates for covered services furnished beginning June 15, 2013 to enrollees in the PCIP administered by HHS.

(1) Covered services furnished under the prescription drug, organ/tissue transplant, dialysis and durable medical equipment benefits will be paid at the payment rates that are in effect on June 15, 2013.

(2) With respect to all other covered services, the payment rates will be—

(i) 100 percent of Medicare payment rates; or

(ii) Where Medicare payment rates cannot be implemented by the federally-administered PCIP, 50 percent of billed charges or a rate using a relative value scale pricing methodology.

§152.39 Maintenance of effort.

(a) General. A State that enters into a contract with HHS under this part must demonstrate, subject to approval by HHS, that it will continue to provide funding of any existing high risk pool in the State at a level that is not reduced from the amount provided for in the year prior to the year in which the contract is entered.

(b) Failure to maintain efforts. In situations where a State enters into a contract with HHS under this part, HHS shall take appropriate action, such as terminating the PCIP contract, against