(b) Ombudsman training programs

(1) In general

The Secretary shall establish programs to provide and improve ombudsman training with respect to elder abuse, neglect, and exploitation for national organizations and State long-term care ombudsman programs.

(2) Authorization of appropriations

There are authorized to be appropriated to carry out this subsection, for each of fiscal years 2011 through 2014, $10,000,000.

(3) Authorized activities

A recipient of assistance described in paragraph (1) shall use the funds made available through the assistance to conduct a validated evaluation of the effectiveness of the activities funded under a program carried out under this part.

(4) Applications

To be eligible to receive assistance under paragraph (1)(B), an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including a proposal for the evaluation.

(5) Reports

Not later than a date specified by the Secretary, an eligible entity receiving assistance under paragraph (1)(B) shall submit to the Secretary, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report containing the results of the evaluation conducted using such assistance together with such recommendations as the entity determines to be appropriate.

(c) Evaluations and audits of certified EHR technology grant program by the Secretary

(1) Evaluations

The Secretary shall conduct an evaluation of the activities funded under the certified EHR technology grant program under section 1397m(b) of this title. Such evaluation shall include an evaluation of whether the funding provided under the grant is expended only for the purposes for which it is made.

(2) Audits

The Secretary shall conduct appropriate audits of grants made under section 1397m(b) of this title.

(3) Report

Not later than October 1, 2014, the Secretary shall submit to the Elder Justice Coordinating Council established under section 1397k of this title, the Committee on Ways and Means and the Committee on Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate a report—

(1) compiling, summarizing, and analyzing the information contained in the State reports submitted under subsections (b)(4) and (c)(4) of section 1397m–1 of this title; and

(2) containing such recommendations for legislative or administrative action as the Secretary determines to be appropriate.

(4) Rule of construction

Nothing in this division shall be construed as—

(1) limiting any cause of action or other relief related to obligations under this division that is available under the law of any State, or political subdivision thereof; or

(2) creating a private cause of action for a violation of this division.

§ 1397m–5. Rule of construction

Nothing in this division shall be construed as—

(1) limiting any cause of action or other relief related to obligations under this division that is available under the law of any State, or political subdivision thereof; or

(2) creating a private cause of action for a violation of this division.

§ 1397aa. Purpose; State child health plans

(a) Purpose

The purpose of this subchapter is to provide funds to States to enable them to initiate and expand the provision of child health assistance
to uninsured, low-income children in an effective and efficient manner that is coordinated with other sources of health benefits coverage for children. Such assistance shall be provided primarily for obtaining health benefits coverage through:

1. obtaining coverage that meets the requirements of section 1397cc of this title, or
2. providing benefits under the State’s medicaid plan under subchapter XIX of this chapter,

or a combination of both.

(b) State child health plan required

A State is not eligible for payment under section 1397ee of this title unless the State has submitted to the Secretary under section 1397ff of this title a plan that—

1. sets forth how the State intends to use the funds provided under this subchapter to provide child health assistance to needy children consistent with the provisions of this subchapter, and
2. has been approved under section 1397ff of this title.

(c) State entitlement

This subchapter constitutes budget authority in advance of appropriations Acts and represents the obligation of the Federal Government to provide for the payment to States of amounts provided under section 1397dd of this title.

(d) Effective date

No State is eligible for payments under section 1397ee of this title for child health assistance for coverage provided for periods beginning before October 1, 1997.

References to SCHIP and State Children’s Health Insurance Program

Pub. L. 106–113, div. B, § 1000(a)(6) [title VII, § 704], Nov. 29, 1999, 113 Stat. 1538, 1501A–402, which provided that, in official communications concerning this subchapter, the terms “SCHIP” and “State children’s health insurance program” were to be used instead of “CHIP” and “children’s health insurance program”, respectively, was repealed by Pub. L. 111–148, title II, § 203(a), Mar. 23, 2010, 124 Stat. 93.

§ 1397bb. General contents of State child health plan; eligibility; outreach

(a) General background and description

A State child health plan shall include a description, consistent with the requirements of this subchapter, of—

1. the extent to which, and manner in which, children in the State, including targeted low-income children and other classes of children classified by income and other relevant factors, currently have creditable health coverage (as defined in section 1397(j)(c)(2) of this title);
2. current State efforts to provide or obtain creditable health coverage for uncovered children, including the steps the State is taking to identify and enroll all uncovered children who are eligible to participate in public health insurance programs and health insurance programs that involve public-private partnerships;
3. how the plan is designed to be coordinated with such efforts to increase coverage of children under creditable health coverage;
4. the child health assistance provided under the plan for targeted low-income children, including the proposed methods of delivery, and utilization control systems;
5. eligibility standards consistent with subsection (b) of this section;
6. outreach activities consistent with subsection (c) of this section; and
7. methods (including monitoring) used—
A. to assure the quality and appropriateness of care, particularly with respect to well-baby care, well-child care, and immunizations provided under the plan, and
B. to assure access to covered services, including emergency services and services described in section 1397cc(c)(5) of this title.

(b) General description of eligibility standards and methodology

(1) Eligibility standards

(A) In general

The plan shall include a description of the standards used to determine the eligibility of targeted low-income children for child health assistance under the plan. Such standards may include (to the extent consistent with this subchapter) those relating to the geographic areas to be served by the plan, age, income and resources (including any standards relating to spenddowns and disposition of resources), residency, disability status (so long as any standard relating to such status does not restrict eligibility), access to or coverage under other health coverage, and duration of eligibility. Such standards may not discriminate on the basis of diagnosis.

(B) Limitations on eligibility standards

Such eligibility standards—
(i) shall, within any defined group of covered targeted low-income children, not cover such children with higher family income without covering children with a lower family income;
(ii) may not deny eligibility based on a child having a preexisting medical condition;
(iii) may not apply a waiting period (including a waiting period to carry out paragraph (3)(C)) in the case of a targeted low-income pregnant woman provided pregnancy-related assistance under section 1397ff of this title; and
(iv) at State option, may not apply a waiting period in the case of a child provided dental-only supplemental coverage under section 1397j(b)(5) of this title; and
(v) shall, beginning January 1, 2014, use modified adjusted gross income and household income (as defined in section 36B(d)(2) of the Internal Revenue Code of 1986) to determine eligibility for child health assistance under the State child health plan or under any waiver of such plan and for any...
other purpose applicable under the plan or waiver for which a determination of income is required, including with respect to the imposition of premiums and cost-sharing, consistent with section 1396a(e)(14) of this title.

(2) Methodology

The plan shall include a description of methods of establishing and continuing eligibility and enrollment.

(3) Eligibility screening; coordination with other health coverage programs

The plan shall include a description of procedures to be used to ensure—

(A) through both intake and followup screening, that only targeted low-income children are furnished child health assistance under the State child health plan;

(B) that children found through the screening to be eligible for medical assistance under the State Medicaid plan under subchapter XIX of this chapter are enrolled for such assistance under such plan;

(C) that the insurance provided under the State child health plan does not substitute for coverage under group health plans;

(D) the provision of child health assistance to targeted low-income children in the State who are Indians (as defined in section 1603(c) of title 25); and

(E) coordination with other public and private programs providing creditable coverage for low-income children.

(4) Reduction of administrative barriers to enrollment

(A) In general

Subject to subparagraph (B), the plan shall include a description of the procedures used to reduce administrative barriers to the enrollment of children and pregnant women who are eligible for medical assistance under subchapter XIX or for child health assistance or health benefits coverage under this subchapter. Such procedures shall be established and revised as often as the State determines appropriate to take into account the most recent information available to the State identifying such barriers.

(B) Deemed compliance if joint application and renewal process that permits application other than in person

A State shall be deemed to comply with subparagraph (A) if the State’s application and renewal forms and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children and pregnant women for medical assistance under subchapter XIX and child health assistance under this subchapter, and such process does not require an application to be made in person or a face-to-face interview.

(5) Nonentitlement

Nothing in this subchapter shall be construed as providing an individual with an entitlement to child health assistance under a State child health plan.

(c) Outreach and coordination

A State child health plan shall include a description of the procedures to be used by the State to accomplish the following:

(1) Outreach

Outreach (through community health workers and others) to families of children likely to be eligible for child health assistance under the plan or under other public or private health coverage programs to inform these families of the availability of, and to assist them in enrolling their children in, such a program.

(2) Coordination with other health insurance programs

Coordination of the administration of the State program under this subchapter with other public and private health insurance programs.

(3) Premium assistance subsidies

In the case of a State that provides for premium assistance subsidies under the State child health plan in accordance with paragraph (2)(B), (3), or (10) of section 1397ee(c) of this title, or a waiver approved under section 1315 of this title, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.

References in Text


Amendments


2009—Subsec. (a)(7)(B). Pub. L. 111–3, § 501(a)(2), inserted “and services described in section 1397ccc(c)(5) of this title after “emergency services”.Subsec. (b)(1)(B)(iii) and (iv). Pub. L. 111–3, §§ 111(b)(2), 1315 of this title, outreach, education, and enrollment assistance for families of children likely to be eligible for such subsidies, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and for employers likely to provide coverage that is eligible for such subsidies, including the specific, significant resources the State intends to apply to educate employers about the availability of premium assistance subsidies under the State child health plan.

References in Text


Amendments


2009—Subsec. (a)(7)(B). Pub. L. 111–3, § 501(a)(2), inserted “and services described in section 1397ccc(c)(5) of this title after “emergency services”.


Subsec. (b)(4), (5). Pub. L. 111–3, § 212, added par. (4) and redesignated former par. (4) as (5).
§ 1397cc. Coverage requirements for children's health insurance

(a) Required scope of health insurance coverage

The child health assistance provided to a targeted low-income child under the plan in the form described in paragraph (1) of section 1397aa(a) of this title shall consist, consistent with paragraphs (5), (6), and (7) of subsection (c) of this section, of any of the following:

(1) Benchmark coverage

Health benefits coverage that is at least equivalent to the benefits coverage in a benchmark benefit package described in subsection (b) of this section.

(2) Benchmark-equivalent coverage

Health benefits coverage that meets the following requirements:

(A) Inclusion of basic services

The coverage includes benefits for items and services within each of the categories of basic services described in subsection (c)(1) of this section.

(B) Aggregate actuarial value equivalent to benchmark package

The coverage has an aggregate actuarial value that is at least actuarially equivalent to one of the benchmark benefit packages.

(C) Substantial actuarial value for additional services included in benchmark package

With respect to each of the categories of additional services described in subsection (c)(2) of this section for which coverage is provided under the benchmark benefit package used under subparagraph (B), the coverage has an actuarial value that is equal to at least 75 percent of the actuarial value of the coverage of that category of services in such package.

(3) Existing comprehensive State-based coverage

Health benefits coverage under an existing comprehensive State-based program, described in subsection (d)(1) of this section.

(4) Secretary-approved coverage

Any other health benefits coverage that the Secretary determines, upon application by a State, provides appropriate coverage for the population of targeted low-income children proposed to be provided such coverage.

(b) Benchmark benefit packages

The benchmark benefit packages are as follows:

(1) FEHBP-equivalent children's health insurance coverage

The standard Blue Cross/Blue Shield preferred provider option service benefit plan, described in and offered under section 9801(1) of title 5.

(2) State employee coverage

A health benefits coverage that is offered and generally available to State employees in the State involved.

(3) Coverage offered through HMO

The health insurance coverage plan that—

(A) is offered by a health maintenance organization (as defined in section 2791(b)(3) of the Public Health Service Act [42 U.S.C. 300gg–91(b)(3)]), and

(B) has the largest insured commercial, non-medicaid enrollment of covered lives of such coverage plans offered by such a health maintenance organization in the State involved.

(c) Categories of services; determination of actuarial value of coverage

(1) Categories of basic services

For purposes of this section, the categories of basic services described in this paragraph are as follows:

(A) Inpatient and outpatient hospital services.

(B) Physicians’ surgical and medical services.

(C) Laboratory and x-ray services.

(D) Well-baby and well-child care, including age-appropriate immunizations.

(2) Categories of additional services

For purposes of this section, the categories of additional services described in this paragraph are as follows:

(A) Coverage of prescription drugs.

(B) Vision services.

(C) Hearing services.

(3) Treatment of other categories

Nothing in this subsection shall be construed as preventing a State child health plan from providing coverage of benefits that are not within a category of services described in paragraph (1) or (2).

(4) Determination of actuarial value

The actuarial value of coverage of benchmark benefit packages, coverage offered under the State child health plan, and coverage of any categories of additional services under benchmark benefit packages and under coverage offered by such a plan, shall be set forth in an actuarial opinion in an actuarial report that has been prepared—

(A) by an individual who is a member of the American Academy of Actuaries;

(B) using generally accepted actuarial principles and methodologies;

(C) using a standardized set of utilization and price factors;

(D) using a standardized population that is representative of privately insured children
of the age of children who are expected to be covered under the State child health plan;

(E) applying the same principles and factors in comparing the value of different coverage (or categories of services);

(F) without taking into account any differences in coverage based on the method of delivery or means of cost control or utilization used; and

(G) taking into account the ability of a State to reduce benefits by taking into account the increase in actuarial value of benefits coverage offered under the State child health plan that results from the limitations on cost sharing under such coverage.

The actuary preparing the opinion shall select and specify in the memorandum the standardized set and population to be used under subparagraphs (C) and (D).

(5) Dental benefits

(A) In general

The child health assistance provided to a targeted low-income child shall include coverage of dental services necessary to prevent disease and promote oral health, restore oral structures to health and function, and treat emergency conditions.

(B) Permitting use of dental benchmark plans by certain States

A State may elect to meet the requirement of subparagraph (A) through dental coverage that is equivalent to a benchmark dental benefit package described in subparagraph (C).

(C) Benchmark dental benefit packages

The benchmark dental benefit packages are as follows:

(i) FEHBP children's dental coverage

A dental benefits plan under chapter 89A of title 5 that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

(ii) State employee dependent dental coverage

A dental benefits plan that is offered and generally available to State employees in the State involved and that has been selected most frequently by employees seeking dependent coverage, among such plans that provide such dependent coverage, in either of the previous 2 plan years.

(iii) Coverage offered through commercial dental plan

A dental benefits plan that has the largest insured commercial, non-medicaid enrollment of dependent covered lives of such plans that is offered in the State involved.

(6) Mental health services parity

(A) In general

In the case of a State child health plan that provides both medical and surgical benefits and mental health or substance use dis-
(e) Cost-sharing

(1) Description; general conditions

(A) Description

A State child health plan shall include a description, consistent with this subsection, of the amount (if any) of premiums, deductibles, coinsurance, and other cost sharing imposed. Any such charges shall be imposed pursuant to a public schedule.

(B) Protection for lower income children

The State child health plan may only vary premiums, deductibles, coinsurance, and other cost sharing based on the family income of targeted low-income children in a manner that does not favor children from families with higher income over children from families with lower income.

(2) No cost sharing on benefits for preventive services or pregnancy-related assistance

The State child health plan may not impose deductibles, coinsurance, or other cost sharing with respect to benefits for services within the category of services described in subsection (c)(1)(D) of this section or for pregnancy-related assistance.

(3) Limitations on premiums and cost-sharing

(A) Children in families with income below 150 percent of poverty line

In the case of a targeted low-income child whose family income is at or below 150 percent of the poverty line, the State child health plan may not impose—

(i) an enrollment fee, premium, or similar charge that exceeds the maximum monthly charge permitted consistent with standards established to carry out section 1396o(b)(1) of this title (with respect to individuals described in such section); and

(ii) a deductible, cost sharing, or similar charge that exceeds an amount that is nominal (as determined consistent with regulations referred to in section 1396o(a)(3) of this title, with such appropriate adjustment for inflation or other reasons as the Secretary determines to be reasonable).

(B) Other children

For children not described in subparagraph (A), subject to paragraphs (1)(B) and (2), any premiums, deductibles, cost sharing or similar charges imposed under the State child health plan may be imposed on a sliding scale related to income, except that the total annual aggregate cost-sharing with respect to all targeted low-income children in a family under this subchapter may not exceed 5 percent of such family’s income for the year involved.

(C) Premium grace period

The State child health plan—

(i) shall afford individuals enrolled under the plan a grace period of at least 30 days from the beginning of a new coverage period to make premium payments before the individual’s coverage under the plan may be terminated; and

(ii) shall provide to such an individual, not later than 7 days after the first day of such grace period, notice—

(I) that failure to make a premium payment within the grace period will result in termination of coverage under the State child health plan; and

(II) of the individual’s right to challenge the proposed termination pursuant to the applicable Federal regulations.

For purposes of clause (i), the term “new coverage period” means the month immediately following the last month for which the premium has been paid.

(4) Relation to medicaid requirements

Nothing in this subsection shall be construed as affecting the rules relating to the use of enrollment fees, premiums, deductions, cost sharing, and similar charges in the case of targeted low-income children who are provided child health assistance in the form of coverage under a medicaid program under section 1397aa(a)(2) of this title.

(f) Application of certain requirements

(1) Restriction on application of preexisting condition exclusions

(A) In general

Subject to subparagraph (B), the State child health plan shall not permit the imposition of any preexisting condition exclusion for covered benefits under the plan.

(B) Group health plans and group health insurance coverage

If the State child health plan provides for benefits through payment for, or a contract with, a group health plan or group health insurance coverage, the plan may permit the imposition of a preexisting condition exclusion but only insofar as it is permitted under the applicable provisions of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181 et seq.] and title XXVII of the Public Health Service Act [42 U.S.C. 300gg et seq.].

(2) Compliance with other requirements

Coverage offered under this section shall comply with the requirements of subpart 2 of part A of title XXVII of the Public Health Service Act, as such requirements apply with respect to a health insurance issuer that offers group health insurance coverage.

(3) Compliance with managed care requirements

The State child health plan shall provide for the application of subsections (a)(4), (a)(5), (b), (c), (d), and (e) of section 1396u-2 of this title (relating to requirements for managed care) to coverage, State agencies, enrollment brokers, managed care entities, and managed care organizations under this subchapter in the same manner as such subsections apply to coverage and such entities and organizations under subchapter XIX.

$111(b)(1), title IV, § 403(a), title V, §§ 501(a)(1), 502, 504(a), 505(a), Feb. 4, 2009, 123 Stat. 28, 84, 89, 90.)

REFERENCES IN TEXT

Section 2705 of the Public Health Service Act, referred to in subsec. (c)(6)(A), is section 2705 of act July 1, 1944, which was classified to section 300gg-5 of this title, was renumbered section 2726 and amended by Pub. L. 111-148, title I, § 1001(3), (4), Mar. 23, 2010, 124 Stat. 154, 156, and is classified to section 300gg-4 of this title.


The Public Health Service Act, referred to in subsec. (f), is act July 1, 1944, ch. 373, 58 Stat. 682. Title XXVII of the Act is classified generally to subchapter XXV (§ 300gg et seq.) of chapter 6A of this title. Subpart 2 of subchapter XXV of chapter 6A of this title, was transferred to section 300gg-26 of this title. A new section 2705 of act July 1, 1944, related to prohibiting discrimination against individual participants and beneficiaries based on health status, was added, effective for plan years beginning on or after Jan. 1, 2014, and amended by Pub. L. 111-148, title I, § 1203(3), (4), Mar. 23, 2010, 124 Stat. 154, 156, and is classified to section 300gg-4 of this title.

