measuring only those thiram residues convertible to and expressed in terms of the degradate carbon disulfide.

Commodity	Parts per million	Expiration/ Revocation Date
Apple	6.0	9/11/10
Peach	7.0	None
Strawberry	6.0	None

* * * * *

5. Section 180.176 is amended by revising paragraph (a) and adding paragraph (c) to read as follows:

§180.176 Mancozeb; tolerances for residues.

(a) *General*. Tolerances are established for residues of mancozeb (a coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate)), including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those mancozeb residues convertible to and expressed in terms of the degradate carbon disulfide.

Commodity	Parts per million
Apple	0.6
Asparagus	0.1
Banana	2
Barley, bran	20
Barley, flour	20
Barley, grain	5
Barley, pearled barley	20
Barley, straw	25
Beet, sugar, dried pulp	3.0
Beet, sugar, roots	1.2
Beet, sugar, tops	60
Cattle, kidney	0.5
Cattle, liver	0.5
Corn, field, forage	40
Corn, field, grain	0.1
Corn, field, stover	15
Corn, pop, grain	0.06
Corn, pop, stover	40
Corn, sweet, forage	70
Corn, sweet, kernel plus cob with husks removed	0.1
Corn, sweet, stover	40
Cotton, undelinted seed	0.5
Crabapple	0.6
Cranberry	5
Fennel	2.5
Flax, seed	0.15
Goat, kidney	0.5
Goat, liver	0.5
Grape	1.5
Hog, kidney	0.5
Hog, liver	0.5
Horse, kidney	0.5
Horse, liver	0.5
Oat, flour	20
Oat, grain	5
Oat, groats/rolled oats	20
Oat, straw	25
Onion, bulb	1.5
Papaya	10
Peanut	0.1
Peanut, hay	65
Pear	0.6
Potato	0.2
Poultry, kidney	0.5
Poultry, liver	0.5
Quince	0.6
Rice, grain	0.06
Rice, straw	0.15
Rye, bran	20
Rye, grain	5
Rye, straw	25
Sheep, kidney	0.5
Sheep, liver	0.5
Sorghum, grain, forage	0.15
Sorghum, grain, grain	0.25
Sorghum, grain, stover	0.15
Tomato	2.5
Vegetable, cucurbit, group 9	2
Wheat, bran	20
Wheat, flour	20
Wheat, germ	20
Wheat, grain	5
Wheat, middlings	20
Wheat, shorts	20
Wheat, straw	25

* * * * *

(c) *Tolerances with regional registrations*. A tolerance with regional registrations is established for residues of the fungicide mancozeb, (a coordination product of zinc ion and maneb (manganese ethylenebisdithiocarbamate)), including its metabolites and degradates, in or on the commodity in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those mancozeb residues convertible to and expressed in terms of the degradate carbon disulfide.

Commodity	Parts per million
Carrot, roots	1

* * * * *

6. Section 180.217 is amended by revising the section heading and paragraph (a) to read as follows:

§180.217 Metiram; tolerances for residues.

(a) *General*. Tolerances are established for residues of metiram (a mixture of 5.2 parts by weight of ammoniates of (ethylenebis (dithiocarbamato)) zinc with 1 part by weight ethylenebis (dithiocarbamic acid) bimolecular and trimolecular cyclic anhydrosulfides and disulfides], including its metabolites and degradates, in or on the commodities in the table in this paragraph. Compliance with the tolerance levels specified in this paragraph is to be determined by measuring only those metiram residues convertible to and expressed in terms of the degradate carbon disulfide.

Commodity	Parts per million
Apple	0.5
Apple, wet pomace	2
Potato	0.2

* * * * *

§ 180.319 [Amended]

7. Section 180.319 is amended by removing the entry for the substance ''Coordination product of zinc ion and maneb'' from the table.

[FR Doc. E9–22302 Filed 9–15–09; 8:45 am]

BILLING CODE 6560–50–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 457

[CMS–2291–P]

RIN 0938–AP53

Children's Health Insurance Program (CHIP); Allotment Methodology and States' Fiscal Year 2009 CHIP Allotments

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule describes the implementation of certain funding provisions under title XXI of the Social Security Act (the Act), the Children's Health Insurance Program (CHIP), as amended by the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), by the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA), and by other related CHIP legislation. Specifically, this proposed rule addresses methodologies and procedures for determining States' FY 2009 through FY 2013 allotments and payments in accordance with sections 2104 and 2105 of the Act, as amended by CHIPRA.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. eastern standard time (e.s.t.) on November 16, 2009.

ADDRESSES: In commenting, please refer to file code CMS–2291–P. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions under the ''More Search Options'' tab.

2. *By regular mail.* You may mail written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, *Attention:* CMS–2291–P, P.O. Box 8010, Baltimore, MD 21244–8010.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY:

Centers for Medicare & Medicaid Services, Department of Health and Human Services, *Attention:* CMS–2291–P, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses:

a. For delivery in Washington, DC—

Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—

Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

Submission of comments on paperwork requirements. You may submit comments on this document's paperwork requirements by following the instructions at the end of the ''Collection of Information Requirements'' section in this document.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Richard Strauss, (410) 786–2019.

SUPPLEMENTARY INFORMATION:

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

A. Availability and Redistribution of Children's Health Insurance Program (CHIP) Fiscal Year Allotments Prior to CHIPRA

Title XXI of the Social Security Act (the Act) sets forth the Children's Health Insurance Program (CHIP) to enable States, the District of Columbia, and specified Commonwealths and Territories to initiate and expand health insurance coverage to uninsured, low-income children. The 50 States, the District of Columbia, and the Commonwealths and Territories may implement the CHIP through a separate child health program under title XXI of the Act, an expanded Medicaid program under title XIX of the Act, or a combination of both.

Federal funds appropriated for title XXI are limited, and the law specifies a formula and methodology to divide the total annual appropriation into individual allotments available for each State, the District of Columbia, and each U.S. Territory and Commonwealth with an approved child health plan.

Section 2104(b) of the Act requires States, the District of Columbia, and U.S. Territories and Commonwealths to have an approved child health plan for the fiscal year in order for the Secretary to provide an allotment for that fiscal year.

Before the enactment of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA, Pub. L. 111–3, enacted on February 4, 2009), section 2104(e) of the Act specified that in general the CHIP allotments for a Federal fiscal year were available for payment to States for their expenditures under an approved State child health plan for an initial 3-fiscal year period of availability, including the fiscal year for which the allotment was provided.

