

Subpart F—Payments to States**§ 457.600 Purpose and basis of this subpart.**

This subpart interprets and implements—

(a) Section 2104 of the Act which specifies the total allotment amount available for allotment to each State for child health assistance for fiscal years 1998 through 2007, the formula for determining each State allotment for a fiscal year, including the Commonwealth and Territories, and the amounts of payments for expenditures that are applied to reduce the State allotments.

(b) Section 2105 of the Act which specifies the provisions for making payment to States, the limitations and conditions on such payments, and the calculation of the enhanced Federal medical assistance percentage.

§ 457.602 Applicability.

The provisions of this subpart apply to the 50 States and the District of Columbia, and the Commonwealths and Territories.

§ 457.606 Conditions for State allotments and Federal payments for a fiscal year.

(a) *Basic conditions.* In order to receive a State allotment for a fiscal year, a State must have a State child health plan submitted in accordance with section 2106 of the Act, and

(1) For fiscal years 1998 and 1999, the State child health plan must be approved before October 1, 1999;

(2) For fiscal years after 1999, the State child health plan must be approved by the end of the fiscal year;

(3) An allotment for a fiscal year is not available to a State prior to the beginning of the fiscal year; and

(4) Federal payments out of an allotment are based on State expenditures which are allowable under the approved State child health plan.

(b) Federal payments for Children's Health Insurance Program (CHIP) expenditures under an approved State child health plan are—

(1) Limited to the amount of available funds remaining in State allotments calculated in accordance with the allotment process and formula

specified in §§ 457.608 and 457.610, and payment process in §§ 457.614 and 457.616.

(2) Available based on a percentage of State CHIP expenditures, at a rate equal to the enhanced Federal medical assistance percentage (FMAP) for each fiscal year, calculated in accordance with § 457.622.

(3) Available through the grants process specified in § 457.630.

[65 FR 33622, May 24, 2000, as amended at 75 FR 48852, Aug. 11, 2010]

§ 457.608 Process and calculation of State allotments for a fiscal year.

(a) *General*—(1) State allotments for a fiscal year are determined by CMS for each State and the District of Columbia with an approved State child health plan, as described in paragraph (e) of this section, and for each Commonwealth and Territory, as described in paragraph (f) of this section.

(2) In order to determine each State allotment, CMS determines the national total allotment amount for each fiscal year available to the 50 States and the District of Columbia, as described in paragraph (c) of this section, and the total allotment amount available for each fiscal year for allotment to the Commonwealths and Territories, as described in paragraph (d) of this section.

(3) The amount of allotments redistributed under section 2104(f) of the Act will not be applied or taken into account in determining the amounts of a fiscal year allotment for a State and the District of Columbia under this section.

(b) *Definition of Proportion.* As used in this section, *proportion* means the amount of the allotment for a State or the District of Columbia for a fiscal year, divided by the national total allotment amount available for allotment to all States and the District of Columbia, as specified in paragraph (c) of this section, for that fiscal year.

(c) *National total allotment amount for the 50 States and the District of Columbia.*

(1) The national total allotment amount available for allotment to the 50 States and the District of Columbia is determined by subtracting the following amounts in the following order from the total appropriation specified

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in section 2104(a) of the Act for the fiscal year—

(i) The total allotment amount available for allotment for each fiscal year to the Commonwealths and Territories, as determined in paragraph (d)(1) of this section;

(ii) The total amount of the grant for the fiscal year for children with Type I Diabetes under Section 4921 of Public Law 105-33. This is \$30,000,000 for each of the fiscal years 1998 through 2002; and

(iii) The total amount of the grant for the fiscal year for diabetes programs for Indians under Section 4922 of Public Law 105-33. This is \$30,000,000 for each of the fiscal years 1998 through 2002.

(2) The following formula illustrates the calculation of the national total allotment amount available for allotment to the 50 States and the District of Columbia for a fiscal year:

$$A_{TA} = S_{2104(a)} - T_{2104(c)} - D_{4921} - D_{4922}$$

A_{TA} = National total allotment amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

$S_{2104(a)}$ = Total appropriation for the fiscal year indicated in Section 2104(a) of the Act.

$T_{2104(c)}$ = Total allotment amount for a fiscal year available for allotment to the Commonwealths and Territories; as determined under paragraph (d)(1) of this section.