(a) Appropriation; total allotment

For the purpose of providing allotments to States under this section, subject to subsection (d), there is appropriated, out of any money in the Treasury not otherwise appropriated—

(1) for fiscal year 1998, $4,295,000,000;  
(2) for fiscal year 1999, $4,275,000,000;  
(3) for fiscal year 2000, $4,275,000,000;  
(4) for fiscal year 2001, $4,275,000,000;  
(5) for fiscal year 2002, $2,150,000,000;  
(6) for fiscal year 2003, $2,150,000,000;  
(7) for fiscal year 2004, $3,150,000,000;  
(8) for fiscal year 2005, $4,050,000,000;  
(9) for fiscal year 2006, $4,050,000,000;  
(10) for fiscal year 2007, $5,000,000,000;  
(11) for fiscal year 2008, $5,000,000,000;  
(12) for fiscal year 2009, $10,562,000,000;  
(13) for fiscal year 2010, $12,520,000,000;  
(14) for fiscal year 2011, $13,459,000,000;  
(15) for fiscal year 2012, $14,982,000,000;  
(16) for fiscal year 2013, $17,406,000,000;  
(17) for fiscal year 2014, $19,147,000,000; and  
(18) for fiscal year 2015, for purposes of making 2 semi-annual allotments—

(A) $2,850,000,000 for the period beginning on October 1, 2014, and ending on March 31, 2015, and  
(B) $2,850,000,000 for the period beginning on April 1, 2015, and ending on September 30, 2015.

(b) Allotments to 50 States and District of Columbia

(1) In general

Subject to paragraph (4) and subsections (d) and (m), of the amount available for allotment under subsection (a) of this section for a fiscal year, reduced by the amount of allotments made under subsection (c) of this section (determined without regard to paragraph (4) thereof) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with a State child health plan approved under this subchapter the same proportion as the ratio of—

(A) the product of (i) the number of children described in such subsection with a State child health plan approved under this subchapter for that State for—

(i) the period for which such allotment is made under paragraph (4) and (ii) the State cost factor for that State (established under paragraph (3)); to  
(B) the sum of the products computed under subparagraph (A).  

(2) Number of children

(A) In general

The number of children described in this paragraph for a State for—

1 So in original. The period probably should be a semicolon.

§1397dd. Allotments

Amendment by section 501(a)(1) of Pub. L. 111-3 applicable to coverage of items and services furnished on or after Oct. 1, 2009, see section 501(a)(3) of Pub. L. 111-3, set out as a note under section 1397bb of this title.

Pub. L. 111-3, title V, § 504(b), Feb. 4, 2009, 123 Stat. 90, provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply to new coverage periods beginning on or after the date of the enactment of this Act [Feb. 4, 2009].’’

Amendment by section 501(a)(1) of Pub. L. 111-3—

Pub. L. 111-3, title IV, § 402, and 111-3 applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of this title.

Pub. L. 111-3, title IV, § 403(b), Feb. 4, 2009, 123 Stat. 84, provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply to contract years for health plans beginning on or after July 1, 2009.’’

Amendment by section 501(a)(1) of Pub. L. 111-3 applicable to coverage of items and services furnished on or after Oct. 1, 2009, see section 501(a)(3) of Pub. L. 111-3, set out as a note under section 1397bb of this title.

Pub. L. 111-3, title V, § 504(b), Feb. 4, 2009, 123 Stat. 90, provided that: ‘‘The amendment made by subsection (a) [amending this section] shall apply to new coverage periods beginning on or after the date of the enactment of this Act [Feb. 4, 2009].’’

1 So in original. The period probably should be a semicolon.
(i) each of fiscal years 1998 and 1999 is equal to the number of low-income children in the State with no health insurance coverage for the fiscal year;
(ii) fiscal year 2000 is equal to—
(I) 75 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage, plus
(II) 25 percent of the number of low-income children in the State for the fiscal year; and
(iii) each succeeding fiscal year is equal to—
(I) 50 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage, plus
(II) 50 percent of the number of low-income children in the State for the fiscal year.

(B) Determination of number of children

For purposes of subparagraph (A), a determination of the number of low-income children (and of such children who have no health insurance coverage) for a State for a fiscal year shall be made on the basis of the arithmetic average of the number of such children, as reported and defined in the 3 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the calendar year in which such fiscal year begins.

(3) Adjustment for geographic variations in health costs

(A) In general

For purposes of paragraph (1)(A)(ii), the “State cost factor” for a State for a fiscal year equal to the sum of—
(i) 0.15, and
(ii) 0.85 multiplied by the ratio of—
(I) the annual average wages per employee for the State for such year (as determined under subparagraph (B)), to
(II) the annual average wages per employee for the 50 States and the District of Columbia.

(B) Annual average wages per employee

For purposes of subparagraph (A), the “annual average wages per employee” for a State, or for all the States, for a fiscal year is equal to the average of the annual wages per employee for the State or for the 50 States and the District of Columbia for employees in the health services industry (SIC code 8000), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the most recent 3 years before the beginning of the calendar year in which such fiscal year begins.

(4) Floors and ceilings in State allotments

(A) In general

The proportion of the allotment under this subsection for a subsection (b) State (as defined in subparagraph (D)) for fiscal year 2000 and each fiscal year thereafter shall be subject to the following floors and ceilings:

(i) Floor of $2,000,000

A floor equal to $2,000,000 divided by the total of the amount available under this subsection for all such allotments for the fiscal year.

(ii) Annual floor of 10 percent below preceding fiscal year’s proportion

A floor of 90 percent of the proportion for the State for the preceding fiscal year.

(iii) Cumulative floor of 30 percent below the FY 1999 proportion

A floor of 70 percent of the proportion for the State for fiscal year 1999.

(iv) Cumulative ceiling of 45 percent above FY 1999 proportion

A ceiling of 145 percent of the proportion for the State for fiscal year 1999.

(B) Reconciliation

(i) Elimination of any deficit by establishing a percentage increase ceiling for States with highest annual percentage increases

To the extent that the application of subparagraph (A) would result in the sum of the proportions of the allotments for all subsection (b) States exceeding 1.0, the Secretary shall establish a maximum percentage increase in such proportions for all subsection (b) States for the fiscal year in a manner so that such sum equals 1.0.

(ii) Allocation of surplus through pro rata increase

To the extent that the application of subparagraph (A) would result in the sum of the proportions of the allotments for all subsection (b) States exceeding 1.0, the Secretary shall allocate the surplus through a pro rata increase.

(C) Construction

This paragraph shall not be construed as applying to (or taking into account) amounts of allotments redistributed under subsection (f) of this section.

(D) Definitions

In this paragraph:

(i) Proportion of allotment

The term “proportion” means, with respect to the allotment of a subsection (b) State for a fiscal year, the amount of the allotment of such State under this subsection for the fiscal year divided by the total of the amount available under this subsection for all such allotments for the fiscal year.

(ii) Subsection (b) State

The term “subsection (b) State” means one of the 50 States or the District of Columbia.
(c) Allotments to territories

(1) In general

Of the amount available for allotment under subsection (a) of this section for a fiscal year, subject to subsections (d) and (m)(4), the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

(2) Percentage

The percentage specified in this paragraph for—

(A) Puerto Rico is 91.6 percent,
(B) Guam is 3.5 percent,
(C) the Virgin Islands is 2.6 percent,
(D) American Samoa is 1.2 percent, and
(E) the Northern Mariana Islands is 1.1 percent.

(3) Commonwealths and territories

A commonwealth or territory described in this paragraph is any of the following if it has a State child health plan approved under this subchapter:

(A) Puerto Rico.
(B) Guam.
(C) The Virgin Islands.
(D) American Samoa.
(E) The Northern Mariana Islands.

(4) Additional allotment

(A) In general

In addition to the allotment under paragraph (1), the Secretary shall allot each commonwealth and territory described in paragraph (3) the applicable percentage specified in paragraph (2) of the amount appropriated under subparagraph (B).

(B) Appropriations

For purposes of providing allotments pursuant to subparagraph (A), there is appropriated, out of any money in the Treasury not otherwise appropriated $32,000,000 for fiscal year 1999, $34,200,000 for each of fiscal years 2000 and 2001, $25,200,000 for each of fiscal years 2002 through 2004, $32,400,000 for each of fiscal years 2005 and 2006, and $40,000,000 for each of fiscal years 2007 through 2009.

(d) Additional allotments to eliminate funding shortfalls

(1) Appropriation; allotment authority

For the purpose of providing additional allotments to shortfall States described in paragraph (2), there is appropriated, out of any money in the Treasury not otherwise appropriated, $283,000,000 for fiscal year 2006.

(2) Shortfall States described

For purposes of paragraph (1), a shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of December 16, 2005, that the projected expenditures under such plan for such State for fiscal year 2006 will exceed the sum of—

(A) the amount of the State’s allotments for each of fiscal years 2004 and 2005 that will not be expended by the end of fiscal year 2005;
(B) the amount, if any, that is to be redistributed to the State during fiscal year 2006 in accordance with subsection (f); and
(C) the amount of the State’s allotment for fiscal year 2006.

(3) Allotments

In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2006, the Secretary shall allot—

(A) to each shortfall State described in paragraph (2) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and
(B) to each commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth’s or territory’s allotment under subsection (c)(determined without regard to subsection (f)) to 1.05 percent of the amount appropriated under paragraph (1).

(4) Use of additional allotment

Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this subchapter for child health assistance for targeted low-income children.

(5) 1-year availability; no redistribution of unexpended additional allotments

Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2006 shall only remain available for expenditure by the State through September 30, 2006. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f) and shall revert to the Treasury on October 1, 2006.

(e) Availability of amounts allotted

(1) In general

Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and
(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

(2) Availability of amounts redistributed

Amounts redistributed to a State under subsection (f) shall be available for expenditure by the State through the end of the fiscal year in which they are redistributed.

(f) Procedure for redistribution of unused allotments

(1) In general

The Secretary shall determine an appropriate procedure for redistribution of allot-
ments from States that were provided allotments under this section for a fiscal year but that do not expend all of the amount of such allotments during the period in which such allotments are available for expenditure under subsection (e) of this section, to States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).

(2) Shortfall States described

(A) In general

For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates the expenditures under such plan for the State for the fiscal year will exceed the sum of—

(i) the amount of the State’s allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;

(ii) the amount (if any) of the child enrollment contingency fund payment under subsection (n); and

(iii) the amount of the State’s allotment for the fiscal year.

(B) Proration rule

If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

(C) Retrospective adjustment

The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.

(g) Rule for redistribution and extended availability of fiscal years 1998, 1999, 2000, and 2001 allotments

(1) Amount redistributed

(A) In general

In the case of a State that expends all of its allotment under subsection (b) or (c) of this section for fiscal year 1998 by the end of fiscal year 2000, or for fiscal year 1999 by the end of fiscal year 2001, or for fiscal year 2000 by the end of fiscal year 2002, or for fiscal year 2001 by the end of fiscal year 2003, the Secretary shall redistribute to the State under subsection (f) of this section (from the fiscal year 1998, 1999, 2000, or 2001 allotments of other States, respectively, as determined by the application of paragraphs (2) and (3) with respect to the respective fiscal year) the following amount:

(i) State

In the case of one of the 50 States or the District of Columbia, with respect to—

(I) the fiscal year 1998 allotment, the amount by which the State’s expenditures under this subchapter in fiscal years 1998, 1999, and 2000 exceed the State’s allotment for fiscal year 1998 under subsection (b) of this section;

(II) the fiscal year 1999 allotment, the amount by which the State’s expenditures under this subchapter in fiscal years 1999, 2000, and 2001 exceed the State’s allotment for fiscal year 1999 under subsection (b) of this section;

(III) the fiscal year 2000 allotment, the amount specified in subparagraph (C)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (C)(ii) for the State to the amount specified in subparagraph (C)(iii); or

(IV) the fiscal year 2001 allotment, the amount specified in subparagraph (D)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (D)(ii) for the State to the amount specified in subparagraph (D)(iii).

(ii) Territory

In the case of a commonwealth or territory described in subsection (c)(3) of this section, an amount that bears the same ratio to 1.05 percent of the total amount described in paragraph (2)(B)(i)(D) as the ratio of the commonwealth’s or territory’s fiscal year 1998, 1999, 2000, or 2001 allotment under subsection (b) of this section (as the case may be) bears to the total of all such allotments for such fiscal year under such subsection.

(D) Expenditure rules

An amount redistributed to a State under this paragraph—

(i) shall not be included in the determination of the State’s allotment for any fiscal year under this section;

(ii) notwithstanding subsection (e) of this section, with respect to fiscal year 1998, 1999, or 2000, shall remain available for expenditure by the State through the end of fiscal year 2004;

(iii) notwithstanding subsection (e) of this section, with respect to fiscal year 2001, shall remain available for expenditure by the State through the end of fiscal year 2005; and

(iv) shall be counted as being expended with respect to a fiscal year allotment in accordance with applicable regulations of the Secretary.

8So in original. Probably should be ‘Child Enrollment Contingency Fund’.
(C) Amounts used in computing redistributions for fiscal year 2000

For purposes of subparagraph (A)(i)(III)—

(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2000, less the total amount remaining available pursuant to paragraph (2)(A)(ii);

(ii) the amount specified in this clause for a State is the amount by which the State’s expenditures under this subchapter in fiscal years 2000, 2001, and 2002 exceed the State’s allotment for fiscal year 2000 pursuant to subsection (b) of this section; and

(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2000, of the amounts specified in clause (ii).

(D) Amounts used in computing redistributions for fiscal year 2001

For purposes of subparagraph (A)(i)(IV)—

(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2001, less the total amount remaining available pursuant to paragraph (2)(A)(iv);

(ii) the amount specified in this clause for a State is the amount by which the State’s expenditures under this subchapter in fiscal years 2001, 2002, and 2003 exceed the State’s allotment for fiscal year 2001 pursuant to subsection (b) of this section; and

(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2001, of the amounts specified in clause (ii).

(2) Extension of availability of portion of unexpended fiscal years 1998 through 2001 allotments

(A) In general

Notwithstanding subsection (e) of this section:

(i) Fiscal year 1998 allotment

Of the amounts allotted to a State pursuant to this section for fiscal year 1998 that were not expended by the State by the end of fiscal year 2000, the amount specified in subparagraph (B) for fiscal year 1998 for such State shall remain available for expenditure by the State through the end of fiscal year 2004.

(ii) Fiscal year 1999 allotment

Of the amounts allotted to a State pursuant to this subsection for fiscal year 1999 that were not expended by the State by the end of fiscal year 2001, the amount specified in subparagraph (B) for fiscal year 1999 for such State shall remain available for expenditure by the State through the end of fiscal year 2004.

(iii) Fiscal year 2000 allotment

Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2004.

(iv) Fiscal year 2001 allotment

Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2005.

(B) Amount remaining available for expenditure

The amount specified in this subparagraph for a State for a fiscal year is equal to—

(i) the amount by which (I) the total amount available for redistribution under subsection (f) of this section from the allotments for that fiscal year, exceeds (II) the total amounts redistributed under paragraph (1) for that fiscal year; multiplied by

(ii) the ratio of the amount of such State’s unexpended allotment for that fiscal year to the total amount described in clause (i)(I) for that fiscal year.

(C) Use of up to 10 percent of retained 1998 allotments for outreach activities

Notwithstanding section 1397ee(c)(2)(A) of this title, with respect to any State described in subparagraph (A)(i), the State may use up to 10 percent of the amount specified in subparagraph (B) for fiscal year 1998 for expenditures for outreach activities approved by the Secretary.

(3) Determination of amounts

For purposes of calculating the amounts described in paragraphs (1) and (2) relating to the allotment for fiscal year 1998, fiscal year 1999, fiscal year 2000, or fiscal year 2001, the Secretary shall use the amounts reported by the States not later than December 15, 2000, November 30, 2001, November 30, 2002, or November 30, 2003, respectively, on HCFA Form 64 or HCFA Form 21, as the case may be.\(^3\) as approved by the Secretary.

(h) Special rules to address fiscal year 2007 shortfalls

(1) Redistribution of unused fiscal year 2004 allotments

(A) In general

Notwithstanding subsection (f) and subject to subparagraphs (C) and (D), with respect to months beginning during fiscal year 2007, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2004 under subsection (b) that are not expended by the end of fiscal year 2006, to a shortfall State described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for such State for the month.

(B) Shortfall State described

For purposes of this paragraph, a shortfall State described in this subparagraph is a State described in subparagraph (B) of this paragraph if such State had a fiscal year 2006 shortfall described in such subparagraph that was not eliminated in a prior fiscal year.

\(^3\)So in original.
(2) Funding part of shortfall for fiscal year

State shall be reduced proportionally.

under such subparagraph for each shortfall

subparagraph (A) for a month are less

under paragraph (3) to each shortfall State
described in subparagraph (B) in the order in

subject to subparagraphs (C) and (D) and

paragraph (5)(B), with respect to months be-

subject of need

(A) In general

Subject to subparagraphs (C) and (D) and

paragraph (3) to each shortfall State
described in subparagraph (B), such amount

that there are unexpended fiscal year

amounts available for redistribution under

distribution under subsection (f) from

March 31, 2007, the Secretary shall provide for a re-
distributions under this paragraph to the ex-
tent that there are unexpended fiscal year

amounts made available for redistribution

subject of need

(B) Shortfall State described

For purposes of this paragraph, a shortfall

State described in this subparagraph is a

State with a State child health plan ap-

approved under this subchapter for which the

Secretary estimates, on a monthly basis

using the most recent data available to the

Secretary as of such month, that the pro-

jected expenditures under such plan for such

State for fiscal year 2007 will exceed the sum

of—

(i) the amount of the State’s allotments

for each of fiscal years 2005 and 2006 that

was not expended by the end of fiscal year

2006; and

(ii) the amount of the State’s allotment

for fiscal year 2007.

(C) Funds redistributed in the order in

which States realize funding shortfalls

The Secretary shall redistribute the

amounts available for redistribution under

subparagraph (A) to shortfall States de-

scribed in subparagraph (B) in the order in

which such States realize monthly funding

shortfalls under this subchapter for fiscal

year 2007. The Secretary shall only make re-
distributions under this paragraph to the ex-
tent that such amounts are available for

such redistributions.

(D) Proration rule

If the amounts available for redistribution

under subparagraph (3) for a month are less

than the total amounts of the estimated

shortfalls determined for the month under

subparagraph (A), the amount computed

under such subparagraph for each shortfall

State shall be reduced proportionally.

(3) Treatment of certain States with fiscal year

2005 allotments unexpended at the end of

the first half of fiscal year 2007

(A) Identification of States

The Secretary, on the basis of the most re-
cent data available to the Secretary as of

March 31, 2007—

(i) shall identify those States that re-
ceived an allotment for fiscal year 2005
under subsection (b) which have not ex-
pected all of such allotment by March 31,
2007; and

(ii) for each such State shall estimate—
(I) the portion of such allotment that

was not so expended by such date; and

(II) whether the State is described in

subparagraph (B).

(B) States with funds in excess of 200 percent

of need

A State described in this subparagraph is a

State for which the Secretary determines,
on the basis of the most recent data avail-
able to the Secretary as of March 31, 2007,
that the total of all available allotments
under this subchapter to the State as of such
date, is at least equal to 200 percent of the
total projected expenditures under this sub-
chapter for the State for fiscal year 2007.

(C) Redistribution and limitation on avail-

ability of portion of unused allotments

for certain States

(i) In general

In the case of a State identified under

subparagraph (A)(i) that is also described in

subparagraph (B), notwithstanding sub-

section (e), the applicable amount de-

scribed in clause (ii) shall not be available

for expenditure by the State on or after

April 1, 2007, and shall be redistributed in

accordance with paragraph (2).

(ii) Applicable amount

For purposes of clause (i), the applicable

amount described in this clause is the less-

er of—

4So in original. The comma probably should not appear.
(4) Additional amounts to eliminate remainder of fiscal year 2007 funding shortfalls

(A) In general

From the amounts provided in advance in appropriations Acts, the Secretary shall allot to each remaining shortfall State described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State for fiscal year 2007.