In general, before the enactment of CHIPRA, section 2104(f) of the Act specified that the amounts of States' allotments which were not expended during the initial 3-year period of availability were to be redistributed to those States that had fully spent these fiscal year allotments during this period of availability in accordance with an appropriate procedure determined by the Secretary. Furthermore, section 2104(e) of the Act specified that the amounts of the redistributed allotments continued to be available for expenditure by the States receiving these redistributions to the end of the fiscal year in which these funds were redistributed.

B. Funding of CHIP Allotments Before the Enactment of CHIPRA

Section 4901 of the Balanced Budget Act of 1997 (BBA, Pub. L. 105–33, enacted on August 5, 1997) established title XXI of the Social Security Act (the Act). In conjunction with further amendments of title XXI of the Act described later, appropriations for CHIP were made available to provide allotments to States for their CHIPs and related Medicaid program expenditures through March 31, 2009. With the enactment of the CHIPRA, title XXI was amended to provide funding for the CHIP through FY 2013.

Under the initial BBA, sections 2104(a)(1) through (10) of the Act appropriated funding for States' CHIPs for each fiscal year over a ten fiscal year period from 1998 through 2007. The funding for each fiscal year varied from $4.295 billion for FY 1998 up to $5.0 billion for FY 2007. Furthermore, under section 2104(c)(4) of the Act, additional appropriations were provided for each of fiscal years 1999 through 2007 to provide additional allotment amounts

particularly for the Commonwealths and Territories.

C. Enactment of Continuing Appropriations and Medicare, Medicaid, and SCHIP Extension Act of 2007

Continuing appropriation legislation (Pub. L. 110–92 enacted on September 29, 2007), contained provisions to extend funding under the CHIP through November 16, 2007. In particular, section 136(a) of Public Law 110–92 appropriated $5 billion for the purposes of providing FY 2008 allotments to the 50 States, the District of Columbia, and the Commonwealths and Territories. Additionally, $40 million was appropriated by this section to provide additional allotments to the Commonwealths and Territories in FY 2008.

Section 136(b) of Public Law 110–92 provided that the FY 2008 allotments be determined in accordance with the same methodology as previous CHIP fiscal year allotments were determined. Section 136(c) of Public Law 110–92 amended the CHIP statute to add a new section 2104(i) of the Act to provide for the redistribution in FY 2008 of the unexpended FY 2005 allotments remaining at the end of FY 2007 to those 50 States or the District of Columbia that had estimated shortfalls in FY 2008. Finally, section 106 of Public Law 110–92 provided that the FY 2008 allotment funds were only available for States' CHIP expenditures for assistance provided through November 16, 2007.

Subsequent to the enactment of Public Law 110–92, further continuing appropriation legislation was enacted which extended the dates through which the FY 2008 allotment funds were available as provided in section 106 of Public Law 110–92; in particular, Public Law 110–116 (enacted on November 13, 2007), Public Law 110–137 (enacted on December 14, 2007), and Public Law 110–149 (enacted on December 21, 2007) extended the dates to December 14, 2007, December 21, 2007, and December 31, 2007, respectively.

Section 201 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA, Pub. L. 110–173, enacted on December 29, 2007) amended section 2104(a) of the CHIP statute to explicitly provide funding for CHIP allotments in the amount of $5 billion for each of FYs 2008 and 2009 for the 50 States and the District of Columbia and the Commonwealths and Territories, and for $40 million for the Commonwealths and Territories for each of FY 2008 and FY 2009. These allotments would be determined in accordance with the existing methodology in CHIP statute for fiscal years before FY 2008. The funding provided for FY 2008 under the continuing appropriation legislation discussed above and enacted before MMSEA would no longer be available (and thus expenditures for FY 2008 would be paid from the allotments as provided under MMSEA). MMSEA provided that the FY 2008 and FY 2009 allotment funds were only available for States' expenditures through March 31, 2009.

Section 201 of MMSEA amended the CHIP statute to add section 2104(j) of the Act which appropriated $1.6 billion for the purpose of providing additional allotments to eliminate States' CHIP shortfalls in FY 2008.

The provisions of MMSEA were implemented and described in the **Federal Register** dated May 23, 2008 (30112, Vol. 73, No. 101).

D. Enactment of CHIPRA

Section 101 of the CHIPRA amended section 2104(a) of the Act to appropriate funding for each fiscal year FY 2009 through FY 2012, and for two semi-annual periods in FY 2013, October 1, 2012 through March 31, 2013 and April 1, 2013 through September 30, 2013, for the purpose of providing allotments to States for each of those fiscal years or fiscal year periods. Furthermore, section 108 of CHIPRA provided additional funding for State allotments for the period October 1, 2012 through March 31, 2013 (the first half of FY 2013). Finally, section 3(c) of CHIPRA provides for the coordination of funding for the CHIP in FY 2009 as previously provided under section 201 of MMSEA.

In particular, section 3(c) of CHIPRA requires the Federal government to rescind any of the following previously appropriated amounts that were not allotted or obligated before April 1, 2009:

- Section 2104(a)(11) of the Act for purposes of providing State CHIP allotments for FY 2009 for States' expenditures through March 31, 2009.
- Section 2104(k) of the Act for purposes of the redistribution of unexpended FY 2006 allotments in FY 2009 to address States' funding shortfalls in FY 2009.
- Section 2104(l) of the Act for purposes of providing additional allotments for States' expenditures in FY 2009 to fund States' shortfalls for their expenditures through March 31, 2009.

Furthermore, any amounts provided for FY 2009 CHIP allotments under section 2104(a)(12) as appropriated through the amendments made by CHIPRA must be reduced by the amounts that were obligated before April 1, 2009 under sections 2104(a)(11), 2104(k), or 2104(l) of the Act, as amended by section 201 of MMSEA (which refer to States' FY 2009 CHIP allotments, amounts of unexpended FY 2006 allotments redistributed in FY 2009, and the amounts of additional FY 2009 allotments to address States' CHIP funding shortfalls through March 31, 2009, respectively).

The rescission of these unobligated amounts as well as the reduction in the FY 2009 allotment for the amounts that were obligated before April 1, 2009 ensure that States do not receive FY 2009 allotments as determined under the CHIPRA in excess of the total amount provided under section 2104(a)(12) of the Act for FY 2009, as amended by CHIPRA.