D_{4921} = Amount of total grant for children with Type I Diabetes under Section 4921 of Public Law 105-33. This is \$30,000,000 for each of the fiscal years 1998 through 2002.

(d) *Total allotment amount available to the Commonwealths and Territories—(1) General.* The total allotment amount available to all the Commonwealths and Territories for a fiscal year is equal to .25 percent of the total appropriation for the fiscal year indicated in section 2104(a) of the Act, plus the additional amount for the fiscal year specified in paragraph (d)(2) of this section.

(2) *Additional amounts for allotment to the Commonwealths and Territories.* The following amounts are available for allotment to the Commonwealths and Territories for the indicated fiscal years in addition to the amount specified in paragraph (d)(1) of this section: For FY 1999, \$32 million; for each of FY 2000 and FY 2001, \$34.2 million; for each

fiscal year FY 2002 through 2004, \$25.2 million; for each fiscal year FY 2005 and FY 2006, \$32.4 million; and for FY 2007, \$40 million. The additional amount for allotment for FY 1999 for the Commonwealths and Territories was provided under Public Law 105-277. The additional amounts for allotment for FY 2000 through FY 2007 were provided for the Commonwealths and Territories under section 702 of Public Law 106-113.

(e) *Determination of State allotments for a fiscal year—(1) General.* The allotment for a State and the District of Columbia for a fiscal year is the product of:

(i) The proportion for the State or the District of Columbia for the fiscal year, as defined in paragraph (b) of this section, and determined after application of the provisions of paragraphs (e)(2) and (3), related to the preadjusted proportion, and the floors, ceilings, and reconciliation process, respectively; and

(ii)(A) The national total allotment amount available for allotment for the fiscal year, as specified in paragraph (c) of this section. The State and the District of Columbia's allotment for a fiscal year is determined in accordance with the following general formula:

$$SA_i = P_i \times A_{TA}$$

SA_i = Allotment for a State or District of Columbia for a fiscal year.

P_i = Proportion for a State or District of Columbia for a fiscal year.

A_{TA} = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

(B) There are two steps for determining the proportion for a State and the District of Columbia. The first step determines the preadjusted proportions, and is described under paragraph (e)(2) of this section. The first step applies in determining the proportion for all fiscal years. The second step applies floors and ceilings and, if necessary, applies a reconciliation to the preadjusted proportion. The second step is described in paragraph (e)(3) of this section. The second step applies in determining the proportion only for FY 2000 and subsequent fiscal years. For FY 1998 and FY 1999, the preadjusted proportion is the State or District of

Columbia's proportion for the fiscal year.

(2) *Determination of the Preadjusted Proportions for a Fiscal Year.* (i) The methodology for determining the State preadjusted proportion, referring to the determination of the proportion before the application of floors and ceilings and reconciliation for a fiscal year is in accordance with the following formula:

$$PP_i = (C_i \times SCF_i) / \Sigma(C_i \times SCF_i)$$

PP_i = Preadjusted proportion for a State or District of Columbia for a fiscal year.

C_i = *Number of children* in a State (section 2104(b)(1)(A)(I) of the Act) for a fiscal year. This number is based on the number of low-income children for a State for a fiscal year and the number of low-income children for a State for a fiscal year with no health insurance coverage for the fiscal year determined 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 (CPS) of the Bureau of the Census, and for FY 2000 and subsequent fiscal years, officially available before the beginning of the calendar year in which the fiscal year begins. For FY 1998 and FY 1999, the availability of the CPS data obtained from the Bureau of the Census is as specified in paragraphs (e)(4) and (5) of this section, respectively. (section 2104(b)(2)(B) of the Act).

(ii) For each of the fiscal years 1998 and 1999, the number of children is equal to the number of low-income children in the State for the fiscal year with no health insurance coverage. For fiscal year 2000, the number of children is equal to the sum of 75 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage and 25 percent of the number of low-income children in the State for the fiscal year. For fiscal years 2001 and thereafter, the number of children is equal to the sum of 50 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage and 50 percent of the number of low-income children in the State for the fiscal year. (section 2104(b)(2)(A) of the Act).

SCF_i = *State cost factor for a State* (section 2104(b)(1)(A)(ii) of the Act). For a fiscal year, this is equal to: .15 + .85 × (W_i/W_N) (section 2104(b)(3)(A) of the Act).

W_i = The annual average wages per employee for a State for such year (section 2104(b)(3)(A)(ii)(I) of the Act).