(B) Remaining shortfall State described

For purposes of subparagraph (A), a remaining shortfall State is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of May 25, 2007, that the projected Federal expenditures under such plan for the State for fiscal year 2007 will exceed the sum of—

(i) the amount of the State’s allotments for each of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;

(ii) the amount of the State’s allotment for fiscal year 2007; and

(iii) the amounts, if any, that are to be redistributed to the State during fiscal year 2007 in accordance with paragraphs (1) and (2).

(5) Retrospective adjustment

(A) In general

The Secretary may adjust the estimates and determinations made for purposes of paragraphs (1), (2), (3), and (4) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be and as approved by the Secretary, but in no case may the applicable amount described in paragraph (3)(B)(ii) exceed the amount determined by the Secretary on the basis of the most recent data available to the Secretary as of March 31, 2007.

(B) Funding of any retrospective adjustments only from unexpended 2005 allotments

Notwithstanding subsections (e) and (f), to the extent the Secretary determines it necessary to adjust the estimates and determinations made for purposes of paragraphs (1), (2), and (3), the Secretary may use only the allotments for fiscal year 2005 under subsection (b) that remain unexpended through the end of fiscal year 2007 for providing any additional amounts to States described in paragraph (3)(B) to provide additional amounts to States described in paragraph (2)(B) for purposes of eliminating the funding shortfall for such States for fiscal year 2007; or

(ii) limiting the authority of the Secretary to redistribute the allotments for fiscal year 2005 under subsection (b) that remain unexpended through the end of fiscal year 2007 and are available for redistribution under subsection (f) after the application of subparagraph (B).

(6) 1-year availability; no further redistribution

Notwithstanding subsections (e) and (f), amounts redistributed or allotted to a State pursuant to this subsection for fiscal year 2007 shall only remain available for expenditure by the Secretary through September 30, 2007, and any amounts of such redistributions or allotments that remain unexpended as of such date, shall not be subject to redistribution under subsection (f). Nothing in the preceding sentence shall be construed as limiting the ability of the Secretary to adjust the determinations made under paragraphs (1), (2), (3), and (4) in accordance with paragraph (5).

(7) Definition of State

For purposes of this subsection, the term “State” means a State that receives an allotment for fiscal year 2007 under subsection (b).

(i) Redistribution of unused fiscal year 2005 allotments to States with estimated funding shortfalls for fiscal year 2008

(1) In general

Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2008, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2005 under subsection (b) that are not expended by the end of fiscal year 2007, to a fiscal year 2008 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

(2) Fiscal year 2008 shortfall State described

A fiscal year 2008 shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

(A) the amount of the State’s allotments for each of fiscal years 2006 and 2007 that was not expended by the end of fiscal year 2007; and

(B) the amount of the State’s allotment for fiscal year 2008.

(3) Funds redistributed in the order in which States realize funding shortfalls

The Secretary shall redistribute the amounts available for redistribution under
paragraph (1) to fiscal year 2008 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this subchapter for fiscal year 2008. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2005 allotments under subsection (b) available for such redistributions.

(4) Proration rule

If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2008 shortfall State for the month shall be reduced proportionally.

(5) Retrospective adjustment

The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

(6) 1-year availability; no further redistribution

Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2008 shall only remain available for expenditure by the State through September 30, 2008, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).

(j) Additional allotments to eliminate funding shortfalls for fiscal year 2008

(1) Appropriation; allotment authority

For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $1,600,000,000 for fiscal year 2008.

(2) Shortfall States described

For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of November 30, 2007, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

(A) the amount of the State’s allotments for each of fiscal years 2006 and 2007 that will not be expended by the end of fiscal year 2007;

(B) the amount, if any, that is to be redistributed to the State during fiscal year 2008 in accordance with subsection (i); and

(C) the amount of the State’s allotment for fiscal year 2008.

(3) Allotments

In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2008, the Secretary shall allot—

(A) to each shortfall State described in paragraph (2) not described in subparagraph (B), such amounts as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

(B) to each commonwealth or territory described in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

(4) Proration rule

If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

(5) Retrospective adjustment

The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2008, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

(6) One-year availability; no redistribution of unexpended additional allotments

Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2008, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2008. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

(k) Redistribution of unused fiscal year 2006 allotments to States with estimated funding shortfalls during fiscal year 2009

(1) In general

Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2009, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2006 under subsection (b) that are not expended by the end of fiscal year 2008, to a fiscal year 2009 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

(2) Fiscal year 2009 shortfall State described

A fiscal year 2009 shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the Federal share amount of the projected expenditures under such plan for such State for the first 2 quarters of fiscal year 2009 will exceed the sum of—
(A) the amount of the State’s allotments for each of fiscal years 2007 and 2008 that was not expended by the end of fiscal year 2008;  
(B) the amount, if any, that is to be redistributed to the State during fiscal year 2009 in accordance with subsection (k); and 
(C) the amount of the State’s allotment for fiscal year 2009.

(3) Allocations
In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for the first 2 quarters of fiscal year 2009, the Secretary shall allot—
(A) to each shortfall State described in paragraph (2) not described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and
(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

(4) Proration rule
If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

(5) Retrospective adjustment
The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than May 31, 2009, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

(6) Availability; no further redistribution
Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2009 shall only remain available for expenditure by the State through September 30, 2009, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).

(l) Additional allotments to eliminate funding shortfalls for the first 2 quarters of fiscal year 2009

(1) Appropriation; allotment authority
For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed $275,000,000 for the first 2 quarters of fiscal year 2009.

(2) Shortfall States described
For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for the first 2 quarters of fiscal year 2009 will exceed the sum of—
(A) the amount of the State’s allotments for each of fiscal years 2007 and 2008 that will not be expended by the end of fiscal year 2008;
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factor determined under paragraph (5) for fiscal year 2009.

(ii) The amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

(iii) The projected total Federal payments to the State under this subchapter for fiscal year 2009, as determined on the basis of the February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

(B) For the commonwealths and territories

Subject to the succeeding provisions of this paragraph and paragraph (3), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this subchapter for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting “the United States” for “the State”.

(C) Adjustment for qualifying States

In the case of a qualifying State described in paragraph (2) of section 1397ee(g) of this title, the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(ii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

(2) For fiscal years 2010 through 2014

(A) In general

Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

(i) Growth factor update for fiscal year 2010

For fiscal year 2010, the allotment of the State is equal to the sum of—

(I) the amount of the State allotment under clause (i) for fiscal year 2009; and

(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2010.

(ii) Rebasings in fiscal year 2011

For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

(iii) Growth factor update for fiscal year 2012

For fiscal year 2012, the allotment of the State is equal to the sum of—

(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

(B) Fiscal years 2013 and 2014

Subject to paragraphs (4) and (6), from the amount made available under paragraphs (16) and (17) of subsection (a) for fiscal years 2013 and 2014, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

(i) Rebasings in fiscal year 2013

For fiscal year 2013, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

(ii) Growth factor update for fiscal year 2014

For fiscal year 2014, the allotment of the State is equal to the sum of—

(I) the amount of the State allotment under clause (i) for fiscal year 2013; and

(II) the amount of any payments made to the State under subsection (n) for fiscal year 2013,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2014.

(3) For fiscal year 2015

(A) First half

Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (18) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appropriation for such period under section 108 of the Children’s Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal
to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

(B) Second half

Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (18) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

(i) the amount of the allotment to such State under subparagraph (A); to

(ii) the total of the amount of all of the allotments made available under such subparagraph.

(C) Full year amount based on rebased amount

The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2014 (including payments made to the State under subsection (n) for fiscal year 2014 as well as amounts redistributed to the State in fiscal year 2014), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2015.

(D) First half ratio

The first half ratio described in this subparagraph is the ratio of—

(i) the sum of—

(I) the amount made available under subsection (a)(18)(A); and

(II) the amount of the appropriation for such period under section 108 of the Children’s Health Insurance Program Reauthorization Act of 2009; to

(ii) the sum of the—

(I) amount described in clause (i); and

(II) the amount made available under subsection (a)(18)(B).

(4) Proration rule

If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2015, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

(5) Allotment increase factor

The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

(A) Per capita health care growth factor

1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

(B) Child population growth factor

1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

(6) Increase in allotment to account for approved program expansions

In the case of one of the 50 States or the District of Columbia that—

(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this subchapter that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2015); and

(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

(i) the additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in subparagraph (A), as certified by the State and submitted to the Secretary before the beginning of the fiscal year; and

(ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year, subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010, fiscal year 2012, or fiscal year 2014.

(7) Adjustment of fiscal year 2010 allotments to account for changes in projected spending for certain previously approved expansion programs

For purposes of recalculating the fiscal year 2010 allotment, in the case of one of the 50 States or the District of Columbia that has an approved State plan amendment effective January 1, 2006, to provide child health assistance through the provision of benefits under the State plan under subchapter XIX for children from birth through age 5 whose family income does not exceed 200 percent of the poverty line, the Secretary shall increase the allotment by an amount that would be equal to the Federal share of expenditures that would have been claimed at the enhanced FMAP rate rather than the Federal medical assistance percentage matching rate for such population.
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(8) Availability of amounts for semi-annual periods in fiscal year 2015

Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2015 shall remain available for expenditure under this subchapter for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.

(n) Child Enrollment Contingency Fund

(1) Establishment

There is hereby established in the Treasury of the United States a fund which shall be known as the “Child Enrollment Contingency Fund” (in this subsection referred to as the “Fund”). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

(2) Deposits into Fund

(A) Initial and subsequent appropriations

Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

(ii) for each of fiscal years 2010 through 2014 (and for each of the semi-annual allotment periods for fiscal year 2015), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

(B) Aggregate cap

The total amount available for payment from the Fund for each of fiscal years 2010 through 2014 (and for each of the semi-annual allotment periods for fiscal year 2015), taking into account deposits made under subparagraph (A), shall not exceed 20 percent of the amount made available under subsection (a) for the fiscal year or period.

(C) Investment of Fund

The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

(D) Availability of excess funds for performance bonuses

Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for purposes of carrying out section 1397ee(a)(3) of this title for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

(3) Child Enrollment Contingency Fund payments

(A) In general

If a State’s expenditures under this subchapter in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, fiscal year 2013, fiscal year 2014, or a semi-annual allotment period for fiscal year 2015, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this subchapter (including children receiving health care coverage through funds under this subchapter pursuant to a waiver under section 1315 of this title) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 1397ee(b) of this title) for the State and fiscal year involved (or in which the period occurs).

(B) Target average number of child enrollees

In this paragraph, the target average number of child enrollees for a State—

(i) for fiscal year 2009 is equal to the average per capita amount of National Health Expenditures (as estimated by the Bureau of the Census) plus 1 percentage point; or

(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of children enrolled in the State child health plan under this subchapter (including such children receiving health care coverage through funds under this subchapter pursuant to a waiver under section 1315 of this title) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of children enrolled in the State child health plan under this subchapter (including such children receiving health care coverage through funds under this subchapter pursuant to a waiver under section 1315 of this title) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of children enrolled in the State child health plan under this subchapter (including such children receiving health care coverage through funds under this subchapter pursuant to a waiver under section 1315 of this title) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

(C) Projected per capita expenditures

For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or
(ii) for a subsequent fiscal year (or semiannual period occurring in a fiscal year) is equal to the projected per capita expenditure under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

(D) Proration rule

If the amounts available for payment from the Fund for a fiscal year or period are less than the total amount of payments determined under subparagraph (A) for the fiscal year or period, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

(E) Timely payment; reconciliation

Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 1397ee of this title shall apply to payments under this subsection in the same manner as they apply to payments under such section.

(F) Continued reporting

For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State’s projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

(G) Application to commonwealths and territories

No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth’s or territory’s eligibility for, and amount of payment, under this paragraph.


AMENDMENTS

2010—Subsec. (a)(16) to (18). Pub. L. 111–148, §10203(d)(1), added pars. (16) to (18) and struck out former par. (16) which read as follows: “for fiscal year 2013, for purposes of making 2 semi-annual allotments—
(A) $2,850,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and
(B) $2,850,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013.”


fiscal year; except that amounts reallocated to a State for subsection (f) of this section shall be available for expenditure by the State through the end of the fiscal year for which they are reallocated.

Subsec. (f). Pub. L. 111–3, § 106(a)(1), designated existing provisions as par. (1), inserted heading, substituted "States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal years but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C))." for "States that have fully expended the amount of their allotments under this section," and added par. (2).

Subsec. (k). Pub. L. 111–3, § 106(b)(1), struck out "the first 2 quarters of" before "fiscal year 2009," added par. (4), and struck out former par. (4). Former text read as follows:

"States that the Secretary determines with respect to fiscal year 2001 and fiscal years 2002 and 2003, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State." after "subject to subsection (e) of this section, and substituted "§ 1397dd 2004" for "2002.""


In §701(a)(2), amended heading and text of par. (4) generally. To the extent that the application of the previous sentence results in an increase in the allotment to a State above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below $2,000,000) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under paragraph (1) for that fiscal year.

Subsec. (d)(4). Pub. L. 106–113, §1000(a)(6) [title VII, §706(a)], inserted before period at end “, $34,200,000 for each of fiscal years 2000 and 2001, $35,200,000 for each of fiscal years 2002 through 2004, $36,400,000 for each of fiscal years 2005 and 2006, and $40,000,000 for fiscal year 2007”.

1998—Subsec. (b)(1). Pub. L. 105–267, §101(f) [title VII, §706(b)], inserted “(determined without regard to paragraph (4) thereof)” after “subsection (c) of this section”.


1997—Subsec. (a)(1). Pub. L. 105–100, §162(8)(A), substituted “$4,295,000,000” for “$4,257,000,000”.

Subsec. (b)(4). Pub. L. 105–100, §162(b)(B), substituted “in” for “subject to paragraph (4), in”.

Subsec. (c)(2)(C). Pub. L. 105–100, §162(b)(C), inserted the before “Virgin Islands”.

Subsec. (c)(3)(C), (E). Pub. L. 105–100, §162(b)(C), substituted “the” for “these”.

Subsec. (d)(2). Pub. L. 105–100, §162(6)(A), substituted “for expenditures claimed by the State” for “for calendar quarters”.

Subsec. (d)(1). Pub. L. 105–100, §162(6)(A), substituted “for expenditures claimed by the State” for “for calendar quarters”.

Amendment by sections 2105(a)(1) of Pub. L. 105–33, set out as an Effective Date note under this title.

Amendment by section 1396d(b) of the Social Security Act (42 U.S.C. 1397aa et seq.) from allotments for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this subsection as if this subsection had been enacted on September 30, 2002.

Effective Date of 2000 Amendment


Effective Date of 1999 Amendment


Effective Date of 1997 Amendment

Section 162 of Pub. L. 105–100 provided that the amendment made by that section is effective if included in the enactment of subtitle J (§§4901–4923) of title IV of the Balanced Budget Act of 1997, Pub. L. 105–33.

Authority To Transfer Subchapter XXI Appropriations to Subchapter XIX Appropriation Account As Reimbursement for Medicaid Expenditures For Medical Expansion SCHIP Services

Pub. L. 106–554, §1(a)(6) [title VIII, §802(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A–581, provided that: “Notwithstanding any other provision of law, all amounts appropriated under title XXI [of the Social Security Act, this subchapter] and allotted to a State pursuant to subsection (b) or (c) of section 2104 of the Social Security Act (42 U.S.C. 1396d) for fiscal years 1998 through 2000 (including any amounts that, but for this provision, would be considered to have expired and not expended in providing child health assistance or related services for which payment may be made pursuant to subparagraph (C) or (D) of section 2105(a)(1) of such Act (42 U.S.C. 1396a(c)(1)) as amended by subsection (a), shall be available to reimburse the Grants to States for Medicaid account in an amount equal to the total pay-
§ 1397ee. Payments to States

(a) Payments

(1) In general

Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this subchapter, from its allotment under section 1397dd of this title, an amount for each quarter equal to the enhanced FMAP (or, in the case of expenditures described in paragraph (1)(A) of the Social Security Act (42 U.S.C. 1397dd(b)(1)(A)) for a State for each of fiscal years 1998 and 1999—

"(1) the number of children under clause (i) of such section shall be the number of low-income children specified for the State in Column B of the table on pages 48101–48102 of the Federal Register published on September 12, 1997, adjusted by the Census Bureau as necessary to treat children as being without health insurance if they have access to health care funded by the Indian Health Service but do not have health insurance; and

"(2) the State cost factor under clause (ii) of such section shall be the State cost factor specified for the State in Column C of such table."

§ 1397ee. Payments to States

(2) Order of payments

Payments under paragraph (1) from a State’s allotment shall be made in the following order:

(A) First, for expenditures for items described in paragraph (1)(A).

(B) Second, for expenditures for items described in paragraph (1)(B).

(C) Third, for expenditures for items described in paragraph (1)(C).

(D) Fourth, for expenditures for items described in paragraph (1)(D).

(3) Performance bonus payment to offset additional Medicaid and CHIP child enrollment costs resulting from enrollment and retention efforts

(A) In general

In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2009 and ending with fiscal year 2013), the Secretary shall pay from amounts made available under subparagraph (E), to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

(B) Amount for above baseline Medicaid child enrollment costs

Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

(i) First tier above baseline Medicaid enrollees

An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under subchapter XIX for the State and fiscal year, multiplied by 5 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under subchapter XIX.

(ii) Second tier above baseline Medicaid enrollees

An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under subchapter XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under subchapter XIX.

(C) Number of first and second tier above baseline child enrollees; baseline number of child enrollees

For purposes of this paragraph:

(i) First tier above baseline child enrollees

The number of first tier above baseline child enrollees for a State for a fiscal year...
under subchapter XIX is equal to the number (if any, as determined by the Secretary) by which—
  (I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (P)) enrolled during the fiscal year under the State plan under subchapter XIX; exceeds (II) the baseline number of enrollees described in clause (ii) for the State and fiscal year under subchapter XIX; but not to exceed 10 percent of the baseline number of enrollees described in subclause (II).

(ii) Second tier above baseline child enrollees

The number of second tier above baseline child enrollees for a State for a fiscal year under subchapter XIX is equal to the number (if any, as determined by the Secretary) by which—
  (I) the monthly average unduplicated number of qualifying children (as defined in subparagraph (P)) enrolled during the fiscal year under subchapter XIX as described in clause (i)(I); exceeds (II) the sum of the baseline number of child enrollees described in clause (iii) for the State and fiscal year under subchapter XIX, as described in clause (i)(II), and the maximum number of first tier above baseline child enrollees for the State and fiscal year under subchapter XIX, as determined under clause (i).

(iii) Baseline number of child enrollees

Subject to subparagraph (H), the baseline number of child enrollees for a State under subchapter XIX—
  (I) for fiscal year 2009 is equal to the monthly average unduplicated number of qualifying children enrolled in the State plan under subchapter XIX during fiscal year 2007 increased by the population growth for children in that State from 2007 to 2008 (as estimated by the Bureau of the Census) plus 3 percentage points; and (II) for each of fiscal years 2010, 2011, and 2012, is equal to the baseline number of child enrollees for the State for the previous fiscal year under subchapter XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3.5 percentage points; (III) for each of fiscal years 2013, 2014, and 2015, is equal to the baseline number of child enrollees for the State for the previous fiscal year under subchapter XIX, increased by the population growth for children in that State from the calendar year in which the respective fiscal year begins to the succeeding calendar year (as estimated by the Bureau of the Census) plus 3 percentage points; and (IV) for each subsequent fiscal year up to and including the fiscal year involved by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1396d(b) of this title) for the fiscal year involved.

(D) Projected per capita State Medicaid expenditures

For purposes of subparagraph (B), the projected per capita State Medicaid expenditures for a State and fiscal year under subchapter XIX is equal to the average per capita expenditures (including both State and Federal financial participation) for children under the State plan under such subchapter, including under waivers but not including such children eligible for assistance by virtue of the receipt of benefits under subchapter XVI, for the most recent fiscal year for which actual data are available (as determined by the Secretary), increased (for each subsequent fiscal year up to and including the fiscal year involved) by the annual percentage increase in per capita amount of National Health Expenditures (as estimated by the Secretary) for the calendar year in which the respective subsequent fiscal year ends and multiplied by a State matching percentage equal to 100 percent minus the Federal medical assistance percentage (as defined in section 1396d(b) of this title) for the fiscal year involved.