E. Expenditures, Authority for Qualifying States To Use Available CHIP Allotments for Medicaid Expenditures

Under section 2105(a)(1)(A) through (D) and (a)(2) of the Act, and before enactment of Public Law 108–74 (Extension of Availability of CHIP Allotment Act, enacted on August 15, 2003), only Federal payments for the following Medicaid and CHIP expenditures were applied against States' available CHIP allotments: (1) Medical assistance provided under title XIX (Medicaid) to targeted low-income children in a CHIP-related Medicaid expansion, for which the CHIP enhanced Federal medical assistance percentage (CHIP EFMAP) rate is available; (2) medical assistance provided on behalf of a child during a period of presumptive eligibility under section 1920A of the Act (these funds are matched at the regular Medicaid Federal medical assistance percentage (FMAP) rate); (3) child health assistance to targeted low-income children that meets minimum benefit requirements under CHIP; and (4) certain other types of expenditures in CHIP that are subject to the 10-percent limit on non-primary expenditures (including other child health assistance for targeted low-income children, health services initiatives, outreach, and administrative costs).

Section 1(b) of Public Law 108–74, as amended by Public Law 108–127 (Social Security Act, Technical corrections, enacted November 17, 2003), added new section 2105(g) to the Act under which certain ''qualifying States'' that met prescribed criteria could elect to use up to 20 percent of any of the States' available CHIP allotments for FY 1998,

1999, 2000, or 2001 to increase the FMAP rate for certain regular Medicaid expenditures to the EFMAP rate available under CHIP. These expenditures were for children under 19 years of age whose family income exceeds 150 percent of the Federal poverty line and who are eligible under the States' Medicaid program. As described in the **Federal Register** published on July 23, 2004 (69 FR 44013), if a qualified State submitted both 20 percent allowance expenditures and other ''regular'' CHIP expenditures at the same time in a quarter, the 20 percent allowance expenditures would be applied first against the available fiscal year reallotments. However, the 20 percent allowance expenditures could be applied only against the specified fiscal year allotment funds (upon which the 20 percent allowances were based) and which would remain available. Under section 2104(g)(1)(B)(iii) of the Act, the amounts of States' FY 2001 reallotments would only be available through the end of FY 2005; therefore, the FY 2001 20 percent allowances for the qualifying States are only available through the end of FY 2005.

Section 6103 of the Deficit Reduction Act of 2005 (Pub. L. 109–171, enacted on February 8, 2006) amended section 2105(g) of the Act to provide for continued authority for qualifying States to use a portion of their available FY 2004 and FY 2005 CHIP allotments for payments to supplement the Medicaid FMAP that result in total Federal participation at the EFMAP rate (as determined under section 2105(b) of the Act) for certain expenditures made under the Medicaid program.

Section 201(b) of the National Institutes of Health Reform Act of 2006 and section 201(b) of MMSEA amended section 2105(g) of the Act to provide for continued authority for such payments to qualifying States for FYs 2006 through 2009.

Finally, section 107 of CHIPRA amended title XXI of the Act to add a new paragraph (4) of section 2105(g) of the Act; under this new provision, qualifying states at their option may use up to their entire fiscal year allotments for each of fiscal years 2009 through 2013, to the extent such allotments remain available to the State under the Act, in an amount equal to the additional amount that would have been paid to the State if the EFMAP as determined under section 2104(b) of the Act was substituted for the FMAP defined in section 1905(b) of the Act. The CHIPRA amendments to the qualifying State provision provide that the indicated amounts of such allotments are available for certain expenditures of the qualifying States as described in section 2105(g)(4)(B) of the Act, as amended by CHIPRA. In particular, these are expenditures made by such States on or after February 5, 2009 for children whose family income equals or exceeds 133 percent of the Federal poverty line but does not exceed the Medicaid applicable income level. As indicated above, this is a change from what was in effect previously; that is, before CHIPRA, the income level was 150 percent of the Federal poverty line.

II. Provisions of This Proposed Rule

For the reasons described in section I of this preamble, the purpose of this proposed rule would:

- Set forth the methodology and procedures for determining the CHIP allotments for FY 2009 through FY 2013 for the 50 States and the District of Columbia, and the U.S. Commonwealths and Territories as provided under section 2104(m) of the Act.
- Describe the methodology and process used to coordinate the funding provided previously to States under MMSEA, as described in the May 23, 2008 **Federal Register** (page 30112, Vol. 73, No. 101), under the provisions of section 2104(a)(11) of the Act related to States' FY 2009 allotments provided to States before CHIPRA, section 2104(k) of the Act related to the redistribution of States' unexpended FY 2006 allotments to address States' shortfalls in FY 2009, and section 2104(l) of the Act related to funding States' shortfalls in FY 2009 for their expenditures through March 31, 2009.
- Set forth the FY 2009 allotments as determined in accordance with such methodologies and procedures.
- Describe the implementation of the continued authority under section 2104(g)(4) of the Act as amended by CHIPRA for ''qualifying States'' to elect to receive their available CHIP allotments for FY 2009 through FY 2013 CHIP as increased Federal matching funds for certain expenditures in their Medicaid programs.
- Describe the retrospective adjustment for the FY 2008 shortfall funding as provided under section 2104(j) of the Act.

To incorporate the policies and implement the statutory provisions as described above, we are proposing the following revisions:

- In 42 CFR § 457.600(a), we are proposing to remove the date ''2007'' and add in its place ''2013'' of this regulation.
- In § 457.608, we are proposing to revise the heading ''Process and calculation of State allotments for a fiscal year'' to read ''Process and calculation of State allotments prior to FY 2009'' of this regulation.
- In part 457 subpart F, we are proposing to add § 457.609, ''Process and calculation of State allotments for a fiscal year after FY 2008'', which would implement the new funding amounts available for States' CHIP allotments for FY 2009 through FY 2013.
- In § 457.610, we are proposing to revise the heading ''Period of availability for State allotments for a fiscal year'' to read ''Period of availability for State allotments prior to FY 2009'' of this regulation. In the first line of the paragraph for this section, we are also proposing to remove the words ''for a fiscal year'' and add in its place ''prior to FY 2009'' of this regulation.
- In part 457 subpart F, we are proposing to add § 457.611, ''Period of availability for State allotments for a fiscal year after FY 2008'', which would reflect the 3 fiscal year and 2 fiscal year periods of availability, as applicable to fiscal years before FY 2009 and effective for FY 2009 and subsequent fiscal years, respectively.