W_N = The annual average wages per employee for the 50 States and the District of Columbia (section 2104(b)(3)(A)(ii)(II) of the Act). The annual average wages per employee for a State or for all States and the District of Columbia for a fiscal year is equal to the average of such wages for employees in the health services industry (SIC 80), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the most recent 3 years, and for FY 2000 and subsequent fiscal years, finally available before the beginning of the calendar year in which the fiscal year begins. For FY 1998 and FY 1999, the availability of the wage data obtained from the Bureau of Labor Statistics is as specified in paragraphs (e)(4) and (5), respectively. (section 2104(b)(3)(B) of the Act).

Σ(C_i × SCF_i) = The sum of the products of (C_i × SCF_i) for each State (section 2104(b)(1)(B) of the Act).

A_{TA} = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year as determined under paragraph (c) of this section.

(3) *Application of floors and ceilings and reconciliation in determining proportion.* (i) *Floors and ceilings in proportions.* The preadjusted State proportions for a fiscal year are subject to the application of floors and ceilings in paragraphs (e)(3)(i)(A) and (B) of this section.

(A) The proportion floors, or minimum proportions, that apply in determining a State's proportion for the fiscal year are:

(1) \$2,000,000 divided by the total of the amount available nationally;

(2) 90 percent of the State's proportion for the previous fiscal year; and

(3) 70 percent of the State's proportion for FY 1999.

(B) The proportion ceiling, or maximum proportion, for a fiscal year that applies in determining the State's fiscal year proportion is 145 percent of the State's proportion for FY 1999.

(ii) *Reconciliation of State proportions.* If, after the application of the floors and ceilings in paragraph (e)(3)(i), the sum of the States' proportions is not equal to one, the Secretary will reconcile the States' proportions by applying either paragraph (e)(3)(i)(A) or (B) of this paragraph, as appropriate, such that the sum of the proportions

after reconciliation equals one. If, after the application of the floors and ceilings in paragraph (e)(3)(i), the sum of the States' proportions is equal to one, no reconciliation is necessary, and the States' proportions will be the same as the preadjusted proportions determined under paragraph (e)(2) of this section.

(A) If, after the application of the floors and ceilings under paragraphs (e)(3)(i)(A) and (B) of this section, the sum of the States' proportions is greater than one, the Secretary will establish a maximum percentage increase in States' proportions, such that when applied to the States' proportions, the sum of the proportions is exactly equal to one.

(B) If, after the application of the floors and ceilings under paragraphs (e)(3)(i)(A) and (B), the sum of the proportions is less than one, the Secretary will increase States' proportions (as computed before the application of the floors under paragraph (e)(3)(i)(A)) in a pro rata manner (but not to exceed the 145 percent ceiling computed under paragraph (e)(3)(i)(B)), such that when applied to the States' proportions, the sum of the proportions is exactly equal to one.

(4) *Data used for calculating the FY 1998 CHIP allotments.* The FY 1998 CHIP allotments were calculated in accordance with the methodology described in paragraphs (e)(1) and (2) of this section, using the most recent official and final data that were available from the Bureau of the Census and the Bureau of Labor Statistics, respectively, prior to the September 1 before the beginning of FY 1998 (that is, through August 31, 1997). In particular, through August 31, 1997, the only official data available on the numbers of children were data from the 3 March CPSs conducted in March 1994, 1995, and 1996 that reflected data for the 3 calendar years 1993, 1994, and 1995.

(5) *Data used for calculating the FY 1999 CHIP allotments.* In accordance with section 101(f) of Public Law 105-277, the FY 1999 allotments were calculated in accordance with the methodology described in paragraph (e)(2) of this section, using the same data as were used in calculating the FY 1998 CHIP allotments.

(f) *Methodology for determining the Commonwealth and Territory allotments for a fiscal year.* The total amount available for the Commonwealths and Territories for each fiscal year, as determined under paragraph (d) of this section, is allotted to each Territory and Commonwealth below which has an approved State child health plan. These allotments are in the proportion that the following percentages for each Commonwealth Territory bear to the sum of such percentages, as specified in section 2104(c)(2) of the Act:

Puerto Rico—91.6%
Guam—3.5%
Virgin Islands—2.6%
American Samoa—1.2%
Northern Mariana Islands—1.1%

(g) *Reserved State allotments for a fiscal year.* (1) For FY 2000 and subsequent fiscal years, CMS determines and publishes the State reserved allotments for a fiscal year for each State, the District of Columbia, and Commonwealths and Territories in the FEDERAL REGISTER based on the most recent official and final data available before the beginning of the calendar year in which the fiscal year begins for the number of children and the State cost factor.