(E) Amounts available for payments

(i) Initial appropriation

Out of any money in the Treasury not otherwise appropriated, there are appropriated $3,225,000,000 for fiscal year 2009 for making payments under this paragraph, to be available until expended.

(ii) Transfers

Notwithstanding any other provision of this subchapter, the following amounts shall also be available, without fiscal year limitation, for making payments under this paragraph:

(I) Unobligated national allotment

(aa) Fiscal years 2009 through 2012

As of December 31 of fiscal year 2009, and as of December 31 of each succeeding fiscal year through fiscal year 2012, the portion, if any, of the amount appropriated under subsection (a) for such fiscal year that is unobligated for allotment to a State under subsection (m)1 for such fiscal year or set aside under subsection (a)(3) or (b)(2) of section 1397kk of this title for such fiscal year.

(bb) First half of fiscal year 2013

As of December 31 of fiscal year 2013, the portion, if any, of the sum of the

1So in original. This section does not contain a subsec. (m).
 amounts appropriated under subsection (a)(16)(A)\textsuperscript{2} and under section 108 of the Children's Health Insurance Reauthorization Act of 2009 for the period beginning on October 1, 2012, and ending on March 31, 2013, that is unobligated for allotment to a State under subsection (m)\textsuperscript{1} for such fiscal year or set aside under subsection (b)(2) of section 1397kk of this title for such fiscal year.

\textbf{(cc) Second half of fiscal year 2013}

As of June 30 of fiscal year 2013, the portion, if any, of the amount appropriated under subsection (a)(16)(B)\textsuperscript{2} for the period beginning on April 1, 2013, and ending on September 30, 2013, that is unobligated for allotment to a State under subsection (m)\textsuperscript{1} for such fiscal year or set aside under subsection (b)(2) of section 1397kk of this title for such fiscal year.

\textbf{(II) Unexpended allotments not used for redistribution}

As of November 15 of each of fiscal years 2010 through 2013, the total amount of allotments made to States under section 1397dd of this title for the second preceding fiscal year (third preceding fiscal year in the case of the fiscal year 2006, 2007, and 2008 allotments) that is not expended or redistributed under section 1397dd(f) of this title during the period in which such allotments are available for obligation.

\textbf{(III) Excess child enrollment contingency funds}

As of October 1 of each of fiscal years 2010 through 2013, any amount in excess of the aggregate cap applicable to the Child Enrollment Contingency Fund for the fiscal year under section 1397dd(n) of this title.

\textbf{(iii) Proportional reduction}

If the sum of the amounts otherwise payable under this paragraph for a fiscal year exceeds the amount available for the fiscal year under this subparagraph, the amount to be paid under this paragraph to each State shall be reduced proportionally.

\textbf{(F) Qualifying children defined}

\textbf{(i) in general}

For purposes of this subsection, subject to clauses (ii) and (iii), the term “qualifying children” means children who meet the eligibility criteria (including income, categorical eligibility, age, and immigration status criteria) in effect as of July 1, 2008, for enrollment under subchapter XIX, taking into account criteria applied as of such date under subchapter XIX pursuant to a waiver under section 1315 of this title.

\textbf{(ii) Limitation}

A child described in clause (i) who is provided medical assistance during a presumptive eligibility period under section 1396–la of this title shall be considered to be a “qualifying child” only if the child is determined to be eligible for medical assistance under subchapter XIX.

\textbf{(iii) Exclusion}

Such term does not include any children for whom the State has made an election to provide medical assistance under paragraph (4) of section 1396b(v) of this title or any children enrolled on or after October 1, 2013.

\textbf{(G) Application to commonwealths and territories}

The provisions of subparagraph (G) of section 1397dd(n)(3) of this title shall apply with respect to payment under this paragraph in the same manner as such provisions apply to payment under such section.

\textbf{(H) Application to States that implement a Medicaid expansion for children after fiscal year 2008}

In the case of a State that provides coverage under section 115 of the Children’s Health Insurance Program Reauthorization Act of 2009 for any fiscal year after fiscal year 2008—

\begin{itemize}
  \item[(i)] any child enrolled in the State plan under subchapter XIX through the application of such an election shall be disregarded from the determination for the State of the monthly average unduplicated number of qualifying children enrolled in such plan during the first 3 fiscal years in which such an election is in effect; and
  \item[(ii)] in determining the baseline number of child enrollees for the State for any fiscal year subsequent to such first 3 fiscal years, the baseline number of child enrollees for the State under subchapter XIX for the third of such fiscal years shall be the monthly average unduplicated number of qualifying children enrolled in the State plan under subchapter XIX for such third fiscal year.
\end{itemize}

\textbf{(4) Enrollment and retention provisions for children}

For purposes of paragraph (3)(A), a State meets the condition of this paragraph for a fiscal year if it is implementing at least 5 of the following enrollment and retention provisions (treating each subparagraph as a separate enrollment and retention provision) throughout the entire fiscal year:

\textbf{(A) Continuous eligibility}

The State has elected the option of continuous eligibility for a full 12 months for all children described in section 1396a(e)(12) of this title under subchapter XIX under 19 years of age, as well as applying such policy under its State child health plan under this subchapter.

\textbf{(B) Liberalization of asset requirements}

The State meets the requirement specified in either of the following clauses:

\begin{itemize}
  \item[(i)] Elimination of asset test
    \begin{itemize}
      \item The State does not apply any asset or resource test for eligibility for children under subchapter XIX or this subchapter.
    \end{itemize}
  \item[(ii)]...
\end{itemize}
(ii) Administrative verification of assets
The State—
(I) permits a parent or caretaker relative who is applying on behalf of a child for medical assistance under subchapter XIX or child health assistance under this subchapter to declare and certify by signature under penalty of perjury information relating to family assets for purposes of determining and redetermining financial eligibility; and
(II) takes steps to verify assets through means other than by requiring documentation from parents and applicants except in individual cases of discrepancies or where otherwise justified.

(C) Elimination of in-person interview requirement
The State does not require an application of a child for medical assistance under subchapter XIX (or for child health assistance under this subchapter), including an application for renewal of such assistance, to be made in person nor does the State require a face-to-face interview, unless there are discrepancies or individual circumstances justifying an in-person application or face-to-face interview.

(D) Use of joint application for Medicaid and CHIP
The application form and supplemental forms (if any) and information verification process is the same for purposes of establishing and renewing eligibility for children for medical assistance under subchapter XIX and child health assistance under this subchapter.

(E) Automatic renewal (use of administrative renewal)
(i) In general
The State provides, in the case of renewal of a child’s eligibility for medical assistance under subchapter XIX or child health assistance under this subchapter, a pre-printed form completed by the State based on the information available to the State and notice to the parent or caretaker relative of the child that eligibility of the child will be renewed and continued based on such information unless the State is provided other information. Nothing in this clause shall be construed as preventing a State from verifying, through electronic and other means, the information so provided.
(ii) Satisfaction through demonstrated use of ex parte process
A State shall be treated as satisfying the requirement of clause (i) if renewal of eligibility of children under subchapter XIX or this subchapter is determined without any requirement for an in-person interview, unless sufficient information is not in the State’s possession and cannot be acquired from other sources (including other State agencies) without the participation of the applicant or the applicant’s parent or caretaker relative.

(F) Presumptive eligibility for children
The State is implementing section 1396r-1a of this title under subchapter XIX as well as, pursuant to section 1397gg(g)(1) of this title, under this subchapter.

(G) Express Lane
The State is implementing the option described in section 1396a(e)(13) of this title under subchapter XIX as well as, pursuant to section 1397gg(g)(1) of this title, under this subchapter.

(H) Premium assistance subsidies
The State is implementing the option of providing premium assistance subsidies under subsection (c)(10) or section 1396e-1 of this title.

(b) Enhanced FMAP
For purposes of subsection (a) of this section, the “enhanced FMAP”, for a State for a fiscal year, is equal to the Federal medical assistance percentage (as defined in the first sentence of section 1396d(b) of this title) for the State increased by a number of percentage points equal to 30 percent of the number of percentage points by which (1) such Federal medical assistance percentage for the State, is less than (2) 100 percent; but in no case shall the enhanced FMAP for a State exceed 85 percent. Notwithstanding the preceding sentence, during the period that begins on October 1, 2015, and ends on September 30, 2019, the enhanced FMAP determined for a State for a fiscal year (or for any portion of a fiscal year occurring during such period) shall be increased by 23 percentage points, but in no case shall exceed 100 percent. The increase in the enhanced FMAP under the preceding sentence shall not apply with respect to determining the payment to a State under subsection (a)(1) for expenditures described in subparagraph (D)(iv), paragraphs (8), (9), (11) of subsection (c), or clause (4) of the first sentence of section 1396d(b) of this title.

(c) Limitation on certain payments for certain expenditures
(1) General limitations
Funds provided to a State under this subchapter shall only be used to carry out the purposes of this subchapter (as described in section 1397aa of this title) and may not include coverage of a nonpregnant childless adult, and any health insurance coverage provided with such funds may include coverage of abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest. For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1396a–1 of this title) shall not be considered a childless adult.

(2) Limitation on expenditures not used for medicaid or health insurance assistance
(A) In general
Except as provided in this paragraph, the amount of payment that may be made under subsection (a) of this section for a fiscal year for expenditures for items described in paragraph (1)(D) of such subsection shall not ex-
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shall not apply with respect to the following
section (a)(1)(D) of this section shall not
be expended under subparagraph (A) for
items described in subsection (a)(1)(D).

(B) Waiver authorized for cost-effective alternative

The limitation under subparagraph (A) on expenditures for items described in subsection (a)(1)(D) of this section shall not apply to the extent that a State establishes to the satisfaction of the Secretary that—

(i) coverage provided to targeted low-income children through such expenditures meets the requirements of section 1397cc of this title;

(ii) the cost of such coverage is not greater, on an average per child basis, than the cost of coverage that would otherwise be provided under section 1397cc of this title; and

(iii) such coverage is provided through the use of a community-based health delivery system, such as through contracts with health centers receiving funds under section 254b of this title or with hospitals such as those that receive disproportionate share payment adjustments under section 1395ww(d)(5)(F) or 1396–4 of this title.

(C) Nonapplication to certain expenditures

The limitation under subparagraph (A) shall not apply with respect to the following expenditures:

(i) Expenditures to increase outreach to, and the enrollment of, Indian children under this subchapter and subchapter XIX

Expenditures for outreach activities to families of Indian children likely to be eligible for child health assistance under the plan or medical assistance under the State plan under subchapter XIX (or under a waiver of such plan), to inform such families of the availability of, and to assist them in enrolling their children in, such plans, including such activities conducted under grants, contracts, or agreements entered into under section 1320b–9(a) of this title.

(ii) Expenditures to comply with citizenship or nationality verification requirements

Expenditures necessary for the State to comply with paragraph (9)(A).

(iii) Expenditures for outreach to increase the enrollment of children under this subchapter and subchapter XIX through premium assistance subsidies

Expenditures for outreach activities to families of children likely to be eligible for premium assistance subsidies in accordance with paragraph (2)(B), (3), or (10), or a waiver approved under section 1315 of this title, to inform such families of the availability of, and to assist them in enrolling their children in, such subsidies, and to employers likely to provide qualified employer-sponsored coverage (as defined in

subparagraph (B) of such paragraph 3), but not to exceed an amount equal to 1.25 percent of the maximum amount permitted to be expended under subparagraph (A) for items described in subsection (a)(1)(D).

(iv) Payment error rate measurement (PERM) expenditures

Expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations).

(3) Waiver for purchase of family coverage

Payment may be made to a State under subsection (a)(1) of this section for the purchase of family coverage under a group health plan or health insurance coverage that includes coverage of targeted low-income children only if the State establishes to the satisfaction of the Secretary that—

(A) purchase of such coverage is cost-effective relative to—

(i) the amount of expenditures under the State child health plan, including administrative expenditures, that the State would have made to provide comparable coverage of the targeted low-income child involved or the family involved (as applicable); or

(ii) the aggregate amount of expenditures that the State would have made under the State child health plan, including administrative expenditures, for providing coverage under such plan for all such children or families; and

(B) such coverage shall not be provided if it would otherwise substitute for health insurance coverage that would be provided to such children but for the purchase of family coverage.

(4) Use of non-Federal funds for State matching requirement

Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of non-Federal contributions required under subsection (a) of this section.

(5) Offset of receipts attributable to premiums and other cost-sharing

For purposes of subsection (a) of this section, the amount of the expenditures under the plan shall be reduced by the amount of any premiums and other cost-sharing received by the State.

(6) Prevention of duplicative payments

(A) Other health plans

No payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that a private insurer (as defined by the Secretary by regulation and including a

3So in original. Probably means subpar. (B) of par. (10).
group health plan (as defined in section 1167(1) of title 29), a service benefit plan, and a health maintenance organization) would have been obligated to provide such assistance but for a provision of its insurance contract which has the effect of limiting or excluding such obligation because the individual is eligible for or is provided child health assistance under the plan.

(B) Other Federal governmental programs

Except as provided in subparagraph (A) or (B) of subsection (a)(1) of this section or any other provision of law, no payment shall be made to a State under this section for expenditures for child health assistance provided for a targeted low-income child under its plan to the extent that payment has been made or can reasonably be expected to be made promptly (as determined in accordance with regulations) under any other federally operated or financed health care insurance program, other than an insurance program operated or financed by the Indian Health Service, as identified by the Secretary. For purposes of this paragraph, rules similar to the rules for overpayments under section 1396b(d)(2) of this title shall apply.

(7) Limitation on payment for abortions

(A) In general

Payment shall not be made to a State under this section for any amount expended under the State plan to pay for any abortion or to assist in the purchase, in whole or in part, of health benefit coverage that includes coverage of abortion.

(B) Exception

Subparagraph (A) shall not apply to an abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.

(C) Rule of construction

Nothing in this section shall be construed as affecting the expenditure by a State, locality, or private person or entity of State, local, or private funds (other than funds expended under the State plan) for any abortion or for health benefits coverage that includes coverage of abortion.

(8) Limitation on matching rate for expenditures for child health assistance provided to children whose effective family income exceeds 300 percent of the poverty line

(A) FMAP applied to expenditures

Except as provided in subparagraph (B), for fiscal years beginning with fiscal year 2009, the Federal medical assistance percentage (as determined under section 1396d(b) of this title without regard to clause (4) of such section) shall be substituted for the enhanced FMAP under subsection (a)(1) with respect to any expenditures for providing child health assistance or health benefits coverage for a targeted low-income child whose effective family income would exceed 300 percent of the poverty line but for the application of a general exclusion of a block of income that is not determined by type of expense or type of income.

(B) Exception

Subparagraph (A) shall not apply to any State that, on February 4, 2009, has an approved State plan amendment or waiver to provide, or has enacted a State law to submit a State plan amendment to provide, expenditures described in such subparagraph under the State child health plan.

(9) Citizenship documentation requirements

(A) In general

No payment may be made under this section with respect to an individual who has, or is, declared to be a citizen or national of the United States for purposes of establishing eligibility under this subchapter unless the State meets the requirements of section 1396a(a)(46)(B) of this title with respect to the individual.

(B) Enhanced payments

Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures described in clause (i) or (ii) of section 1396b(a)(3)(G) of this title necessary to comply with subparagraph (A) shall in no event be less than 90 percent and 75 percent, respectively.

(10) State option to offer premium assistance

(A) In general

A State may elect to offer a premium assistance subsidy (as defined in subparagraph (C)) for qualified employer-sponsored coverage (as defined in subparagraph (B)) to all targeted low-income children who are eligible for child health assistance under the plan and have access to such coverage in accordance with the requirements of this paragraph if the offering of such a subsidy is cost-effective, as defined for purposes of paragraph (3)(A). No subsidy shall be provided to a targeted low-income child under this paragraph unless the child (or the child’s parent) voluntarily elects to receive such a subsidy. A State may not require such an election as a condition of receipt of child health assistance.

(B) Qualified employer-sponsored coverage

(i) In general

Subject to clause (ii), in this paragraph, the term “qualified employer-sponsored coverage” means a group health plan or health insurance coverage offered through an employer—

(I) that qualifies as creditable coverage as a group health plan under section 2701(c)(1) of the Public Health Service Act; 4

(II) for which the employer contribution toward any premium for such coverage is at least 40 percent; and

(III) that is offered to all individuals in a manner that would be considered a nondiscriminatory eligibility classification for purposes of paragraph (3)(A)(ii) of section 105(h) of the Internal Revenue

4See References in Text note below.
Code of 1986 (but determined without regard to clause (i) of subparagraph (B) of such paragraph).

(ii) Exception
Such term does not include coverage consisting of—
(I) benefits provided under a health flexible spending arrangement (as defined in section 106(c)(2) of the Internal Revenue Code of 1986); or
(II) a high deductible health plan (as defined in section 223(c)(2) of such Code), without regard to whether the plan is purchased in conjunction with a health savings account (as defined under section 223(d) of such Code).

(C) Premium assistance subsidy
(i) In general
In this paragraph, the term “premium assistance subsidy” means, with respect to a targeted low-income child, the amount equal to the difference between the employee contribution required for enrollment only of the employee under qualified employer-sponsored coverage and the employee contribution required for enrollment of the employee and the child in such coverage, less any applicable premium cost-sharing applied under the State child health plan (subject to the limitations imposed under section 1397cc(e) of this title, including the requirement to count the total amount of the employee contribution required for enrollment of the employee and the child in such coverage toward the annual aggregate cost-sharing limit applied under paragraph (3)(B) of such section).

(ii) State payment option
A State may provide a premium assistance subsidy either as reimbursement to an employee for out-of-pocket expenditures or, subject to clause (iii), directly to the employee’s employer.

(iii) Employer opt-out
An employer may notify a State that it elects to opt-out of being directly paid a premium assistance subsidy on behalf of an employee. In the event of such a notification, an employer shall withhold the total amount of the employee contribution required for enrollment of the employee and the child in the qualified employer-sponsored coverage and the State shall pay the premium assistance subsidy directly to the employee.

(iv) Treatment as child health assistance
Expenditures for the provision of premium assistance subsidies shall be considered child health assistance described in paragraph (1)(C) of subsection (a) for purposes of making payments under that subsection.

(D) Application of secondary payer rules
The State shall be a secondary payer for any items or services provided under the qualified employer-sponsored coverage for which the State provides child health assistance under the State child health plan.

(E) Requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan
(i) In general
Notwithstanding section 1397j(j)(1)(B) of this title, the State shall provide for each targeted low-income child enrolled in qualified employer-sponsored coverage, supplemental coverage consisting of—
(I) items or services that are not covered, or are only partially covered, under the qualified employer-sponsored coverage; and
(II) cost-sharing protection consistent with section 1397cc(e) of this title.

(ii) Record keeping requirements
For purposes of carrying out clause (i), a State may elect to directly pay out-of-pocket expenditures for cost-sharing imposed under the qualified employer-sponsored coverage and collect or not collect all or any portion of such expenditures from the parent of the child.

(F) Application of waiting period imposed under the State
Any waiting period imposed under the State child health plan prior to the provision of child health assistance to a targeted low-income child under the State plan shall apply to the same extent to the provision of a premium assistance subsidy for the child under this paragraph.

(G) Opt-out permitted for any month
A State shall establish a process for permitting the parent of a targeted low-income child receiving a premium assistance subsidy to disenroll the child from the qualified employer-sponsored coverage and enroll the child in, and receive child health assistance under, the State child health plan, effective on the first day of any month for which the child is eligible for such assistance and in a manner that ensures continuity of coverage for the child.