A. Methodology and Procedures for Determining the CHIP Allotments for FY 2009 Through FY 2013 for the 50 States and the District of Columbia, and the U.S. Commonwealths and Territories

1. Reauthorization Funding for the CHIP

Section 101 of CHIPRA provides the reauthorization funding for providing States' allotments for FY 2009 through FY 2013. In particular, section 101 of CHIPRA amended section 2104(a) of the Act to revise paragraph (11) for FY 2008, and adds new paragraphs (12) through (16) to provide appropriations for FY 2009 through FY 2013, respectively. In particular, under the amendments made by CHIPRA the appropriated amounts available for allotments for these fiscal years, respectively are: $10,562,000,000 for FY 2009 (before CHIPRA the amount for FY 2009 was $5,000,000,000); $12,520,000,000 for FY 2010; $13,459,000,000 for FY 2011; $14,982,000,000 for FY 2012, and $2,850,000,000 for each of the first and second half of FY 2013. Also, section 108 of CHIPRA provided for a one-time appropriation of $11,706,000,000 for allotments for the first half of FY 2013. Therefore, the total appropriation for providing allotments during FY 2013 is $17,406,000,000.

2. Methodology for Determining State's Fiscal Year Allotments

a. *CHIPRA provision of 2009.* Section 102 of CHIPRA adds a new section 2104(m) of the Act which sets forth the

methodology for determining States' CHIP allotments for each of FY 2009 through FY 2013. In general, the States' fiscal year allotments are provided from the appropriation for the respective fiscal year allotment, subject to a proration adjustment, described in section II.A.2.g. of this proposed rule.

b. *FY 2009 Allotments.* The FY 2009 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2009 appropriation of $10,562,000,000, and are subject to a proration adjustment described in II.A.2.g. of this proposed rule, if necessary. The FY 2009 CHIP allotments for the 50 States and the District of Columbia are determined under a different methodology than is used for the determining the FY 2009 allotments for the Commonwealths and Territories.

The FY 2009 allotment for the 50 States and the District of Columbia is determined as 110 percent of the highest of the following three amounts:

- The total Federal payments to the State from the States' available CHIP allotments in FY 2008 as reported by the State and certified to the Secretary through the November 2008 submission of the quarterly expenditure reports, Forms CMS–21 and CMS–64, multiplied by the allotment increase factor described in section II. A. 2.h. of this proposed rule;
- The amount allotted to the State for FY 2008, multiplied by the allotment increase factor described in section II.A.2.h. of this proposed rule.
- The projected total Federal payments to the State under title XXI of the Act for FY 2009, determined based on the February submission of projections of expenditures as certified by the State to CMS no later than March 31, 2009. These projections may include certain amounts of Medicaid expenditures for certain ''qualifying states'' described in section 2105(g) of the Act.

With respect to the last item related to projected total Federal payments for FY 2009 under title XXI, section 107 of CHIPRA added a new paragraph section 2105(g)(4) of the Act to allow States to use up to 100 percent of their FY 2009 allotments for these expenditures. This provision is further described in section II.E. of this proposed rule.

The FY 2009 allotment for the Commonwealths and Territories is determined as the highest amount of the Federal payments made to the Commonwealth or Territory under title XXI of the Act in any of the fiscal years for the period of FY 1999 through FY 2008, multiplied by the allotment increase factor described in section II.A.2.h. of this proposed rule, plus an additional amount. The additional amount is equal to $40,000,000, as appropriated under section 2104(c)(4)(B) of the Act, multiplied by the following percentage provided under section 2104(c)(2) of the Act for the indicated jurisdiction: 91.6 percent for Puerto Rico; 3.5 percent for Guam; 2.6 percent for the Virgin Islands; 1.2 percent for American Samoa; and 1.1 percent for the Northern Mariana Islands.

c. *FY 2010 Allotments.* The FY 2010 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2010 appropriation of $12,520,000,000, and are subject to a proration adjustment if necessary, described in section II.A.2.g. of this proposed rule. Under the CHIPRA, the FY 2010 allotment for each State will be determined by multiplying the allotment increase factor for FY 2010 for the State, by the sum of: The State's FY 2009 allotment; the amount of the final FY 2006 redistributed allotments paid to the State as determined under section 2104(k) of the Act, and subject to any final retrospective adjustment to such amount determined under section 2104(k)(5) of the Act; the amount of the final additional FY 2009 allotments paid to the State as determined under section 2104(l) of the Act, and subject to any final retrospective adjustment to such amount determined under section 2104(l)(5) of the Act; and the amount of any contingency fund payment made to the State for FY 2010, as determined under section 2104(n) of the Act.

For the 50 States and the District of Columbia, under section 2104(m)(6) of the Act, the FY 2010 allotment may include additional amounts in situations where such States have submitted an expansion allotment adjustment request before August 31, 2009.

For the Commonwealths and Territories, in accounting for the amounts of the FY 2009 allotments for purposes of determining the FY 2010 allotments, the component of the FY 2009 allotment for such jurisdictions relating to the additional $40 million referenced in section 2104(c)(4) of the Act, is not included. This is because section 2104(m)(2)(A)(i)(I) of the Act, as amended by CHIPRA, references the FY 2009 allotment as determined in section 2104(m)(1) of the Act; that section in turn provides for determining the FY 2009 allotments from the amounts appropriated in section 2104(a)(12) of the Act. That is, such section 2104(m)(1) of the Act does not include the additional $40 million which is separately appropriated and available only for the jurisdictions in determining their FY 2009 allotments. Therefore, the component of the jurisdictions' FY 2009 allotment related to the additional $40 million would not be included in determining the amount of the jurisdictions' FY 2010 allotments.

d. *FY 2011 Allotments.* The FY 2011 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2011 appropriation ($13,459,000,000). The amounts of these allotments are subject to a proration adjustment described in section II.A.2.g of this proposed rule, if necessary. Section 2104(m)(2)(A)(ii) of the CHIPRA amendments refers to a ''rebasing'' process for determining the FY 2011 allotments; this requirement means that the States' payments rather than their allotments for FY 2010 must be considered in calculating the FY 2011 allotments. In particular the FY 2011 allotments are determined by multiplying the increase factor for FY 2011 by the sum of: Any Federal payments made from the States' available allotments in FY 2010; any amounts provided as redistributed allotments in FY 2010 to the State; and any Federal payments attributable to any contingency fund payments made to the State for FY 2010 determined under Section 2104(n) of the Act.

e. *FY 2012 Allotments.* The FY 2012 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2012 appropriation of $14,982,000,000, and are subject to a proration adjustment described in II.A.2.g.of this proposed rule, if necessary. Under the CHIPRA, the FY 2012 allotment for each State will be determined by multiplying the allotment increase factor for FY 2012 for the State, by the sum of: the State's FY 2011 allotment and any contingency fund payment made to the State for FY 2011, as determined under section 2104(n) of the Act.