(2) For FY 1998 and FY 1999, CMS determined and published the State reserved allotments using the available data described in paragraphs (e)(4) and (e)(5) of this section, respectively, on the basis of the statutory allotment formula as it existed prior to the enactment of Public Law 106-113.

(3) If all States, the District of Columbia, and the Commonwealths and Territories have approved State child health plans in place prior to the beginning of the fiscal year, as appropriate, CMS may publish the allotments as final in the FEDERAL REGISTER, without the need for publication as reserved allotments.

(h) *Final allotments.* (1) Final State allotments for FY 1998 and FY 1999 for each State, the District of Columbia, and the Commonwealths and Territories are determined by CMS based only on those States, the District of Columbia, and the Commonwealths and Territories that have approved State child health plans by the end of fiscal year 1999, in accordance with the formula and methodology specified in

paragraphs (a) through (g) of this section.

(2) Final State allotments for a fiscal year after FY 1999 for each State, the District of Columbia, and the Commonwealths and Territories are determined by CMS based only on those States, the District of Columbia, and the Commonwealths and Territories that have approved State child health plans by the end of the fiscal year, in accordance with the formula and methodology specified in paragraphs (a) through (g) of this section.

(3) CMS determines and publishes the States' final fiscal year allotments in the FEDERAL REGISTER based on the same data, with respect to the number of children and State cost factor, as were used in determining the reserved allotments for the fiscal year.

§ 457.610 Period of availability for State allotments for a fiscal year.

The amount of a final allotment for a fiscal year, as determined under § 457.608(h) and reduced to reflect certain Medicaid expenditures in accordance with § 457.616, remains available until expended for Federal payments based on expenditures claimed during a 3-year period of availability, beginning with the fiscal year of the final allotment and ending with the end of the second fiscal year following the fiscal year.

§ 457.614 General payment process.

(a) A State may make claims for Federal payment based on expenditures incurred by the State prior to or during the period of availability related to that fiscal year.

(b) In order to receive Federal financial participation (FFP) for a State's claims for payment for the State's expenditures, a State must—

(1) Submit budget estimates of quarterly funding requirements for Medicaid and the Children's Health Insurance Programs; and

(2) Submit an expenditure report.

(c) Based on the State's quarterly budget estimates, CMS—

(1) Issues an advance grant to a State as described in § 457.630;

(2) Tracks and applies Federal payments claimed quarterly by each State, the District of Columbia, and each

Commonwealth and Territory to ensure that payments do not exceed the applicable allotments for the fiscal year; and

(3) Track and apply relevant State, District of Columbia, Commonwealth and Territory expenditures reported each quarter against the 10 percent limit on expenditures other than child health assistance for standard benefit package, on a fiscal year basis as specified in § 457.618.

[65 FR 33622, May 24, 2000, as amended at 75 FR 48852, Aug. 11, 2010]

§ 457.616 Application and tracking of payments against the fiscal year allotments.

(a) *Categories of payments applied to reduce the State allotments.* In accordance with the principles described in paragraph (c) of this section, the following categories of payments are applied to reduce the State allotments for a fiscal year:

(1) Payments made to the State for expenditures claimed during the fiscal year under its title XIX Medicaid program, to the extent the payments were made on the basis of the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act for expenditures attributable to children described in section 1905(u)(2) of the Act.

(2) Payments made to the State for expenditures claimed during the fiscal year under its title XIX Medicaid program, to the extent the payments were made on the basis of the enhanced FMAP described in sections 1905(b) and 2105(b) of the Act for expenditures attributable to children described in section 1905(u)(3) of the Act.

(3) Payments made to a State under section 1903(a) of the Act for expenditures claimed by the State during a fiscal year that are attributable to the provision of medical assistance to a child during a presumptive eligibility period under section 1920A of the Act.

(4) Payments made to a State under its title XXI State Children's Health Insurance Program with respect to section 2105(a) of the Act for expenditures claimed by the State during a fiscal year.

(b) *Application of principles.* CMS applies the principles in paragraph (c) of this section to—