(H) Application to parents
If a State provides child health assistance or health benefits coverage to parents of a targeted low-income child in accordance with section 1397kk(b) of this title, the State may elect to offer a premium assistance subsidy to a parent of a targeted low-income child who is eligible for such a subsidy under this paragraph in the same manner as the State offers such a subsidy for the enrollment of the child in qualified employer-sponsored coverage, except that—
(i) the amount of the premium assistance subsidy shall be increased to take into account the cost of the enrollment of the parent in the qualified employer-sponsored coverage or, at the option of the State if the State determines it cost-effective, the cost of the enrollment of the child’s family in such coverage; and
(ii) any reference in this paragraph to a child is deemed to include a reference to the parent or, if applicable under clause (i), the family of the child.

(I) Additional State option for providing premium assistance

(i) In general

A State may establish an employer-family premium assistance purchasing pool for employers with less than 250 employees who have at least 1 employee who is a pregnant woman eligible for assistance under the State child health plan (including through the application of an option described in section 1397cc(f) of this title) or a member of a family with at least 1 targeted low-income child and to provide a premium assistance subsidy under this paragraph for enrollment in coverage made available through such pool.

(ii) Access to choice of coverage

A State that elects the option under clause (i) shall identify and offer access to not less than 2 private health plans that are health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 1397cc(b) of this title or benchmark-equivalent coverage that meets the requirements of section 1397cc(a)(2) of this title for employees described in clause (i).

(iii) Clarification of payment for administrative expenditures

Nothing in this subparagraph shall be construed as permitting payment under this section for administrative expenditures attributable to the establishment or operation of such pool, except to the extent that such payment would otherwise be permitted under this subchapter.

(J) No effect on premium assistance waiver programs

Nothing in this paragraph shall be construed as limiting the authority of a State to offer premium assistance under section 1396e or 1396e-1 of this title, a waiver described in paragraph (2)(B) or (3), a waiver approved under section 1315 of this title, or other authority in effect prior to February 4, 2009.

(K) Notice of availability

If a State elects to provide premium assistance subsidies in accordance with this paragraph, the State shall—

(i) include on any application or enrollment form for child health assistance a notice of the availability of premium assistance subsidies for the enrollment of targeted low-income children in qualified employer-sponsored coverage;

(ii) provide, as part of the application and enrollment process under the State child health plan, information describing the availability of such subsidies and how to elect to obtain such a subsidy; and

(iii) establish such other procedures as the State determines necessary to ensure that parents are fully informed of the choices for receiving child health assistance under the State child health plan or through the receipt of premium assistance subsidies.

(L) Application to qualified employer-sponsored benchmark coverage

If a group health plan or health insurance coverage offered through an employer is certified by an actuary as health benefits coverage that is equivalent to the benefits coverage in a benchmark benefit package described in section 1397cc(b) of this title or benchmark-equivalent coverage that meets the requirements of section 1397cc(a)(2) of this title, the State may provide premium assistance subsidies for enrollment of targeted low-income children in such group health plan or health insurance coverage in the same manner as such subsidies are provided under this paragraph for enrollment in qualified employer-sponsored coverage, but without regard to the requirement to provide supplemental coverage for benefits and cost-sharing protection provided under the State child health plan under subparagraph (E).

(M) Coordination with medicaid

In the case of a targeted low-income child who receives child health assistance through a State plan under subchapter XIX and who voluntarily elects to receive a premium assistance subsidy under this section, the provisions of section 1396e-1 of this title shall apply and shall supersede any other provisions of this paragraph that are inconsistent with such section.

(11) Enhanced payments

Notwithstanding subsection (b), the enhanced FMAP with respect to payments under subsection (a) for expenditures related to the administration of the payment error rate measurement (PERM) requirements applicable to the State child health plan in accordance with the Improper Payments Information Act of 2002 and parts 431 and 457 of title 42, Code of Federal Regulations (or any related or successor guidance or regulations) shall in no event be less than 90 percent.

(d) Maintenance of effort

(1) In medicaid eligibility standards

No payment may be made under subsection (a) of this section with respect to child health assistance provided under a State child health plan if the State adopts income and resource standards and methodologies for purposes of determining a child’s eligibility for medical assistance under the State plan under subchapter XIX of this chapter that are more restrictive than those applied as of June 1, 1997, except as required under section 1396a(e)(14) of this title.

(2) In amounts of payment expended for certain State-funded health insurance programs for children

(A) In general

The amount of the allotment for a State in a fiscal year (beginning with fiscal year 1999) shall be reduced by the amount by which—
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(3) Continuation of eligibility standards for children until October 1, 2019

(A) In general

During the period that begins on March 23, 2010, and ends on September 30, 2015, as a condition of receiving payments under section 1396b(a) of this title, a State shall not have in effect eligibility standards, methodologies, or procedures under its State child health plan (including any waiver under such plan) for children (including children provided medical assistance for which payment is made under section 1396d(b) of this title) that are more restrictive than the eligibility standards, methodologies, or procedures, respectively, for children under the State child health plan or under any waiver of the plan that are less restrictive than the eligibility standards, methodologies, or procedures, respectively, for children under the plan or waiver that are in effect on March 23, 2010. The preceding sentence shall not be construed as preventing a State during such period from—

(i) applying eligibility standards, methodologies, or procedures for children under the State child health plan or under any waiver of the plan that are less restrictive than the eligibility standards, methodologies, or procedures, respectively, for children under the plan or waiver that are in effect on March 23, 2010;

(ii) after September 30, 2015, enrolling children eligible to be targeted low-income children under the State child health plan in a qualified health plan that has been certified by the Secretary under subparagraph (C) and is offered through an Exchange established by the State under section 18031 of this title and shall certify those plans that offer benefits for children and impose cost-sharing with respect to such benefits that the Secretary determines are at least comparable to the benefits offered and cost-sharing protections provided under the State child health plan.

(B) Assurance of exchange coverage for targeted low-income children unable to be provided child health assistance as a result of funding shortfalls

In the event that allotments provided under section 1397dd of this title are insufficient to provide coverage to all children who are eligible to be targeted low-income children under the State child health plan under this subchapter, a State shall establish procedures to ensure—

(1) the total of the State children's health insurance expenditures in the preceding fiscal year, is less than

(2) the total of such expenditures in fiscal year 1996.

(B) State children's health insurance expenditures

The term “State children’s health insurance expenditures” means the following:

(i) the State share of expenditures under this subchapter.

(ii) The State share of expenditures under subchapter XIX of this chapter that are attributable to an enhanced FMAP under the fourth sentence of section 1396d(b) of this title.

(iii) State expenditures under health benefits coverage under an existing comprehensive State-based program, described in section 1397cc(d) of this title.

(C) Certification of comparability of pediatric coverage offered by qualified health plans

With respect to each State, the Secretary, not later than April 1, 2015, shall review the benefits offered for children and the cost-sharing imposed with respect to such benefits by qualified health plans offered through an Exchange established by the State under section 18031 of this title and shall certify those plans that offer benefits for children and impose cost-sharing with respect to such benefits that the Secretary determines are at least comparable to the benefits offered and cost-sharing protections provided under the State child health plan.

(e) Advance payment; retrospective adjustment

The Secretary may make payments under this section for each quarter on the basis of advance estimates of expenditures submitted by the State and such other investigation as the Secretary may find necessary, and may reduce or increase the payments as necessary to adjust for any overpayment or underpayment for prior quarters.

(f) Flexibility in submittal of claims

Nothing in this section or subsections (e) and (f) of section 1397dd of this title shall be construed as preventing a State from claiming as expenditures in the quarter expenditures that were incurred in a previous quarter.

(g) Authority for qualifying States to use certain funds for medicaid expenditures

(1) State option

(A) In general

Notwithstanding any other provision of law, subject to paragraph (4), a qualifying State (as defined in paragraph (2)) may elect to use not more than 20 percent of any allotment under section 1397dd of this title for fiscal year 1998, 1999, 2000, 2001, 2004, 2005, 2006, 2007, or 2008 (insofar as it is available under subsection (e) and (g) of such section)
for payments under subchapter XIX of this chapter in accordance with subparagraph (B), instead of for expenditures under this subchapter.

(B) Payments to States

(i) In general

In the case of a qualifying State that has elected the option described in subparagraph (A), subject to the availability of funds under such subparagraph with respect to the State, the Secretary shall pay the State an amount each quarter equal to the additional amount that would have been paid to the State under subchapter XIX of this chapter with respect to expenditures described in clause (ii) if the enhanced FMAP (as determined under subsection (b) of this section) had been substituted for the Federal medical assistance percentage (as defined in section 1396d(b) of this title).

(ii) Expenditures described

For purposes of this subparagraph, the expenditures described in this clause are expenditures, made after August 15, 2003, and during the period in which funds are available to the qualifying State for use under subparagraph (A), for medical assistance under subchapter XIX of this chapter to individuals who have not attained age 19 and whose family income exceeds 150 percent of the poverty line.

(iii) No impact on determination of budget neutrality for waivers

In the case of a qualifying State that uses amounts paid under this subsection for expenditures described in clause (ii) that are incurred under a waiver approved for the State, any budget neutrality determinations with respect to such waiver shall be determined without regard to such amounts paid.

(2) Qualifying State

In this subsection, the term “qualifying State” means a State that, on and after April 15, 1997, has an income eligibility standard that is at least 184 percent of the poverty line with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1396(a)(10)(A) of this title or, in the case of a State that has a statewide waiver in effect under section 1315 of this title with respect to subchapter XIX of this chapter that was first implemented on October 1, 1993, had an income eligibility standard under such waiver for children that was at least 185 percent of the poverty line and on and after July 1, 1998, has an income eligibility standard for children under section 1396a(a)(10)(A) of this title or a statewide waiver in effect under section 1315 of this title with respect to subchapter XIX of this chapter that is at least 185 percent of the poverty line.

(3) Construction

Nothing in paragraphs (1) and (2) shall be construed as modifying the requirements applicable to States implementing State child health plans under this subchapter.

(4) Option for allotments for fiscal years 2009 through 2015

(A) Payment of enhanced portion of matching rate for certain expenditures

In the case of expenditures described in subparagraph (B), a qualifying State (as defined in paragraph (2)) may elect to be paid from the State's allotment made under section 1397ff of this title for any of fiscal years 2009 through 2015 (insofar as the allotment is available to the State under subclauses (e) and (m) of such section) an amount each quarter equal to the additional amount that would have been paid to the State under subchapter XIX with respect to such expenditures if the enhanced FMAP (as determined under subsection (b)) had been substituted for the Federal medical assistance percentage (as defined in section 1396d(b) of this title).

(B) Expenditures described

For purposes of subparagraph (A), the expenditures described in this subparagraph are expenditures made after February 4, 2009, and during the period in which funds are available to the qualifying State for use under subparagraph (A), for the provision of medical assistance to individuals residing in the State who are eligible for medical assistance under the State plan under subchapter XIX or under a waiver of such plan and who have not attained age 19 (or, if a State has so elected under the State plan under subchapter XIX, age 20 or 21), and whose family income equals or exceeds 133 percent of the poverty line but does not exceed the Medicaid applicable income level.


REFERENCES IN TEXT


Section 2701 of the Public Health Service Act, referred to in subsec. (c)(10)(B)(i)(I), is section 2701 of act July 1, 1944, which was classified to section 300gg of this title, was renumbered section 2704, effective for plan years beginning on or after Jan. 1, 2014, with certain exceptions, and amended, by Pub. L. 111–148, title I, §§ 1562(c)(1), formerly § 1562(c)(1), title X, § 10107(b)(1), Mar. 23, 2010, 124 Stat. 364, 911, and was transferred to section 300gg of this title. A new section 2701 of act July 1, 1944, related to fair health insurance premiums, was added, effective for plan years beginning on or after Jan. 1, 2014, and amended, by Pub. L. 111–148, title X, § 10104(c), title X, § 10102(a), Mar. 23, 2010, 124 Stat. 155, 892, and is classified to section 300gg of this title.

The Internal Revenue Code of 1986, referred to in subsecs. (c)(10)(B)(i)(III), (ii) and (d)(3)(b), is classified generally to Title 26, Internal Revenue Code.

AMENDMENTS


Subsec. (d)(3)(B). Pub. L. 111–148, § 10203(c)(2)(B), substituted “screened for eligibility for medical assistance under the State plan under subchapter XIX or a waiver of that plan and, if found eligible, enrolled in such plan or a waiver. In the case of such children who, as a result of such screening, are determined to not be eligible for medical assistance under the State plan or a waiver under subchapter XIX, the State shall establish procedures to ensure that the children are enrolled in a qualified health plan that has been certified by the Secretary under subparagraph (C) and is offered” for “provided coverage”.

Pub. L. 111–148, § 10201(g), inserted at end “For purposes of eligibility for premium assistance for the purchase of a qualified health plan under section 36B of the Internal Revenue Code of 1986 and reduced cost-sharing under section 1871 of this title, children described in the preceding sentence shall be deemed to be ineligible for coverage under the State child health plan.”


2009—Subsec. (a)(1). Pub. L. 111–3, §§ 113(a)(1), 201(b)(1)(A), substituted “(or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points)” for “(or, in the case of expenditures described in subparagraph (B), the Federal medical assistance percentage (as defined in the first sentence of section 1396d(b) of this title))” in introductory provisions.

Subsec. (a)(1)(B). Pub. L. 111–3, § 113(a)(2), added subpar. (B) “[reserved]” and struck out former subpar. (B) which read as follows: “for the provision of medical assistance on behalf of a child during a presumptive eligibility period under section 1396a–1a of this title,”.

Subsec. (b)(1)(D)(iv), (V). Pub. L. 111–3, § 201(b)(1)(B), added cl. (IV) and redesignated former cl. (IV) as (V).


Subsec. (c)(3)(A). Pub. L. 111–3, § 301(a)(2)(A), substituted “relative to” for “relative to the amounts that the State would have paid to obtain comparable coverage only of the targeted low-income children involved,” and added cls. (I) and (II).

Subsec. (c)(6). Pub. L. 111–3, § 114(a), added par. (8).

Subsec. (c)(9). Pub. L. 111–3, § 211(c)(1), added par. (9).


2005''.
Other provision of law,'' and substituted ''or 2008'' for
''subject to paragraph (4),'' after ''Notwithstanding any
section 1396u–1 of this title) shall not be consid-
ded out section 1396u–1 of this title shall not be consid-
ed a childless adult.'' at end.
Subsec. (g)(1)(A). Pub. L. 109–171–1, § 6102(b), inserted
''and may not include coverage of a nonpregnant child-
less adult'' after ''section 1397aa of this title'' and
For purposes of the preceding sentence, a caretaker
relative (as such term is defined for purposes of carry-
ing out section 1396u–1 of this title) shall not be consid-
ered a childless adult.''
''2005, or 2008'' for ''or 2005''.
Pub. L. 110–92 substituted ''2007, or 2008'' for ''or 2005''.
2005''.
Subsec. (c)(1). Pub. L. 109–171, § 6102(b), inserted
''and may not include coverage of a nonpregnant child-
less adult'' after ''section 1397aa of this title'' and
For purposes of the preceding sentence, a caretaker
relative (as such term is defined for purposes of carry-
ning out section 1396u–1 of this title) shall not be consid-
"'d a childless adult.''
"'(i) the total Federal payments made under subsec-
(1) of this title for each quarter equal to the enhanced
FMAP of expenditures for items described in subsection
(a) of this section for fiscal year (other than paragraph (1)) for a fiscal
year to the extent the total of such expenditures ex-
ceed 10 percent of the sum of—
"'(i) the total Federal payments made under subsec-
section (a) of this title for each quarter in the fiscal
year, and
"'(ii) the total Federal payments made under section
1396b(a)(1) of this title based on an enhanced
FMAP described in section 1396e(u)(2) of this title
for such quarter.''
EFFECTIVE DATE OF 2010 AMENDMENT
Stat. 288, provided that the amendment made by sec-
tion 2102(a)(3)–(5) of Pub. L. 111–148 is effective as if in-
cluded in the enactment of the Children's Health Insur-
ance Program Reauthorization Act of 2009 (Pub. L.
111–3).
Stat. 297, provided that the amendment made by sec-
tion 10203(b)(3), (4) of Pub. L. 111–148 is effective as if in-
cluded in the enactment of the Children's Health Insur-
ance Program Reauthorization Act of 2009 (Pub. L.
111–3).
EFFECTIVE DATE OF 2009 AMENDMENT
Except as otherwise provided, amendment by Pub. L.
111–3 effective Apr. 1, 2009, and applicable to child
health assistance and medical assistance provided on or
after that date, see section 3 of Pub. L. 111–3, set out as
an Effective Date note under section 1396 of this title.
Amendment by section 211(c) of Pub. L. 111–3 effective
Jan. 1, 2010, see section 211(d)(1)(A) of Pub. L. 111–3, set
out as a note under section 1396a of this title.
Stat. 61, provided that: "The amendment made by sub-
paragraph (A) (amending this section) shall not apply
to coverage the purchase of which has been approved by the
Secretary [of Health and Human Services] under
section 2105(c)(3) of the Social Security Act (42 U.S.C.
1397ee(c)(3)) prior to the date of enactment of this Act
(Feb. 4, 2009)."
TERMINATION DATE OF 2007 AMENDMENT
Stat. 2518, which provided that the amendment of this
section by Pub. L. 110–173 was to be effective through
Mar. 31, 2009, was repealed by Pub. L. 111–3, title I,
EFFECTIVE DATE OF 2006 AMENDMENT
Amendment by section 6102(b) of Pub. L. 109–171 effec-
tive as if enacted on Oct. 1, 2005, and applicable to any
waiver, experimental, pilot, or demonstration project
that is approved on or after that date, see section
6102(d) of Pub. L. 109–171, set out as a note under
section 1397gg of this title.
132, provided that: "The amendment made by sub-
section (a) (amending this section) shall apply to ex-
penditures made under title XIX of the Social Security
Act (42 U.S.C. 1396 et seq.) on or after October 1, 2005."
EFFECTIVE DATE OF 2003 AMENDMENT
vided that the amendment made by that section is effec-
tive as if included in the enactment of Pub. L. 108–74.
Effective Date of 2000 Amendment
Amendment by Pub. L. 106–554 effective as if included in the enactment of section 4901 of Pub. L. 105–33, see section 1(a)(6) [title VIII, §802(a)(1)] of Pub. L. 106–554, set out as a note under section 1396d of this title.

Effective Date of 1997 Amendment
Section 162 of Pub. L. 105–100 provided in part that the amendment made by that section is effective as if included in the enactment of subtitle J (§§4901–4923) of title IV of the Balanced Budget Act of 1997, Pub. L. 105–33.

Construction of 2009 Amendment
Pub. L. 111–3, title I, §114(b), Feb. 4, 2009, 123 Stat. 35, provided that: ‘‘Nothing in the amendments made by this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010 shall be construed as having any effect on the basis of data such as, and, instead, shall be treated as if fiscal year 2010 or fiscal year 2011 were the first fiscal year for which the PERM requirements apply to the State.”

Payment Error Rate Measurement Requirements
Pub. L. 111–3, title VI, §601(b)–(g), Feb. 4, 2009, 123 Stat. 96–98, as amended by Pub. L. 111–309, title II, §205(c), Dec. 15, 2010, 124 Stat. 3290, provided that: “(b) Final Rule Required To Be in Effect for All States.—Notwithstanding parts 431 and 457 of title 42, Code of Federal Regulations (as in effect on the date of enactment of this Act (Feb. 4, 2009)), the Secretary shall not calculate or publish any national or State-specific error rate based on the application of the payment error rate measurement (in this section referred to as ‘PERM’) requirements to CHIP until after the date that is 6 months after the date on which a new final rule (in this section referred to as the ‘new final rule’) promulgated after the date of the enactment of this Act (Feb. 4, 2009) and implementing such requirements in accordance with the requirements of subsection (c) is in effect for all States. Any calculation of a national error rate or a State specific error rate after such new final rule in effect for all States may only be inclusive of errors, as defined in such new final rule or in guidance issued within a reasonable time frame after the effective date for such new final rule that includes detailed guidance for the specific methodology for error determinations. The Secretary is not required under this subsection to calculate or publish a national or a State-specific error rate for fiscal year 2009 or fiscal year 2010.