For the 50 States and the District of Columbia, under section 2104(m)(6) of the Act, the FY 2012 allotment may include additional amounts in situations where such States have submitted an expansion allotment adjustment request before August 31, 2011.

f. *FY 2013 Allotments.* The FY 2013 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are comprised of two components related to the first half of FY 2013 (that is, the

period of October 1, 2012 through March 31, 2013) and second half of FY 2013 (that is, April 1, 2012 through September 30, 2013). The FY 2013 allotments for the first and second half of FY 2013 are subject to a proration adjustment described in section II.A.2.g of this proposed rule, as applicable.

The allotments for the first half of FY 2013 are provided from a total available appropriation of $14,556,000,000, comprised of $2,850,000,000 appropriated under section 2104(a)(16)(A) of the Act, and $11,706,000,000 appropriated under section 108 of CHIPRA. The allotments for the first half of FY 2013 is equal to the ''first half ratio'' multiplied by: the allotment increase factor for FY 2013 multiplied by the sum of: any Federal payments made from the States' available allotments in FY 2012; any amounts provided as redistributed allotments in FY 2012 to the State; and any Federal payments attributable to any contingency fund payments made to the State for FY 2012 as determined under Section 2104(n) of the Act. For this purpose, the first half ratio is the percentage determined by dividing $14,556,000,000 (calculated as the sum of $2,850,000,000 (the appropriation for the first half of FY 2013) and $11,706,000,000 (the one-time appropriation for the first half of the FY 2013)) by $17,406,000,000 (calculated as $2,850,000,000, the appropriation for the second half of FY 2013) plus the $14,556,000,000 amount).

The allotments for the second half of FY 2013 are provided from a total available appropriation of $2,850,000,000, appropriated under section 2104(a)(16)(B) of the Act. The allotments for the second half of FY 2013 is equal to $2,850,000,000 multiplied by a percentage equal to the amount of the allotment for the State for the first half of FY 2013 divided by the sum of all such first half of FY 2013 allotments for all States.

(g) *Proration Rule.* Under section 2104(m)(4) of the Act, as amended by CHIPRA, if the amount of States' allotments for a fiscal year (as determined in accordance with the provisions described of this proposed rule, or in the case of FY 2013, the amount of an allotment for each half of the fiscal year) exceeds the total appropriations available for such periods, the total allotments for each of these periods will be reduced on a proportional basis. The total amount available nationally for the period is multiplied by a proration percentage determined by dividing the amount determined for the period by the sum of such amounts.

h. *The allotment increase factor for a fiscal year.* Under Section 2104(m)(5) of the Act, the allotment increase factor for a fiscal year is equal to the product of two amounts for the fiscal year: the per capita health care growth factor and the Child Population growth factor.

For this purpose, in general, the per capita health care growth factor for a fiscal year is equal to 1 plus the percentage increase in the projected per capita amount of the 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 CMS before the beginning of the fiscal year involved.

In general, for the 50 States and the District of Columbia, the child population growth factor for a fiscal year is equal to 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 CMS based on the most recent published estimates of the Census Bureau available before the beginning of the fiscal year involved plus 1 percentage point. In the determination of the child population growth factor, the CHIP legislation refers to ''the percentage increase (if any)'' of the population of children in the State. In this regard, child population growth factor refers only to increases in the population of children. Thus, if there was a decrease in the population of children over the indicated period, the child population growth factor for such state would be 0.0 percent plus one percentage point; that is, negative growth in the children population would not result in the growth factor being less than 101 percent.

Because of concerns about availability of data to determine the child population growth factor for the Commonwealths and the Territories, section 2104(m)(1)(B) of the Act explicitly required that the term ''United States'' be substituted for the term ''the State''. For fiscal years *after* FY 2009, that exception does not apply, and we will determine the child population growth factor for the Commonwealths and the Territories, based on the most recent published estimates of the Census Bureau. In accordance with section 602(b) of the CHIPRA, which added a new section 2109(b)(2)(B) of the Act, we will be working with the Secretary of the Commerce Department on appropriate adjustments to improve the Current Population Survey (CPS), or develop other data, to determine the child population growth factor.

i. *CHIP Fiscal Year Allotment Process.* As described above, the determination of the allotments for each fiscal year potentially involves the collection of relevant data, such as related to the allotment increase factor, or the consideration of additional information later or after the end of the fiscal year; for example, the determination of the FY 2010 and FY 2012 allotments allows States to receive increases in their CHIP allotments to reflect the submission of certain expansions to their CHIP programs. In that regard, we are incorporating into the CHIP regulation a process, under which the Secretary may elect to publish preliminary fiscal year allotments. Consequently, under this process at the time the updated allotment amounts became available the Secretary would publish a final notice. For example, under the CHIPRA legislation, in the determination of the FY 2010 and FY 2012 allotments, States can amend their CHIP programs to provide for expansions; the increase in expenditures for such expansions would serve to increase the amount of the State fiscal year allotments associated with the year of such expansions. As determined by the Secretary, the CHIP allotments for a fiscal year may need to be published first as Preliminary Allotments and then later as Final Allotments in the **Federal Register**. The proposed rule provides for the potential for a preliminary and final allotment to be determined.

