§ 1395z. Consultation with State agencies and other organizations to develop conditions of participation for providers of services

In carrying out his functions, relating to determination of conditions of participation of providers of services, under subsections (e)(9), (f)(4), (j)(15), (o)(6), (cc)(2)(I), and (dd)(2), and (mm)(1) of section 1395x of this title, or by ambulatory surgical centers under section 1395k(a)(2)(F)(i) of this title, the Secretary shall consult with appropriate State agencies and recognized national listing or accrediting bodies, and may consult with appropriate local agencies. Such conditions prescribed under any of such subsections may be varied for different areas or different classes of institutions or agencies and may, at the request of a State, provide higher requirements for such State than for other States; except that, in the case of any State or political subdivision of a State which imposes higher requirements on institutions as a condition to the purchase of services (or of certain specified services) in such institutions under a State plan approved under subchapter I, XVI, or XIX of this chapter, the Secretary shall impose like requirements as a condition to the payment for services (or for the services specified by the State or subdivision) in such institutions in such State or subdivision.


REFERENCES IN TEXT


AMENDMENTS

1994—Pub. L. 103–432 struck out “or whether screening mammography meets the standards established under section 1395m(e)(3) of this title,” before “the Secretary shall consult”.

1990—Pub. L. 101–508 substituted “or whether screening mammography meets the standards established under section 1395m(c)(3) of this title,” after “section 1395m(c)(3) of this title,”.


1989—Pub. L. 100–360, §204(c)(1), inserted “or whether screening mammography meets the standards established under section 1395m(e)(3) of this title,” after “1395k(a)(2)(F)(i) of this title,’”.

1990—Pub. L. 101–234 inserted “(dd)(2), and (jj)(3)” for “and (dd)(2)’’.

1984—Pub. L. 98–369, §2335(c), struck out “(g)(4),” after “(e)(9), (f)(4)”.


1980—Pub. L. 96–499, §933(f), substituted “(o)(6), and (cc)(2)(I)” of section 1395x” for “and (o)(6) of section 1395x’’.

1972—Pub. L. 92–608 substituted “subsections (e)(9), (f)(4), (g)(4), (j)(11), and (o)(6) of section 1395x of this title” for “subsections (e)(6), (f)(4), (j)(10), and (o)(5) of section 1395x of this title’’.

Effect of Section 1994 Amendment

Amendment by Pub. L. 103–432 applicable to mammography furnished by a facility on and after the first date that the certificate requirements of section 235(b)(1) of this title apply to such mammography conducted by such facility, see section 145(d) of Pub. L. 103–432, set out as a note under section 1395m of this title.

Effect of Date of 1990 Amendment

Amendment by Pub. L. 101–508 applicable to screening mammography performed on or after Jan. 1, 1991, see section 4163(e) of Pub. L. 101–508, set out as a note under section 1385f of this title.

Effect of Date of 1989 Amendment

Amendment by Pub. L. 101–234 effective Jan. 1, 1990, see section 201(c) of Pub. L. 101–234, set out as a note under section 1320a–7a of this title.

Effect of Date of 1988 Amendment

Amendment by section 238(e)(2) of Pub. L. 100–360 applicable to items and services furnished on or after Jan. 1, 1990, see section 230(g) of Pub. L. 100–360, set out as a note under section 1320a–3 of this title.

Effect of Date of 1984 Amendment

Amendment by section 2335(c) of Pub. L. 98–369 effective July 18, 1984, see section 2335(g) of Pub. L. 98–369, set out as a note under section 1385f of this title.

Amendment by section 2335(b)(1) of Pub. L. 98–369 effective July 18, 1984, see section 2335(c) of Pub. L. 98–369, set out as a note under section 907a of this title.

Amendment by section 2335(b)(32) of Pub. L. 98–369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2354(e)(1) of Pub. L. 98–369, set out as a note under section 1320a–1 of this title.

Effect of Date of 1982 Amendment

Amendment by Pub. L. 97–248 applicable to hospice care provided on or after Nov. 1, 1983, see section 122(h)(1) of Pub. L. 97–248, set out as a note under section 1385c of this title.
Effective Date of 1980 Amendment
Amendment by section 933(g) of Pub. L. 96–499 effective with respect to a comprehensive outpatient rehabilitation facility's first accounting period beginning on or after July 1, 1981, see section 933(h) of Pub. L. 96–499, set out as a note under section 1395k of this title.

Effective Date of 1972 Amendment
Amendment by Pub. L. 92–603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92–603, set out as a note under section 1395x of this title.

Termination of Advisory Councils
Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 3(2) and 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 1395aa. Agreements with States
(a) Use of State agencies to determine compliance by providers of services with conditions of participation
The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by him for the purpose of determining whether an institution therein is a hospital or skilled nursing facility, or whether an agency therein is a home health agency, or whether an agency is a hospice program or whether a facility therein is a rural health clinic, comprehensive outpatient rehabilitation facility, or whether an agency therein is a health care facility, ambulatory surgical center, rural health clinic, comprehensive outpatient rehabilitation facility, laboratory, clinic, agency, or organization with (1) the statutory conditions of participation imposed under this subchapter and (2) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such health care facility, ambulatory surgical center, rural health clinic, comprehensive outpatient rehabilitation facility, laboratory, clinic, agency, or organization. Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this subchapter (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted by a State agency or accreditation survey conducted by a private accreditation agency under section 1395bb of this title with respect to the home health agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this subchapter with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such State or local agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency utilized by the Secretary under section 1395bb of this title, and consumer medical records (but only with the consent of the consumer or his or her legal representative).

(b) Payment in advance or by way of reimbursement to State for performance of functions of subsection (a)
The Secretary shall pay any such State, in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (a) of this section, and for the Federal Hospital Insurance Trust Fund's fair share of the costs attributable to the performance of such functions by the State.