(c) Requirements for New Final Rule.—For purposes of satisfying the requirements of subsection (b), the requirements of this subsection are that the new final rule implementing the PERM requirements shall—

(1) include—

(A) clearly defined criteria for errors for both States and providers;

(B) a clearly defined process for appealing error determinations by—

(i) review contractors; or

(ii) the agency and personnel described in section 431.974(a)(2) of title 42, Code of Federal Regulations, as in effect on September 1, 2007, responsible for the development, direction, implementation, and evaluation of eligibility reviews and associated activities; and

(C) clearly defined responsibilities and deadlines for States in implementing any corrective action plans; and

(2) provide that the payment error rate determined for a State shall not take into account payment errors resulting from the State’s verification of an applicant’s self-declaration or self-certification of eligibility for, and the correct amount of, medical assistance or child health assistance, if the State process for verifying an applicant’s self-declaration or self-certification satisfies the requirements for such process applicable under regulations promulgated by the Secretary or otherwise approved by the Secretary.

(4) Option for Application of Data for States in First Application Cycle Under the Interim Final Rule.—After the new final rule implementing the PERM requirements in accordance with the requirements of subsection (c) is in effect for all States, a State for which the PERM requirements were first in effect under an interim final rule for fiscal year 2007 or under a final rule for fiscal year 2008 may elect to accept any payment error rate determined in whole or in part for the State on the basis of data for that fiscal year or may elect to have any payment error rate determined on the basis of such data and, instead, shall be treated as if the first fiscal year for which the PERM requirements apply to the State.

(e) Harmonization of MEQC and PERM.—

(1) Reduction of Redundancies.—The Secretary shall review the Medicaid Eligibility Quality Control (in this subsection referred to as the ‘MEQC’) requirements with the PERM requirements and coordinate implementation of both sets of requirements, while reducing redundancies.

(2) State Option To Apply PERM Data.—A State may elect, for purposes of determining the erroneous excess payments for medical assistance ratio applicable to the State for a fiscal year under section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) to substitute data resulting from the application of the PERM requirements to the State after the new final rule implementing such requirements is in effect for all States for data obtained from the application of the MEQC requirements to the State with respect to a fiscal year.

(3) State Option To Apply MEQC Data.—For purposes of satisfying the requirements of subpart Q of part 431 of title 42, Code of Federal Regulations, relating to Medicaid eligibility reviews, a State may elect to substitute data obtained through MEQC reviews conducted in accordance with section 1903(u) of the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

(f) Identification of Improved State-Specific Sample Sizes.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for the first fiscal year beginning with the first fiscal year that begins on or after the date on which the new final rule is in effect for all States, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

(2) maintain State flexibility to manage such programs.

(g) Time for Promulgation of Final Rule.—The final rule implementing the PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act [Feb. 4, 2009].’’ [For definitions of ‘‘CHIP’’, ‘‘Medicaid’’, and ‘‘Secretary’’, see section 1(c) of Pub. L. 111–3, set out as a Definitions note under section 1396 of this title.]

§1397ff. Process for submission, approval, and amendment of State child health plans

(a) Initial plan

(1) In general

As a condition of receiving payment under section 1397e of this title, a State shall sub-
mit to the Secretary a State child health plan that meets the applicable requirements of this subchapter.

(2) Approval

Except as the Secretary may provide under subsection (e) of this section, a State plan submitted under paragraph (1)—

(A) shall be approved for purposes of this subchapter, and

(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 1997.

(b) Plan amendments

(1) In general

A State may amend, in whole or in part, its State child health plan at any time through transmittal of a plan amendment.

(2) Approval

Except as the Secretary may provide under subsection (e) of this section, an amendment to a State plan submitted under paragraph (1)—

(A) shall be approved for purposes of this subchapter, and

(B) shall be effective as provided in paragraph (3).

(3) Effective dates for amendments

(A) In general

Subject to the succeeding provisions of this paragraph, an amendment to a State plan shall take effect on one or more effective dates specified in the amendment.

(B) Amendments relating to eligibility or benefits

(i) Notice requirement

Any plan amendment that eliminates or restricts eligibility or benefits under the plan may not take effect unless the State certifies that it has provided prior public notice of the change, in a form and manner provided under applicable State law.

(ii) Timely transmittal

Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

(C) Other amendments

Any plan amendment that is not described in subparagraph (B) and that becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

(c) Disapproval of plans and plan amendments

(1) Prompt review of plan submittals

The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this subchapter.

(2) 90-day approval deadlines

A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

(3) Correction

In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

(d) Program operation

(1) In general

The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) of this section and with the requirements of this subchapter.

(2) Violations

The Secretary shall establish a process for enforcing requirements under this subchapter. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

(e) Continued approval

An approved State child health plan shall continue in effect unless and until the State amends the plan under subsection (b) of this section or the Secretary finds, under subsection (d) of this section, substantial noncompliance of the plan with the requirements of this subchapter.

§ 1397gg. Strategic objectives and performance goals: plan administration

(a) Strategic objectives and performance goals

(1) Description

A State child health plan shall include a description of—

(A) the strategic objectives,

(B) the performance goals, and

(C) the performance measures.

A State plan may not take effect unless the State has established for providing child health assistance to targeted low-income children under the plan and otherwise for maximizing health benefits coverage for other low-income children and children generally in the State.

(2) Strategic objectives

Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among targeted low-income children and other low-income children.

(3) Performance goals

Such plan shall specify one or more performance goals for each such strategic objective so identified.
(4) Performance measures

Such plan shall describe how performance under the plan will be—

(A) measured through objective, independently verifiable means, and

(B) compared against performance goals, in order to determine the State’s performance under this subchapter.

(b) Records, reports, audits, and evaluation

(1) Data collection, records, and reports

A State child health plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this subchapter.

(2) State assessment and study

A State child health plan shall include a description of the State’s plan for the annual assessments and reports under section 1397hh(a) of this title and the evaluation required by section 1397hh(b) of this title.

(3) Audits

A State child health plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

(c) Program development process

A State child health plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

(d) Program budget

A State child health plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost-sharing by beneficiaries.

(e) Application of certain general provisions

The following sections of this chapter shall apply to States under this subchapter in the same manner as they apply to a State under subchapter XIX of this chapter:

(1) Subchapter XIX provisions

(A) Section 1396a(a)(4)(C) of this title (relating to conflict of interest standards).

(B) Section 1396a(a)(72) of this title (relating to limiting FQHC contracting for provision of dental services).

(C) Section 1396a(a)(73) of this title (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).

(D) Subsections (a)(77) and (kk) of section 1386a of this title (relating to provider and supplier screening, oversight, and reporting requirements).

(E) Section 1396a(e)(13) of this title (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child’s eligibility for medical assistance).

(F) Section 1396a(e)(14) of this title (relating to income determined using modified adjusted gross income and household income).

(G) Section 1396a(bb) of this title (relating to payment for services provided by Federally-qualified health centers and rural health clinics).

(H) Section 1396a(ff) of this title (relating to disregard of certain property for purposes of making eligibility determinations).

(I) Paragraphs (2), (16), and (17) of section 1396b(i) of this title (relating to limitations on payment).

(J) Paragraph (4) of section 1396b(v) of this title (relating to optional coverage of categories of lawfully residing immigrant children or pregnant women), but only if the State has elected to apply such paragraph with respect to such category of children or pregnant women under subchapter XIX.

(K) Section 1396b(w) of this title (relating to limitations on provider taxes and donations).

(L) Section 1396–1a of this title (relating to presumptive eligibility for children).

(M) Subsections (a)(2)(C) and (h) of section 1366a–2 of this title.

(N) Section 1396w–2 of this title (relating to authorization to receive data directly relevant to eligibility determinations).

(O) Section 1396w–3(b) of this title (relating to coordination with State Exchanges and the State Medicaid agency).

(2) Subchapter XI provisions

(A) Section 1315 of this title (relating to waiver authority).

(B) Section 1316 of this title (relating to administrative and judicial review), but only to the extent as consistent with this subchapter.

(C) Section 1320a–3 of this title (relating to disclosure of ownership and related information).

(D) Section 1320a–5 of this title (relating to disclosure of information about certain convicted individuals).

(E) Section 1320a–7a of this title (relating to civil monetary penalties).

(F) Section 1320a–7b(d) of this title (relating to criminal penalties for certain additional charges).

(G) Section 1320b–2 of this title (relating to periods within which claims must be filed).

(f) Limitation of waiver authority

Notwithstanding subsection (e)(2)(A) and section 1315(a) of this title:

(1) The Secretary may not approve a waiver, experimental, pilot, or demonstration project that would allow funds made available under this subchapter to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult or a parent (as defined in section 1397kk(c)(2)(A) of this title), who is not pregnant, of a targeted low-income child.

(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot, or demonstration project with respect to a State after February 4, 2009, that would waive or modify the requirements of section 1397kk of this title.

Amendments


Pub. L. 111–3, § 503(a)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111–3, § 503(a)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).


Pub. L. 111–3, § 503(a)(1), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).


Pub. L. 111–5, § 501(d)(3), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111–5, § 501(d)(2), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 111–5, § 503(a)(1), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).


Subsc. (f). Pub. L. 111–3, § 112(a)(2)(A)(i), substituted “‘section 1315(a) of this title’” for “‘section 1315(a) of this title, the Secretary’” and inserted par. (1) designation and “The Secretary” before “may not approve a waiver”.

Pub. L. 111–3, § 112(a)(2)(A)(i), redesignated subpar. (A) as (B), redesignated (B) as (C), and redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).


Pub. L. 111–3, § 501(d)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111–3, § 503(a)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111–3, § 503(a)(1), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 111–3, § 503(a)(1), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111–5, § 5006(b)(2)(A), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111–5, § 501(d)(2), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 111–3, § 503(a)(1), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 111–3, § 503(a)(1), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).


Pub. L. 111–5, § 5006(e)(2)(B)(i), redesignated subpar. (K) as (L).

Pub. L. 111–3, § 112(a)(2)(A)(i), redesignated subpar. (A) as (B), redesignated (B) as (C), and redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111–3, § 503(a)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111–3, § 503(a)(1), redesignated subpar. (B) as (C), redesignated (C) as (D), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 111–3, § 5006(b)(2)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Effective Date of 2009 Amendment
Amendment by Pub. L. 111–5 effective July 1, 2009, see section 5006(f) of Pub. L. 111–5, set out as a note under section 1396a of this title.
Except as otherwise provided, amendment by Pub. L. 111–3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, see section 3 of Pub. L. 111–3, set out as a note under section 1396 of this title.
Amendment by section 205(a)(2), (d)(2) of Pub. L. 111–3 effective Feb. 4, 2009, see section 205(f) of Pub. L. 111–3, set out as a note under section 1396a of this title.
Pub. L. 111–3, title V, §503(a)(2), Feb. 4, 2009, 123 Stat. 89, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to services provided on or after October 1, 2009."

Effective Date of 2006 Amendment
Pub. L. 109–171, title VI, §6102(d), Feb. 8, 2006, 120 Stat. 132, provided that: "This section (amending this section and section 1397ee of this title and enacting provisions set out as a note below) and the amendments made by this section shall take effect as if enacted on October 1, 2005, and shall apply to any waiver, experimental, pilot, or demonstration project that is approved on or after that date."

Rule of Construction
"(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act [Feb. 8, 2006];
"(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affecting funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or
"(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment."

§1397hh. Annual reports; evaluations

(a) Annual report
Subject to subsection (c), the State shall—
(1) assess the operation of the State plan under this subchapter in each fiscal year, including the progress made in reducing the number of uncovered low-income children and
(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

(b) State evaluations
(1) In general
By March 31, 2000, each State that has a State child health plan shall submit to the Secretary an evaluation that includes each of the following:
(A) An assessment of the effectiveness of the State plan in increasing the number of children with creditable health coverage.
(B) A description and analysis of the effectiveness of elements of the State plan, including—
(i) the characteristics of the children and families assisted under the State plan including age of the children, family income, and the assisted child's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,
(ii) the quality of health coverage provided including the types of benefits provided,
(iii) the amount and level (including payment of part or all of any premium) of assistance provided by the State,
(iv) the service area of the State plan,
(v) the time limits for coverage of a child under the State plan,
(vi) the State's choice of health benefits coverage and other methods used for providing child health assistance, and
(vii) the sources of non-Federal funding used in the State plan.
(C) An assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for children.
(D) A review and assessment of State activities to coordinate the plan under this subchapter with other public and private programs providing health care and health care financing, including medicare and maternal and child health services.
(E) An analysis of changes and trends in the State that affect the provision of accessible, affordable, quality health insurance and health care to children.
(F) A description of any plans the State has for improving the availability of health insurance and health care for children.
(G) Recommendations for improving the program under this subchapter.
(H) Any other matters the State and the Secretary consider appropriate.

(2) Report of the Secretary
The Secretary shall submit to Congress and make available to the public by December 31, 2001, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

(c) Federal evaluation
(1) In general
The Secretary, directly or through contracts or interagency agreements, shall conduct an
independent evaluation of 10 States with approved child health plans.

(2) Selection of States
In selecting States for the evaluation conducted under this subsection, the Secretary shall choose 10 States that utilize diverse approaches to providing child health assistance, represent various geographic areas (including a mix of rural and urban areas), and contain a significant portion of uncovered children.

(3) Matters included
In addition to the elements described in subsection (b)(1) of this section, the evaluation conducted under this subsection shall include each of the following:

(A) Surveys of the target population (enrollees, disenrollees, and individuals eligible for but not enrolled in the program under this subchapter).

(B) Evaluation of effective and ineffective outreach and enrollment practices with respect to children (for both the program under this subchapter and the medicaid program under subchapter XIX of this chapter), and identification of enrollment barriers and key elements of effective outreach and enrollment practices, including practices (such as through community health workers and others) that have successfully enrolled hard-to-reach populations such as children who are eligible for medical assistance under subchapter XIX of this chapter but have not been enrolled previously in the medicaid program under that subchapter.

(C) Evaluation of the extent to which State medicaid eligibility practices and procedures under the medicaid program under subchapter XIX of this chapter and the extent to which coordination (or lack of coordination) between that program and the program under this subchapter affects the enrollment of children under both programs.

(D) An assessment of the effect of cost-sharing on utilization, enrollment, and coverage retention.

(E) Evaluation of disenrollment or other retention issues, such as switching to private coverage, failure to pay premiums, or barriers in the recertification process.

(4) Submission to Congress
Not later than December 31, 2001, the Secretary shall submit to Congress the results of the evaluation conducted under this subsection.

(5) Subsequent evaluation using updated information
(A) In general
The Secretary, directly or through contracts or interagency agreements, shall conduct an independent subsequent evaluation of 10 States with approved child health plans.

(B) Selection of States and matters included
Paragraphs (2) and (3) shall apply to such subsequent evaluation in the same manner as such provisions apply to the evaluation conducted under paragraph (1).

(C) Submission to Congress
Not later than December 31, 2011, the Secretary shall submit to Congress the results of the evaluation conducted under this paragraph.

(D) Funding
Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $10,000,000 for fiscal year 2010 for the purpose of conducting the evaluation authorized under this paragraph. Amounts appropriated under this subparagraph shall remain available for expenditure through fiscal year 2012.

(d) Access to records for IG and GAO audits and evaluations
For the purpose of evaluating and auditing the program established under this subchapter, or subchapter XIX, the Secretary, the Office of Inspector General, and the Comptroller General shall have access to any books, accounts, records, correspondence, and other documents that are related to the expenditure of Federal funds under this subchapter and that are in the possession, custody, or control of States receiving Federal funds under this subchapter or political subdivisions thereof, or any grantee or contractor of such States or political subdivisions.

(e) Information required for inclusion in State annual report
The State shall include the following information in the annual report required under subsection (a):

(1) Eligibility criteria, enrollment, and retention data (including data with respect to continuity of coverage or duration of benefits).

(2) Data regarding the extent to which the State uses process measures with respect to determining the eligibility of children under the State child health plan, including measures such as 12-month continuous eligibility, self-declaration of income for applications or renewals, or presumptive eligibility.

(3) Data regarding denials of eligibility and redeterminations of eligibility.

(4) Data regarding access to primary and specialty services, access to networks of care, and care coordination provided under the State child health plan, using quality care and consumer satisfaction measures included in the Consumer Assessment of Healthcare Providers and Systems (CAHPS) survey.

(5) If the State provides child health assistance in the form of premium assistance for the purchase of coverage under a group health plan, data regarding the provision of such assistance, including the extent to which employer-sponsored health insurance coverage is available for children eligible for child health assistance under the State child health plan, the range of the monthly amount of such assistance provided on behalf of a child or family, the number of children or families pro-

1 So in original. Two subsecs. (e) have been enacted.
vided such assistance on a monthly basis, the income of the children or families provided such assistance, the benefits and cost-sharing protection provided under the State child health plan to supplement the coverage purchased with such premium assistance, the effec-
tive strategies the State engages in to re-
duce any administrative barriers to the provi-
sion of such assistance, and the effects, if any, of the provision of such assistance on pre-
venting the coverage provided under the State child health plan from substituting for cov-
 erage provided under employer-sponsored health insurance offered in the State.

(6) To the extent applicable, a description of any State activities that are designed to re-
duce the number of uncovered children in the State, including through a State health insur-
ance connector program or support for innova-
tive private health coverage initiatives.

(7) Data collected and reported in accordance with section 300kk of this title, with re-
spect to individuals enrolled in the State child health plan (and, in the case of enrollees under
19 years of age, their parents or legal guar-
dians), including data regarding the primary
language of such individuals, parents, and legal guardians.

(e) 1 Information on dental care for children

(1) In general

Each annual report under subsection (a) shall include the following information with re-
spect to care and services described in sec-
 tion 1396a(c)(3) of this title provided to tar-
g eted low-income children enrolled in the State child health plan under this subchapter
at any time during the year involved:

(A) The number of enrolled children by age

(1) HIPAA

(b) Information on enrollees in

(2) Inclusion of information on enrollees in

managed care plans

The information under paragraph (1) shall include information on children who are en-
rolled in managed care plans and other private
health plans and contracts with such plans
under this subchapter shall provide for the re-
porting of such information by such plans to the State.

(Aug. 14, 1935, ch. 531, title XXI, § 2108, as added
Stat. 581.)

AMENDMENTS

2010—Subsec. (e)(7). Pub. L. 111–148, which directed
amendment of subsec. (e) by adding par. (7) at
end, was executed to the subsec. (e) added by Pub. L. 111–3,
§ 402(a)(2), relating to information required for inclu-
sion in State annual report, to reflect the probable in-
tent of Congress.

“Subject to subsection (e), the State” for “The State” in introd-
ductory provisions.

serted “(such as through community health workers
and others)” after “including practices”.

Subsec. (c)(5). Pub. L. 111–3, § 603, added par. (5) and
struck out former par. (5). Prior to amendment, text
read as follows: “Out of any money in the Treasury of the United States not otherwise appropriated, there are
appropriated $10,000,000 for fiscal year 2000 for the pur-
pose of conducting the evaluation authorized under this
subsection. Amounts appropriated under this paragraph
shall remain available for expenditure through fiscal
year 2002.”