B. Coordination of CHIP Funding for FY 2009

Before the enactment of CHIPRA, section 2104(a)(11) of the Act, as amended by MMSEA, appropriated $5 billion for purposes of providing FY 2009 allotments for States. Under the CHIP statute as amended by MMSEA and before the enactment of CHIPRA, such funds were potentially available for allotment and obligation to States for their CHIP related expenditures in FY 2009 through March 31, 2009. Furthermore, section 2104(k) of the Act and section 2104(l) of the Act, as amended by MMSEA, provided for redistribution of the unexpended FY 2006 allotments in FY 2009, and for additional FY 2009 shortfall allotments in FY 2009, respectively. However, section 3(c)(1) of CHIPRA provides for a rescission of amounts of these funds that were not obligated before April 1, 2009. Furthermore, section 3(c)(2) of CHIPRA requires that the FY 2009 allotments, as determined under section 2104(m)(1) of the Act (as amended by CHIPRA), be reduced by the following amounts that were appropriated and obligated before April 1, 2009. Amounts

appropriated and obligated before April 1, 2009 include the amounts of the FY 2009 allotments appropriated under section 2104(a)(11) of the Act, as amended by MMSEA and before the enactment of CHIPRA; amounts of FY 2006 redistributed allotments, provided under section 2104(k) of the Act; and, the amounts of the FY 2009 shortfall allotments, provided under section 2104(l) of the Act. This coordination ensures that States' FY 2009 CHIP funding does not exceed the final FY 2009 CHIP allotments as determined under the CHIPRA.

C. FY 2009 Allotments Determined in Accordance With Such Methodologies and Procedures

In accordance with the methodology described in section II.A. of this proposed rule relating to the calculation of the fiscal year CHIP allotments, and in section II.B. of this proposed rule relating to the coordination of CHIP funding, we have calculated the FY 2009 allotments for the States. That calculation is contained in three tables described in section III. of this proposed rule; Table 1 provides the calculation of the allotment increase factor for FY 2009, Table 2 provides the calculation of the FY 2009 allotment, and Table 3 provides the coordination of funds in FY 2009.

D. Period of Availability for CHIP Allotments

Section 105 of CHIPRA amended section 2105(e) of the Act to revise the period of availability for expenditure by States of their CHIP fiscal year allotments. Before the enactment of CHIPRA, States' CHIP fiscal year allotments were available for expenditure by the State for 3 fiscal years, the fiscal year and the subsequent 2 fiscal years. With the enactment of CHIPRA, section 2105(e) of the Act now provides that each of the States' fiscal year allotments for *FY 1998 through FY 2008,* are available for the expenditure by the State for *3 fiscal years.* Finally, section 2104(e) of the Act as amended by CHIPRA now indicates that States' fiscal year allotments for *FY 2009 and each succeeding fiscal year* are available for expenditure by the States for *2 fiscal years,* the current fiscal year and the immediately subsequent fiscal year. In this proposed rule, we have amended the CHIP regulations at § 457.611 to reflect the 3 fiscal year and 2 fiscal year periods of availability, as applicable to fiscal years before FY 2009 and effective for FY 2009 and subsequent fiscal years, respectively.

E. Continuing Authority for Qualifying States To Use FY 2009 Through FY 2013 Allotments for Certain Medicaid Expenditures

Section 107 of CHIPRA amended the CHIP statute to add a new section 2105(g)(4) of the Act to allow certain ''qualifying states'' described in section 2105(g) of the Act to elect to use up to 100 percent of their available CHIP fiscal year allotments for FY 2009 and following fiscal years for certain expenditures in Medicaid. Before the enactment of CHIPRA, States were only able to use up to 20 percent of their available fiscal year CHIP allotments for the applicable Medicaid expenditures. With the enactment of CHIPRA, beginning with the FY 2009 allotment, States can use up to 100 percent of their FY 2009 and following fiscal year allotments for the States' qualifying expenditures. In that case, only the Federal share portion of the expenditures which is above the amount that the State would have received under Medicaid would be applied against the CHIP allotment.

Note, under section 5001 of the American Recovery and Reinvestment Act of 2009 (ARRA, Pub. L. 111–5, enacted on February 17, 2009) the FMAP under the Medicaid program has been increased during the 9-quarter period October 1, 2009 through December 31, 2010. Because of this increase, the amount of the Federal share funds that will be applied against the CHIP qualifying States' FY 2009 (and following) allotments will be reduced. For example, a qualifying State's regular Medicaid FMAP rate in FY 2009 is 50 percent, its increased FMAP under ARRA in Medicaid is 60.00 percent, and its CHIP EFMAP is 65.00 percent. This qualifying State would be able to claim the ''qualifying'' expenditures in FY 2009 at the 65.00 percent EFMAP rate in CHIP, and only 5 percent of such expenditures would apply against the State's FY 2009 allotment, calculated as 65.00 percent (CHIP EFMAP) minus 60.00 percent (increased FMAP under ARRA) claimable under the Medicaid program. In the same example (and assuming the same FMAP for Medicaid and enhanced FMAP in CHIP), after December 31, 2010 15.00 percent of the qualifying expenditure in FY 2011 would apply against the State's FY 2011 CHIP allotment, calculated as 65.00 percent (CHIP EFMAP) minus 50.00 percent (regular FMAP) claimable under the Medicaid program. We have amended the CHIP regulations to reflect this provision.

F. Retrospective Adjustment of FY 2008 Shortfall Allotments

Section 2104(j)(5) of the Act, as amended by MMSEA provides for a potential retrospective adjustment with respect to the amounts of States' FY 2008 shortfall allotments provided to them in FY 2008 and based on expenditure reports for FY 2008 submitted and certified by States to CMS no later than November 30, 2008.

Under section 2104(j)(2) and (3)(A) of the Act, additional FY 2008 shortfall allotments were made available only to those 50 States and the District of Columbia that were initially determined to have a shortfall in CHIP funding in FY 2008 based on their FY 2008 expenditure projections as submitted and certified by the States by November 30, 2007. For those States, under section 2104(j)(5) of the Act, the retrospective adjustment to the amounts of their additional FY 2008 shortfall allotments is based on the FY 2008 expenditure projections submitted and certified by such States by November 30, 2008.

Through the end of FY 2008 and based on States' estimated FY 2008 CHIP expenditures, we had provided approximately $1,201 million in total additional FY 2008 shortfall allotments to States to address their projected shortfalls in FY 2008. However, based on the States' actual FY 2008 expenditures, as submitted through November 30, 2008, the final States' shortfalls in FY 2008 were only approximately $995 million. That is, of those States who overestimated their projected shortfalls, final shortfalls for FY 2008 were about $232 million less than were previously estimated, and for States that underestimated their shortfalls, their actual shortfalls were about $26 million higher. Thus, the final net shortfall for States was about $995 million ($1,201 million minus $232 million plus $26 million). Table 4 in this notice presents the final FY 2008 shortfall allotments after applying the retrospective adjustment under section 2104(j)(5) of the Act.

G. Retrospective Adjustment of FY 2009 Shortfall Allotments

Section 2104(l)(5) of the Act, as amended by MMSEA provides for a potential retrospective adjustment with respect to the amounts of States' FY 2009 shortfall allotments provided to them in FY 2009 prior to April 1, 2009 based on expenditure reports for the first two quarters of FY 2009 as submitted and certified by States to CMS no later than May 31, 2009.

Under section 2104(l)(2) and (3)(A) of the Act, additional FY 2009 shortfall

allotments were made available to those States that were initially determined to have a shortfall in CHIP funding in FY 2009 based on their expenditure projections for the first two quarters of FY 2009 as submitted and certified by the States by November 30, 2008. For those States, under section 2104(l)(5) of the Act, the retrospective adjustment to the amounts of their additional FY 2009 shortfall allotments is based on the FY 2009 expenditures for the first two quarters of FY 2009 as submitted and certified by such States by May 31, 2009.

Prior to April 1, 2009, and based on States' estimated FY 2009 CHIP expenditures through the end of the second quarter of FY 2009, we had provided approximately $267 million in total additional FY 2009 shortfall allotments to States to address their projected shortfalls in FY 2009 through the end of the second quarter FY 2009 in that amount. However, based on the States' actual FY 2009 expenditures for the first two quarters of FY 2009, as submitted through May 31, 2009, the final States' shortfalls in FY 2009 through the second quarter of FY 2009 for the shortfall States were only approximately $210 million. That is, for the shortfall States initially receiving the additional FY 2009 shortfall allotments, based on their actual FY 2009 reported expenditures for the first two quarters of FY 2009, their final shortfalls for the first two quarters of FY 2009 were about $58 million less than was previously estimated. Table 5 in this notice presents the final FY 2009 shortfall allotments after applying the retrospective adjustment under section 2104(l)(5) of the Act. Also, Column D in Table 3 reflects these final retrospective adjustment FY 2009 shortfall allotments.

III. Tables

Following are the keys and associated tables for the CHIP funding provisions as discussed in previous sections:

Table 1—Allotment Increase Factor for 2009

Table 2—FY 2009 Children's Health Insurance Program Allotments under the Children's Health Insurance Program Reauthorization Act Of 2009

Table 3—Coordination of CHIP Funding for Fiscal Year 2009

Table 4—Retrospective Adjustment for the FY 2008 Shortfall Funding

A. TABLE 1—ALLOTMENT INCREASE FACTOR FOR 2009

Key to Table 1

Column/Description

Column A = *State.* Column A contains the name of the State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *PCNHE 2008, PCNHE 2009, PCHCG Factor.* Column B contains the calculation of the Per Capita Health Care Growth (PCHCG) Factor for FY 2009, determined as 1 plus the percentage increase in the Per Capita National Health Expenditures (PCNHE) from calendar year 2008 to calendar year 2009.

Columns C through F = *Calculation of the Child Population Growth Factor (CPGF) for FY 2009:*

Column C = *July 1, 2008 Child Population.* Column C contains the population of children in each State or the United States as of July 1, 2008, as provided by the most recent published data of the Census Bureau before the beginning of FY 2009.

Column D = *July 1, 2009 Child Population.* Column D contains the population of children in each State or the United States as of July 1, 2009, as provided by the most recent published data of the Census Bureau before the beginning of FY 2009.

Column E = *Percent Increase 2008–2009.* Column E contains the percentage increase, if any, of the population of children in each State, or the United States, from July 1, 2008 to July 1, 2009, calculated as the difference between the number in Column D minus the number in Column C divided by the number in Column C.

Column F = *Child Population Growth Factor.* Column F contains the CPGF for the 50 States and the District of Columbia, determined as the 1.01 plus the percent in Column E for the State. For the Commonwealths and Territories the CPGF is determined as 1.01 plus the percentage in Column E for the United States.

Column G = *FY 2009 Allotment Increase Factor.* Column G contains the FY 2009 Allotment Increase Factor, calculated as the PCHCG factor in Column B multiplied by the CPGF percent in Column F.