Subsec. (d). Pub. L. 111–8 struck out “and GAO re-
port” after “Inspector General audit” in heading and
struck out par. (3) which related to duty of Comptroller
General to monitor Inspector General audits and report
to Congress on audit results.

Prior to amendment, subsec. related to Inspector Gen-
aeral audits of certain States.

relating to information on dental care for children.

Pub. L. 111–3, § 402(a)(2), added subsec. (e) relating to
information required for inclusion in State annual
report.

(c) and (d).

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111–3 effective Apr. 1, 2009, and applicable to child
health assistance and medical assistance provided on or
after that date, see section 3 of Pub. L. 111–3, set out as
an Effective Date note under section 1396 of this title.

Amendment by section 501(e)(2) of Pub. L. 111–3 effective
for annual reports submitted for years beginning after
Feb. 4, 2009, see section 501(e)(3) of Pub. L. 111–3, set
out as a note under section 1396a of this title.

STANDARDIZED REPORTING FORMAT

Pub. L. 111–3, title IV, § 402(b), Feb. 4, 2009, 123 Stat. 83, provided that:

“(1) IN GENERAL.—Not later than 1 year after the date
of enactment of this Act [Feb. 4, 2009], the Secretary [of
Health and Human Services] shall specify a standard-
ized format for States to use for reporting the informa-
tion required under section 2108 of the Social Secu-
 rity Act [subsec. (e) of this section], as added by sub-
section (a)(2).

“(2) TRANSITION PERIOD FOR STATES.—Each State
that is required to submit a report under subsection (a) of
section 2108 of the Social Security Act [subsec. (a) of
this section] that includes the information required
under subsection (e) of such section may use up to 3 re-
porting periods to transition to the reporting of such
information in accordance with the standardized for-
mat specified by the Secretary under paragraph (1).”

§ 1397ii. Miscellaneous provisions

(a) Relation to other laws

(1) HIPAA

Health benefits coverage provided under sec-
section 1397aa(a)(1) of this title (and coverage

(2) ERISA

Nothing in this subchapter shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1144] with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act [42 U.S.C. 300gg–91(a)(1)]).

(b) Adjustment to Current Population Survey to include State-by-State data relating to children without health insurance coverage

(1) In general

The Secretary of Commerce shall make appropriate adjustments to the annual Current Population Survey conducted by the Bureau of the Census in order to produce statistically reliable annual State data on the number of low-income children who do not have health insurance coverage, so that real changes in the uninsurance rates of children can reasonably be detected. The Current Population Survey should produce data under this subsection that categorizes such children by family income, age, and race or ethnicity. The adjustments made to produce such data shall include, where appropriate, expanding the sample size used in the State sampling units, expanding the number of sampling units in a State, and an appropriate verification element.

(2) Additional requirements

In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection occurring for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under subchapter XIX or this subchapter.

(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine a high-performing State under section 1397kk(b)(3)(B) of this title and any other data necessary for carrying out this subchapter.

(C) Include health insurance survey information in the American Community Survey related to children.

(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

(3) Authority for the Secretary of Health and Human Services to transition to the use of all, or some combination of, ACS estimates upon recommendation of the Secretary of Commerce

If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with, the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this subchapter.

(4) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated $20,000,000 for fiscal year 2009 and each fiscal year thereafter for the purpose of carrying out this subsection (except that only with respect to fiscal year 2008, there are appropriated $20,000,000 for the purpose of carrying out this subsection, to remain available until expended).


REFERENCES IN TEXT


The Public Health Service Act, referred to in subsec. (a)(1), is act July 1, 1944, ch. 373, 58 Stat. 682. Title XXVII of the Act is classified generally to subchapter

1397ii
§ 703(a)], added subsec. (b).

end.

§ 705(c)(2)], inserted closing parenthesis before period at end ''(except that only with respect to fiscal year 2008, there are appropriated $20,000,000 for the purpose of carrying out this subsection, to remain available until expended)''.

pose of carrying out this subsection, to remain available until expended)''.

for ''title II'' before'' of the Employee Retirement Income Security Act of 1974.''


Subsec. (b). Pub. L. 106–113, §1000(a)(6) [title VII, §703(a)], added subsec. (b).

EFFECTIVE DATE OF 2010 AMENDMENT


EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111–3, set out as an Effective Date note under section 1396 of this title.

§ 1397jj. Definitions

(a) Child health assistance

For purposes of this subchapter, the term "child health assistance" means payment for part or all of the cost of health benefits coverage for targeted low-income children that includes any of the following (and includes, in the case described in section 1397ee(a)(1)(D)(i) of this title, payment for part or all of the cost of providing any of the following), as specified under the State plan:

(1) Inpatient hospital services.
(2) Outpatient hospital services.
(3) Physician services.
(4) Surgical services.
(5) Clinic services (including health center services) and other ambulatory health care services.
(6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
(7) Over-the-counter medications.
(8) Laboratory and radiological services.

(9) Prenatal care and prepregnancy family planning services and supplies.
(10) Inpatient mental health services, other than services described in paragraph (18) but including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.
(11) Outpatient mental health services, other than services described in paragraph (18) but including services furnished in a State-operated mental hospital and including community-based services.
(12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).
(13) Disposable medical supplies.
(14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).
(15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.
(16) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.
(17) Dental services.
(18) Inpatient substance abuse treatment services and residential substance abuse treatment services.
(19) Outpatient substance abuse treatment services.
(20) Case management services.
(21) Care coordination services.
(22) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.
(23) Hospice care (concurrent, in the case of an individual who is a child, with care related to the treatment of the child's condition with respect to which a diagnosis of terminal illness has been made).
(24) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—
(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law.
(B) performed under the general supervision or at the direction of a physician, or
(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.
(25) Premiums for private health care insurance coverage.

1 So in original. A closing parenthesis probably should precede the period.
(26) Medical transportation.
(27) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.
(28) Any other health care services or items specified by the Secretary and not excluded under this section.

(b) “Targeted low-income child” defined
For purposes of this subchapter—

(1) In general
Subject to paragraph (2), the term “targeted low-income child” means a child—
(A) who has been determined eligible by the State for child health assistance under the State plan;
(B)(i) who is a low-income child, or
(ii) is a child—
(I) whose family income (as determined under the State child health plan) exceeds the medicaid applicable income level (as defined in paragraph (4)), but does not exceed 50 percentage points above the medicaid applicable income level;
(II) whose family income (as so determined) does not exceed the medicaid applicable income level (as defined in paragraph (4)) but determined as if “June 1, 1997” were substituted for “March 31, 1997”;
(III) who resides in a State that does not have a medicaid applicable income level (as defined in paragraph (4)); and
(C) who is not found to be eligible for medical assistance under subchapter XIX of this chapter or, subject to paragraph (5), covered under a group health plan or health insurance coverage (as such terms are defined in section 300gg–91 of this title).

(2) Children excluded
Such term does not include—
(A) a child who is an inmate of a public institution or a patient in an institution for mental diseases; or
(B) except as provided in paragraph (6), a child who is a member of a family that is eligible for health benefits coverage under a State health benefits plan on the basis of a family member’s employment with a public agency in the State.

(3) Special rule
A child shall not be considered to be described in paragraph (1)(C) notwithstanding that the child is covered under a health insurance coverage program that has been in operation since before July 1, 1997, and that is offered by a State which receives no Federal funds for the program’s operation.

(4) Medicaid applicable income level
The term “medicaid applicable income level” means, with respect to a child, the effective income level (expressed as a percent of the poverty line) that has been specified under the State plan under subchapter XIX of this chapter (including under a waiver authorized by the Secretary or under section 1396a(y)(2) of this title), as of March 31, 1997, for the child to be eligible for medical assistance under section 1396a(l)(2) or 1396d(n)(2) of this title (as selected by a State) for the age of such child.

(5) Option for States with a separate CHIP program to provide dental-only supplemental coverage

(A) In general
Subject to subparagraphs (B) and (C), in the case of any child who is enrolled in a group health plan or health insurance coverage offered through an employer who would, but for the application of paragraph (1)(C), satisfy the requirements for being a targeted low-income child under a State child health plan that is implemented under this subchapter, a State may waive the application of such paragraph to the child in order to provide—

(i) dental coverage consistent with the requirements of subsection (c)(5) of section 1397cc of this title; or
(ii) cost-sharing protection for dental coverage consistent with such requirements and the requirements of subsection (e)(3)(B) of such section.

(B) Limitation
A State may limit the application of a waiver of paragraph (1)(C) to children whose family income does not exceed a level specified by the State, so long as the level so specified does not exceed the maximum income level otherwise established for other children under the State child health plan.

(C) Conditions
A State may not offer dental-only supplemental coverage under this paragraph unless the State satisfies the following conditions:

(i) Income eligibility
The State child health plan under this subchapter—
(I) has the highest income eligibility standard permitted under this subchapter (or a waiver) as of January 1, 2009;
(II) does not limit the acceptance of applications for children or impose any numerical limitation, waiting list, or similar limitation on the eligibility of such children for child health assistance under such State plan; and
(III) provides benefits to all children in the State who apply for and meet eligibility standards.

(ii) No more favorable treatment
The State child health plan may not provide more favorable dental coverage or cost-sharing protection for dental coverage to children provided dental-only supplemental coverage under this paragraph than the dental coverage and cost-sharing protection for dental coverage provided to targeted low-income children who are eligible for the full range of child health assistance provided under the State child health plan.
(6) Exceptions to exclusion of children of employees of a public agency in the State

(A) In general

A child shall not be considered to be described in paragraph (2)(B) if—

(i) the public agency that employs a member of the child’s family to which such paragraph applies satisfies subparagraph (B); or

(ii) subparagraph (C) applies to such child.

(B) Maintenance of effort with respect to agency contribution for family coverage

For purposes of subparagraph (A)(i), a public agency satisfies this subparagraph if the amount of annuity agency expenditures made on behalf of employees enrolled in health coverage paid for by the agency that includes dependent coverage for the most recent State fiscal year is not less than the amount of such expenditures made by the agency for the 1997 State fiscal year, increased by the percentage increase in the medical care expenditure category of the Consumer Price Index for All-Urban Consumers (all items: U.S. City Average) for such preceding fiscal year.

(C) Hardship exception

For purposes of subparagraph (A)(ii), this subparagraph applies to a child if the State determines that the annual aggregate amount of premiums and cost-sharing imposed for coverage of the family of the child would exceed 5 percent of such family’s income for the year involved.

(c) Additional definitions

For purposes of this subchapter:

(1) Child

The term “child” means an individual under 19 years of age.

(2) Creditable health coverage

The term “creditable health coverage” has the meaning given the term “creditable coverage” under section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c)) and includes coverage that meets the requirements of section 1397cc of this title provided to a targeted low-income child under this subchapter or under a waiver approved under section 1397ee(c)(2)(B) of this title (relating to a direct service waiver).

(3) Group health plan; health insurance coverage; etc.

The terms “group health plan”, “group health insurance coverage”, and “health insurance coverage” have the meanings given such terms in section 300gg–91 of this title.

(4) Low-income child

The term “low-income child” means a child whose family income is at or below 200 percent of the poverty line for a family of the size involved.

(5) Poverty line defined

The term “poverty line” has the meaning given such term in section 9902(2) of this title, including any revision required by such section.

(6) Preexisting condition exclusion

The term “preexisting condition exclusion” has the meaning given such term in section 2701(b)(1)(A) of the Public Health Service Act (42 U.S.C. 300gg(b)(1)(A)).

(7) State child health plan; plan

Unless the context otherwise requires, the terms “State child health plan” and “plan” mean a State child health plan approved under section 1397f of this title.

(8) Uncovered child

The term “uncovered child” means a child that does not have creditable health coverage.

(9) School-based health center

(A) In general

The term “school-based health center” means a health clinic that—

(i) is located in or near a school facility of a school district or board or of an Indian tribe or tribal organization;

(ii) is organized through school, community, and health provider relationships;

(iii) is administered by a sponsoring facility;

(iv) provides through health professionals primary health services to children in accordance with State and local law, including laws relating to licensure and certification; and

(v) satisfies such other requirements as a State may establish for the operation of such a clinic.

(B) Sponsoring facility

For purposes of subparagraph (A)(iii), the term “sponsoring facility” includes any of the following:

(i) A hospital.

(ii) A public health department.

(iii) A community health center.

(iv) A nonprofit health care agency.

(v) A local educational agency (as defined under section 7801 of title 20). 

(vi) A program administered by the Indian Health Service or the Bureau of Indian Affairs or operated by an Indian tribe or a tribal organization.


References in Text

Section 2701 of the Public Health Service Act, referred to in subsec. (c)(2), (6), is section 2701 of act July 1, 1944, which was classified to section 300gg of this title, was renumbered section 2704, effective for plan years beginning on or after Jan. 1, 2014, with certain exceptions, and amended, by Pub. L. 111–148, title I, §§ 1201(2), 1563(c)(1), formerly § 1562(c)(1), title X,
AMENDMENTS

2010—Subsec. (a)(23). Pub. L. 111–148, § 2102(b), which directed insertion of "(concurrent, in the case of an individual who is a child, with care related to the treatment of the child's condition with respect to which a diagnosis of terminal illness has been made) after "Hospice care"", was executed by making the insertion after "Hospice care", to reflect the probable intent of Congress.

Subsec. (b)(2)(B). Pub. L. 111–148, § 2102(d)(2)(D)(i), inserted "except as provided in paragraph (6)," before "a child"


Subsec. (c)(9)(C). Pub. L. 111–148, § 2102(a)(7), substituted "local educational agency (as defined under section 7801 of title II)" for "school or school system".

Subsec. (d)(1). Pub. L. 111–148, § 2110(b) (2) or (3), substituted "students" for "each student".


Subsec. (e)(1). Pub. L. 111–148, § 2110(b) (4), inserted "in paragraph (4)," before "(1) No new CHIP waivers; automatic extension of State option through 2009"

2009—Subsec. (b)(4). Pub. L. 111–3, § 401(b)(1)(A), inserted "subject to paragraph (5)," after "subchapter XIX of this chapter or".


Subsec. (c)(9). Pub. L. 111–3, § 401(b)(1)(C), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "is a child whose family income (as determined under the State child health plan) exceeds the medicaid applicable income level; and"

Subsec. (c)(21). Pub. L. 111–3, § 401(b)(1)(D), substituted "local educational agency (as defined under section 7801 of title II)" for "school or school system".

2009—Pub. L. 111–3, § 401(b)(1)(A), substituted "students" for "each student".

1997—Pub. L. 105–100, § 162(3)(A), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: "is a child whose family income (as determined under the State child health plan) exceeds the medicaid applicable income level (as defined in paragraph (4)), but does not exceed 50 percentage points above the medicaid applicable income level; and"

Subsec. (c)(9). Pub. L. 105–100, § 162(3)(B), substituted "March 31, 1997" for "June 1, 1997" and "1396a(J)(2) or 1396d(m)(2) of this title (as selected by a State)" for "1396a(J)(2) or 1396d(m)(2) of this title (as selected by a State)"

Subsec. (c)(19). Pub. L. 105–100, § 162(9), made technical amendment to reference in original act which appears in text as reference to section 300gg–91 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT


EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111–3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111–3, set out as an Effective Date note under section 1396d of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–554 effective as if included in the enactment of section 4901 of Pub. L. 105–33, see section 1(a)(6) [title VIII, § 802(c)] of Pub. L. 106–554, set out as a note under section 1396d of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 162 of Pub. L. 105–100 provided in part that the amendment made by that section is effective as if included in the enactment of subtitle J (§ 4901–4923) of title IV of the Balanced Budget Act of 1997, Pub. L. 105–33.

CHIP ELIGIBILITY FOR CHILDREN INELIGIBLE FOR MEDICAID AS A RESULT OF ELIMINATION OF DISREGARDS

Pub. L. 111–148, title II, § 2101(f), Mar. 23, 2010, 124 Stat. 287, provided that: "Notwithstanding any provision of law, a State shall treat any child who is determined to be ineligible for medical assistance under the State Medicaid plan or under a waiver of the plan as a result of the elimination of the application of an income disregard based on expense or type of income, as required under section 1902(e)(14) of the Social Security Act (42 U.S.C. 1396a(e)(14)) (as added by this Act), as a targeted low-income child under section 2110(b) (42 U.S.C. 1397j)(b)(1) (unless the child is excluded under paragraph (2) of that section) and shall provide child health assistance to the child under the State child health plan (whether implemented under title XIX or XXI, or both, of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.))."

§ 1397kk. Phase-out of coverage for nonpregnant childless adults; conditions for coverage of parents

(a) Termination of coverage for nonpregnant childless adults

(1) No new CHIP waivers; automatic extensions at State option through 2009

Notwithstanding section 1315 of this title or any other provision of this subchapter, except as provided in this subsection—

(A) the Secretary shall not on or after February 4, 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this subchapter to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult; and

(B) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraph (2) shall apply for purposes of any period beginning on or after January 1, 2010, in determining the period to which the waiver applies, the individuals eligible to be covered by the waiver, and the amount of the Federal payment under this subchapter.

(2) Termination of CHIP coverage under applicable existing waivers at the end of 2009

(A) In general

No funds shall be available under this subchapter for child health assistance or other health benefits coverage that is provided to a nonpregnant childless adult under an applicable existing waiver after December 31, 2009.

(B) Extension upon State request

If an applicable existing waiver described in subparagraph (A) would otherwise expire before January 1, 2010, notwithstanding the requirements of subsections (e) and (f) of section 1315 of this title, a State may submit, not later than September 30, 2009, a request to the Secretary for an extension of the waiver. The Secretary shall approve a request for an extension of an applicable existing waiver submitted pursuant to this subparagraph, but only through December 31, 2009.
§ 1397kk

TITLE 42—THE PUBLIC HEALTH AND WELFARE

(C) Application of enhanced FMAP

The enhanced FMAP determined under section 1397ee(b) of this title shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a nonpregnant childless adult during the period beginning on April 2, 2009, and ending on December 31, 2009.

(3) State option to apply for Medicaid waiver to continue coverage for nonpregnant childless adults

(A) In general

Each State for which coverage under an applicable existing waiver is terminated under paragraph (2)(A) may submit, not later than September 30, 2009, an application to the Secretary for a waiver under section 1315 of this title to provide medical assistance to a nonpregnant childless adult whose coverage is so terminated (in this subsection referred to as a "Medicaid nonpregnant childless adults waiver").

(B) Deadline for approval

The Secretary shall make a decision to approve or deny an application for a Medicaid nonpregnant childless adults waiver submitted under subparagraph (A) within 90 days of the date of the submission of the application. If no decision has been made by the Secretary as of December 31, 2009, on the application of a State for a Medicaid nonpregnant childless adults waiver that was submitted to the Secretary by September 30, 2009, the application shall be deemed approved.

(C) Standard for budget neutrality

The budget neutrality requirement applicable with respect to expenditures for medical assistance under a Medicaid nonpregnant childless adults waiver shall—

(i) in the case of fiscal year 2010, allow expenditures for medical assistance under subchapter XIX for all such adults to not exceed the total amount of payments made to the State under paragraph (2)(B) for fiscal year 2009, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for fiscal year 2009 and during fiscal years 2010 and 2011; and

(ii) in the case of any succeeding fiscal year, allow such expenditures to not exceed the amount in effect under this subparagraph for the preceding fiscal year, increased by the percentage increase (if any) in the projected nominal per capita amount of National Health Expenditures for the calendar year that begins during the year involved over the preceding calendar year, as most recently published by the Secretary.

(b) Rules and conditions for coverage of parents of targeted low-income children

(1) Two-year period; automatic extension at State option through fiscal year 2011

(A) No new CHIP waivers

Notwithstanding section 1315 of this title or any other provision of this subchapter, except as provided in this subsection—

(i) the Secretary shall not on or after April 2, 2009, approve or renew a waiver, experimental, pilot, or demonstration project that would allow funds made available under this subchapter to be used to provide child health assistance or other health benefits coverage to a parent of a targeted low-income child; and

(ii) notwithstanding the terms and conditions of an applicable existing waiver, the provisions of paragraphs (2) and (3) shall apply for purposes of any fiscal year beginning on or after October 1, 2011, in determining the period to which the waiver applies.

(B) Extension upon State request

If an applicable existing waiver described in subparagraph (A) would otherwise expire before October 1, 2011, and the State requests an extension of such waiver, the Secretary shall grant such an extension, but only, subject to paragraph (2)(A), through September 30, 2011.

(C) Application of enhanced FMAP

The enhanced FMAP determined under section 1397ee(b) of this title shall apply to expenditures under an applicable existing waiver for the provision of child health assistance or other health benefits coverage to a parent of a targeted low-income child during the third and fourth quarters of fiscal year 2009 and during fiscal years 2010 and 2011.

(2) Rules for fiscal years 2012 through 2013

(A) Payments for coverage limited to block grant funded from State allotment

Any State that provides child health assistance or health benefits coverage under an applicable existing waiver for a parent of a targeted low-income child may elect to continue to provide such assistance or coverage through fiscal year 2012 or 2013, subject to the same terms and conditions that applied under the applicable existing waiver, unless otherwise modified in subparagraph (B).

(B) Terms and conditions

(i) Block grant set aside from State allotment

If the State makes an election under subparagraph (A), the Secretary shall set aside for the State for each such fiscal year an amount equal to the Federal share of 110 percent of the State’s projected expenditures under the applicable existing waiver for providing child health assistance or health benefits coverage to all par-
ments of targeted low-income children enrolled under such waiver for the fiscal year (as certified by the State and submitted to the Secretary by not later than August 31 of the preceding fiscal year). In the case of fiscal year 2013, the set aside for any State shall be computed separately for each period described in subparagraphs (A) and (B) of section 1397dd(a)(16) of this title and any reduction in the allotment for either such period under section 1397dd(m)(4) of this title shall be allocated on a pro rata basis to such set aside.

(ii) Payments from block grant

The Secretary shall pay the State from the amount set aside under clause (i) for the fiscal year, an amount for each quarter of such fiscal year equal to the applicable percentage determined under clause (iii) or (iv) for expenditures in the quarter for providing child health assistance or other health benefits coverage to a parent of a targeted low-income child.

(iii) Enhanced FMAP only in fiscal year 2012 for States with significant child outreach or that achieve child coverage benchmarks; FMAP for any other States

For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2012 is equal to—

(I) the enhanced FMAP determined under section 1397ee(b) of this title in the case of a State that meets the outreach or coverage benchmarks described in any of subparagraphs (A), (B), or (C) of paragraph (3) for fiscal year 2011; or

(II) the Federal medical assistance percentage (as determined under section 1396d(b) of this title without regard to clause (4) of such section) in the case of any other State.

(iv) Amount of Federal matching payment in 2013

For purposes of clause (ii), the applicable percentage for any quarter of fiscal year 2013 is equal to—

(I) the REMAP percentage if—

(aa) the applicable percentage for the State under clause (iii) was the enhanced FMAP for fiscal year 2012; and

(bb) the State met either of the coverage benchmarks described in subparagraph (B) or (C) of paragraph (3) for fiscal year 2012; or

(II) the Federal medical assistance percentage (as so determined) in the case of any State to which subclause (I) does not apply.

For purposes of subclause (I), the REMAP percentage is the percentage which is the sum of such Federal medical assistance percentage and a number of percentage points equal to one-half of the difference between such Federal medical assistance percentage and such enhanced FMAP.

(v) No Federal payments other than from block grant set aside

No payments shall be made to a State for expenditures described in clause (ii) after the total amount set aside under clause (i) for a fiscal year has been paid to the State.

(vi) No increase in income eligibility level for parents

No payments shall be made to a State from the amount set aside under clause (i) for a fiscal year for expenditures for providing child health assistance or health benefits coverage to a parent of a targeted low-income child whose family income exceeds the income eligibility level applied under the applicable existing waiver to parents of targeted low-income children on February 4, 2009.

(3) Outreach or coverage benchmarks

For purposes of paragraph (2), the outreach or coverage benchmarks described in this paragraph are as follows:

(A) Significant child outreach campaign

The State—

(i) was awarded a grant under section 1397mm of this title for fiscal year 2011;

(ii) implemented 1 or more of the enrollment and retention provisions described in section 1397ee(a)(4) of this title for such fiscal year; or

(iii) has submitted a specific plan for outreach for such fiscal year.

(B) High-performing State

The State, on the basis of the most timely and accurate published estimates of the Bureau of the Census, ranks in the lowest 1/4 of States in terms of the State’s percentage of low-income children without health insurance.

(C) State increasing enrollment of low-income children

The State qualified for a performance bonus payment under section 1397ee(a)(3)(B) of this title for the most recent fiscal year applicable under such section.

(4) Rules of construction

Nothing in this subsection shall be construed as prohibiting a State from submitting an application to the Secretary for a waiver under section 1315 of this title to provide medical assistance to a parent of a targeted low-income child that was provided child health assistance or health benefits coverage under an applicable existing waiver.

(c) Applicable existing waiver

For purposes of this section—

(1) In general

The term ‘‘applicable existing waiver’’ means a waiver, experimental, pilot, or demonstration project under section 1315 of this title, grandfathered under section 6102(c)(3) of the Deficit Reduction Act of 2005, or otherwise conducted under authority that—
(A) would allow funds made available under this subchapter to be used to provide child health assistance or other health benefits coverage to—
   (i) a parent of a targeted low-income child;
   (ii) a nonpregnant childless adult; or
   (iii) individuals described in both clauses
   (i) and (ii); and

(B) was in effect during fiscal year 2009.

(2) Definitions

(A) Parent

The term "parent" includes a caretaker relative (as such term is used in carrying out section 1396a-1 of this title) and a legal guardian.

(B) Nonpregnant childless adult

The term "nonpregnant childless adult" has the meaning given such term by section 1397gg(f) of this title.


Section 6102(c)(3) of the Deficit Reduction Act of 2005, referred to in subsection (c), is section 6102(c)(3) of Pub. L. 109–171, which is set out as a note under section 1396a of this title.

References in Text

Section 6102(c)(3) of the Deficit Reduction Act of 2005, referred to in subsection (c), is section 6102(c)(3) of Pub. L. 109–171, which is set out as a note under section 1396a of this title.

Effective Date

Section effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111–3, set out as a note under section 1396e of this title.

§ 1397ll. Optional coverage of targeted low-income pregnant women through a State plan amendment

(a) In general

Subject to the succeeding provisions of this section, a State may elect through an amendment to its State child health plan under section 1397bb of this title to provide pregnancy-related assistance under such plan for targeted low-income pregnant women.

(b) Conditions

A State may only elect the option under subsection (a) if the following conditions are satisfied:

(1) Minimum income eligibility levels for pregnant women and children

The State has established an income eligibility level—
   (A) for pregnant women under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (b)(1)(A) of section 1396a of this title that is at least 185 percent (or such higher percent as the State has in effect with regard to pregnant women under this subchapter) of the poverty line applicable to a family of the size involved, but in no case lower than the percent in effect under any such subsection as of July 1, 2008; and
   (B) for children under 19 years of age under this subchapter (or subchapter XIX) that is at least 200 percent of the poverty line applicable to a family of the size involved.

(2) No CHIP income eligibility level for pregnant women lower than the State's Medicaid level

The State does not apply an effective income level for pregnant women under the State plan amendment that is lower than the effective income level (expressed as a percent of the poverty line and considering applicable income disregards) specified under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), or (b)(1)(A) of section 1396a of this title, on February 4, 2009, to be eligible for medical assistance as a pregnant woman.

(3) No coverage for higher income pregnant women without covering lower income pregnant women

The State does not provide coverage for pregnant women with higher family income without covering pregnant women with a lower family income.

(4) Application of requirements for coverage of targeted low-income children

The State provides pregnancy-related assistance for targeted low-income pregnant women in the same manner, and subject to the same requirements, as the State provides child health assistance for targeted low-income children under the State child health plan, and in addition to providing child health assistance for such women.

(5) No preexisting condition exclusion or waiting period

The State does not apply any exclusion of benefits for pregnancy-related assistance based on any preexisting condition or any waiting period (including any waiting period imposed to carry out section 1397bb(b)(3)(C) of this title) for receipt of such assistance.

(6) Application of cost-sharing protection

The State provides pregnancy-related assistance to a targeted low-income woman consistent with the cost-sharing protections under section 1397cc(e) of this title and applies the limitation on total annual aggregate cost sharing imposed under paragraph (3)(B) of such section to the family of such a woman.

(7) No waiting list for children

The State does not impose, with respect to the enrollment under the State child health plan of targeted low-income children during the quarter, any enrollment cap or other numerical limitation on enrollment, any waiting list, any procedures designed to delay the consideration of applications for enrollment, or similar limitation with respect to enrollment.

(c) Option to provide presumptive eligibility

A State that elects the option under subsection (a) and satisfies the conditions described in subsection (b) may elect to apply section 1396r–1 of this title (relating to presumptive eligibility for pregnant women) to the State child health plan in the same manner as such section applies to the State plan under subchapter XIX.

(d) Definitions

For purposes of this section:
(1) Pregnancy-related assistance

The term “pregnancy-related assistance” has the meaning given the term “child health assistance” in section 1397jj(a) of this title with respect to an individual during the period described in paragraph (2)(A).

(2) Targeted low-income pregnant woman

The term “targeted low-income pregnant woman” means an individual—

(A) during pregnancy and through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends;

(B) whose family income exceeds 185 percent (or, if higher, the percent applied under subsection (b)(1)(A)) of the poverty line applicable to a family of the size involved, but does not exceed the income eligibility level established under the State child health plan under this subchapter for a targeted low-income child, and

(C) who satisfies the requirements of paragraphs (1)(A), (1)(C), (2), and (3) of section 1397jj(b) of this title in the same manner as a child applying for child health assistance would have to satisfy such requirements.

(e) Automatic enrollment for children born to women receiving pregnancy-related assistance

If a child is born to a targeted low-income pregnant woman who was receiving pregnancy-related assistance under this section on the date of the child’s birth, the child shall be deemed to have applied for child health assistance under the State child health plan and to have been found eligible for such assistance under such plan or to have applied for medical assistance under subchapter XIX and to have been found eligible for such assistance under such subchapter, as appropriate, on the date of such birth and to remain eligible for such assistance until the child attains 1 year of age. During the period in which a child is deemed under the preceding sentence to be eligible for child health or medical assistance, the child health or medical assistance eligibility identification number of the mother shall also serve as the identification number of the child, and all claims shall be submitted and paid under such number (unless the State issues a separate identification number for the child before such period expires).

(f) States providing assistance through other options

(1) Continuation of other options for providing assistance

The option to provide assistance in accordance with the preceding subsections of this section shall not limit any other option for a State to provide—

(A) child health assistance through the application of sections 457.10, 457.350(b)(2), 457.622(c)(5), and 457.626(a)(3) of title 42, Code of Federal Regulations (as in effect after the final rule adopted by the Secretary and set forth at 67 Fed. Reg. 61066—61974 (October 2, 2002)), or

(B) pregnancy-related services through the application of any waiver authority (as in effect on June 1, 2008).

(2) Clarification of authority to provide postpartum services

Any State that provides child health assistance under any authority described in paragraph (1) may continue to provide such assistance, as well as postpartum services, through the end of the month in which the 60-day period (beginning on the last day of the pregnancy) ends, in the same manner as such assistance and postpartum services would be provided if provided under the State plan under subchapter XIX, but only if the mother would otherwise satisfy the eligibility requirements that apply under the State child health plan (other than with respect to age) during such period.

(3) No inference

Nothing in this subsection shall be construed—

(A) to infer congressional intent regarding the legality or illegality of the content of the sections specified in paragraph (1)(A); or

(B) to modify the authority to provide pregnancy-related services under a waiver specified in paragraph (1)(B).


§1397mm. Grants to improve outreach and enrollment

(a) Outreach and enrollment grants; national campaign

(1) In general

From the amounts appropriated under subsection (g), subject to paragraph (2), the Secretary shall award grants to eligible entities during the period of fiscal years 2009 through 2015 to conduct outreach and enrollment efforts that are designed to increase the enrollment and participation of eligible children under this subchapter and subchapter XIX.

(2) Ten percent set aside for national enrollment campaign

An amount equal to 10 percent of such amounts shall be used by the Secretary for expenditures during such period to carry out a national enrollment campaign in accordance with subsection (h).

(b) Priority for award of grants

(1) In general

In awarding grants under subsection (a), the Secretary shall give priority to eligible entities that—

(A) propose to target geographic areas with high rates of—

(i) eligible but unenrolled children, including such children who reside in rural areas; or

(ii) racial and ethnic minorities and health disparity populations, including
those proposals that address cultural and linguistic barriers to enrollment; and

(B) submit the most demonstrable evidence required under paragraphs (1) and (2) of subsection (c).

(2) Ten percent set aside for outreach to Indian children

An amount equal to 10 percent of the funds appropriated under subsection (g) shall be used by the Secretary to award grants to Indian Health Service providers and urban Indian organizations receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.) for outreach to, and enrollment of, children who are Indians.

(c) Application

An eligible entity that desires to receive a grant under subsection (a) shall submit an application to the Secretary in such form and manner, and containing such information, as the Secretary may decide. Such application shall include—

(1) evidence demonstrating that the entity includes members who have access to, and credibility with, ethnic or low-income populations in the communities in which activities funded under the grant are to be conducted;

(2) evidence demonstrating that the entity has the ability to address barriers to enrollment, such as lack of awareness of eligibility, stigma concerns and punitive fears associated with receipt of benefits, and other cultural barriers to applying for and receiving child health assistance or medical assistance;

(3) specific quality or outcomes performance measures to evaluate the effectiveness of activities funded by a grant awarded under this section; and

(4) an assurance that the eligible entity shall—

(A) conduct an assessment of the effectiveness of such activities against the performance measures;

(B) cooperate with the collection and reporting of enrollment data and other information in order for the Secretary to conduct such assessments; and

(C) in the case of an eligible entity that is not the State, provide the State with enrollment data and other information as necessary for the State to make necessary projections of eligible children and pregnant women.

(d) Dissemination of enrollment data and information determined from effectiveness assessments; annual report

The Secretary shall—

(1) make publicly available the enrollment data and information collected and reported in accordance with subsection (c)(4)(B); and

(2) submit an annual report to Congress on the outreach and enrollment activities conducted with funds appropriated under this section.

(e) Maintenance of effort for States awarded grants; no match required for any eligible entity awarded a grant

(1) State maintenance of effort

In the case of a State that is awarded a grant under this section, the State share of funds expended for outreach and enrollment activities under the State child health plan shall not be less than the State share of such funds expended in the fiscal year preceding the first fiscal year for which the grant is awarded.

(2) No matching requirement

No eligible entity awarded a grant under subsection (a) shall be required to provide any matching funds as a condition for receiving the grant.

(f) Definitions

In this section:

(1) Eligible entity

The term “eligible entity” means any of the following:

(A) A State with an approved child health plan under this subchapter.

(B) A local government.

(C) An Indian tribe or tribal consortium, a tribal organization, an urban Indian organization receiving funds under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.), or an Indian Health Service provider.

(D) A Federal health safety net organization.

(E) A national, State, local, or community-based public or nonprofit private organization, including organizations that use community health workers or community-based doula programs.

(F) A faith-based organization or consortium, to the extent that a grant awarded to such an entity is consistent with the requirements of sections 300x–65 of this title relating to a grant award to nongovernmental entities.

(G) An elementary or secondary school.

(2) Federal health safety net organization

The term “Federal health safety net organization” means—

(A) a Federally-qualified health center (as defined in section 319E(d)(1)(B) of this title);

(B) a hospital defined as a disproportionate share hospital for purposes of section 1396r–4 of this title;

(C) a covered entity described in section 256b(a)(4) of this title; and

(D) any other entity or consortium that serves children under a federally funded program, including the special supplemental nutrition program for women, infants, and children (WIC) established under section 1786 of this title, the Head Start and Early Head Start programs under the Head Start Act (42 U.S.C. 9801 et seq.), the school lunch program established under the Richard B. Russell National School Lunch Act (42 U.S.C. 1751 et seq.), and an elementary or secondary school.

(3) Indians; Indian tribe; tribal organization; urban Indian organization

The terms “Indian”, “Indian tribe”, “tribal organization”, and “urban Indian organization” have the meanings given such terms in

1 See References in Text note below.
section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(4) Community health worker

The term "community health worker" means an individual who promotes health or nutrition within the community in which the individual resides—

(A) by serving as a liaison between community agencies and health care providers;

(B) by providing guidance and social assistance to community residents;

(C) by enhancing community residents' ability to effectively communicate with health care providers;

(D) by providing culturally and linguistically appropriate health or nutrition education;

(E) by advocating for individual and community health or nutrition needs; and

(F) by providing referral and follow-up services.

(g) Appropriation

There is appropriated, out of any money in the Treasury not otherwise appropriated, $140,000,000 for the period of fiscal years 2009 through 2015, for the purpose of awarding grants under this section. Amounts appropriated and paid under the authority of this section shall be in addition to amounts appropriated under section 1397dd of this title and paid to States in accordance with subsections (a)(1)(D)(iii) and (c)(2)(C) of that section.

The Head Start Act, referred to in subsec. (f)(2)(D), is act June 30, 1938, ch. 542, 52 Stat. 982, which is classified generally to chapter 2 (§ 9831 et seq.) of subchapter II (§ 9851 et seq.) of chapter 15 of title 20, and includes with respect to expenditures for outreach activities in accordance with subsections (a)(1)(D)(ii) and (c)(2)(C) of that section.

(h) National enrollment campaign

From the amounts made available under subsection (a)(2), the Secretary shall develop and implement a national enrollment campaign to implement a national enrollment campaign to enroll eligible low-income individuals residing—

(1) in the workforce;

(2) in poverty;

(3) in communities and health care agencies;

(4) the establishment of joint public awareness outreach initiatives with the Secretary of Education and the Secretary of Labor regarding the importance of health insurance to building strong communities and the economy;

(5) the development of special outreach materials for Native Americans or for individuals with limited English proficiency; and

(6) such other outreach initiatives as the Secretary determines would increase public awareness of the programs under this subchapter and subchapter XIX.


AMENDMENTS


Subsec. (g). Pub. L. 111–148, § 10203(d)(2)(E)(ii), substituted "$140,000,000 for the period of fiscal years 2009 through 2015" for "$100,000,000 for the period of fiscal years 2009 through 2013".

EFFECTIVE DATE

Section effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111–3, set out as a note under section 1396 of this title.

CHAPTER 7A—TEMPORARY UNEMPLOYMENT COMPENSATION PROGRAM

§§ 1400 to 1400v. Omitted


Section 1400a, Pub. L. 85–441, title I, § 102, June 4, 1958, 72 Stat. 172, authorized Secretary to enter into agreements with States for payment of temporary unemployment compensation provided for in sections 1400 to 1400k of this title.

Section 1400b, Pub. L. 85–441, title I, § 103, June 4, 1958, 72 Stat. 173, made special provision for veterans and Federal employees and for fair hearing and review in denial of such benefits.


Section 1400d, Pub. L. 85–441, title II, § 201, June 4, 1958, 72 Stat. 174, defined "Secretary", "State", and "first claim" as used in sections 1400 to 1400k of this title.

Section 1400e, Pub. L. 85–441, title II, § 202, June 4, 1958, 72 Stat. 174, provided for review by appropriate State agency with respect to determinations of entitlement to temporary unemployment compensation under sections 1400 to 1400k of this title.