TABLE 1 - ALLOTMENT INCREASE FACTOR FOR FY 2009

STATE	PCNHE 2008 $7,868 PCNHE 2009 $8,329 PCHCG Factor* 1.0586	Child Population Growth Factor (CPGF) /2 July 1, 2008 Population	July 1, 2009 Population	Percent Increase 2008 - 2009 (D-C)/C	FY 2009 Child Population Growth Factor Col E ÷ 1.01	FY 2009 Allotment Increase Factor Col B x F
A	B	C	D	E	F	G
Alabama	1.0586	1,194,074	1,197,948	0.32%	101.32%	1.0726
Alaska	1.0586	191,769	190,713	0.00%	101.00%	1.0692
Arizona	1.0586	1,789,418	1,821,692	1.80%	102.80%	1.0883
Arkansas	1.0586	743,263	746,633	0.45%	101.45%	1.0740
California	1.0586	9,938,932	9,935,774	0.00%	101.00%	1.0692
Colorado	1.0586	1,271,502	1,286,546	1.18%	102.18%	1.0817
Connecticut	1.0586	864,030	856,402	0.00%	101.00%	1.0692
Delaware	1.0586	220,313	221,645	0.60%	101.60%	1.0756
District of Columbia	1.0586	121,458	120,186	0.00%	101.00%	1.0692
Florida	1.0586	4,291,630	4,306,762	0.35%	101.35%	1.0729
Georgia	1.0586	2,709,394	2,748,436	1.44%	102.44%	1.0844
Hawaii	1.0586	305,075	307,837	0.91%	101.91%	1.0788
Idaho	1.0586	438,123	445,531	1.69%	102.69%	1.0871
Illinois	1.0586	3,390,211	3,391,475	0.04%	101.04%	1.0696
Indiana	1.0586	1,676,824	1,678,650	0.11%	101.11%	1.0703
Iowa	1.0586	753,549	753,479	0.00%	101.00%	1.0692
Kansas	1.0586	737,760	740,184	0.33%	101.33%	1.0727
Kentucky	1.0586	1,061,760	1,063,280	0.14%	101.14%	1.0707
Louisiana	1.0586	1,156,754	1,166,252	0.82%	101.82%	1.0779
Maine	1.0586	292,995	288,981	0.00%	101.00%	1.0692
Maryland	1.0586	1,437,569	1,430,751	0.00%	101.00%	1.0692
Massachusetts	1.0586	1,511,361	1,496,915	0.00%	101.00%	1.0692
Michigan	1.0586	2,556,032	2,516,262	0.00%	101.00%	1.0692
Minnesota	1.0586	1,331,231	1,330,605	0.00%	101.00%	1.0692
Mississippi	1.0586	817,433	822,163	0.58%	101.58%	1.0753
Missouri	1.0586	1,505,712	1,505,402	0.00%	101.00%	1.0692
Montana	1.0586	232,599	232,607	0.00%	101.00%	1.0692
Nebraska	1.0586	472,686	473,928	0.26%	101.26%	1.0720
Nevada	1.0586	709,054	724,930	2.24%	103.24%	1.0929
New Hampshire	1.0586	312,384	307,998	0.00%	101.00%	1.0692
New Jersey	1.0586	2,170,636	2,158,178	0.00%	101.00%	1.0692
New Mexico	1.0586	535,555	541,613	1.13%	102.13%	1.0812
New York	1.0586	4,657,653	4,611,979	0.00%	101.00%	1.0692
North Carolina	1.0586	2,383,127	2,419,399	1.52%	102.52%	1.0853
North Dakota	1.0586	152,453	152,365	0.00%	101.00%	1.0692
Ohio	1.0586	2,888,859	2,868,259	0.00%	101.00%	1.0692
Oklahoma	1.0586	959,163	969,003	1.03%	102.03%	1.0800
Oregon	1.0586	914,553	916,631	0.23%	101.23%	1.0716
Pennsylvania	1.0586	2,951,121	2,933,155	0.00%	101.00%	1.0692
Rhode Island	1.0586	246,826	243,282	0.00%	101.00%	1.0692
South Carolina	1.0586	1,136,530	1,144,940	0.74%	101.74%	1.0770
South Dakota	1.0586	208,937	209,943	0.48%	101.48%	1.0743
Tennessee	1.0586	1,563,470	1,573,014	0.61%	101.61%	1.0756
Texas	1.0586	7,103,539	7,241,881	1.95%	102.95%	1.0898
Utah	1.0586	881,555	902,837	2.41%	103.41%	1.0947
Vermont	1.0586	138,297	136,041	0.00%	101.00%	1.0692
Virginia	1.0586	1,943,500	1,950,136	0.34%	101.34%	1.0728
Washington	1.0586	1,629,098	1,634,960	0.36%	101.36%	1.0730
West Virginia	1.0586	409,423	408,037	0.00%	101.00%	1.0692
Wisconsin	1.0586	1,394,328	1,389,784	0.00%	101.00%	1.0692
Wyoming	1.0586	135,105	137,471	1.75%	102.75%	1.0877
NATIONAL	1.0586	78,438,623	78,652,875	0.27%	101.27%	1.0721
American Samoa	1.0586				101.27%	1.0721
Guam	1.0586				101.27%	1.0721
N. Mariana Islands	1.0586				101.27%	1.0721
Puerto Rico	1.0586				101.27%	1.0721
Virgin Islands	1.0586				101.27%	1.0721

Footnotes
/1 Per Capita Health Care Care Growth Factor (PCHCGF) for 2009 determined as 1 plus percentage increase in National Health Expenditures (NHE) from calendar year (CY) 2008 to CY 2009
/2 Child population growth factor data from Population Estimates Program, Vintage 2007, U.S. Census Bureau

B. Table 2—FY 2009 Children's Health Insurance Program Allotments Under the Children's Health Insurance Program Reauthorization Act of 2009

Key to Table 2

Column/Description

Column A = *State.* Column A contains the name of the State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *FY 2008 Total Federal CHIP Payments.* Column B contains, for the 50 States and the District of Columbia only, the total Federal payments applied to the States' available CHIP allotment funds in FY 2008, based on the States' expenditure reports submitted through November 30, 2008. For the Commonwealths and Territories, the entry in this Column is ''na.''

Column C = *FY 2008 CHIP Allotments.* Column C contains for the 50 States and the District of Columbia only, the States' final FY 2008 CHIP Allotments, as published in the May 23, 2008 **Federal Register** (30112, Vol. 73, No. 101). For the Commonwealths and Territories, Column C contains the maximum amount of the Federal payments for each of the jurisdictions as was applied against the jurisdiction's available CHIP funds in each of the fiscal years FY 1999 through 2008.

Column D = *FY 2009 Allotment Increase Factor.* Column D contains the Allotment Increase Factor for each State as contained in Column G of Table 1.

Column E = *FY 2008 Tot. Fed Pmts × Incr. Factor.* Column E contains, for the 50 States and the District of Columbia only, the product of the FY 2008 total Federal CHIP payments in Column B multiplied by the amount of the FY 2009 Allotment Increase Factor in Column D. Column E contains, for the Territories and Commonwealths, the product of the amount in Column C (containing the maximum amount of

Federal Payments in the FY 1999 through FY 2008) multiplied by the amount in Column D (the allotment increase period).

Column F = *FY 2008 Allotments × Incr. Factor.* Column F contains, for the 50 States and the District of Columbia only, the product of the FY 2008 CHIP allotments in Column C multiplied by the amount of the FY 2009 Allotment Increase Factor in Column D. Column F contains, for each of the Commonwealths and Territories, the percentage for each jurisdiction, respectively, from section 2104(a)(3) the percent allocation.

Column G = *FY 2009 Projected Expenditures.* Column G contains, for the 50 States and the District of Columbia only; the amounts of each State's projected CHIP Federal payments as submitted by the States on their February 2009 quarterly expenditure reports no later than March 31, 2009. Column G contains, for each of the Commonwealths and Territories, the portion of the additional $40 million in allotment funds available to such jurisdiction for FY 2009, determined as the product of the percentage in Column F for the Jurisdiction multiplied by $40 million.

Column H = *Maximum of Col. E, F, G.* Column H contains, for the 50 States and the District of Columbia only, the maximum of the amounts in Columns E, F, and G.

Column I = *FY 2009 Allotments.* Column I contains, for the 50 States and the District of Columbia, the FY 2009 CHIP allotment, determined as 110 percent multiplied by the amount in Column H. Column I contains for the Commonwealths and Territories, the FY 2009 CHIP allotment, determined as the sum of the amount in Column E and the amount in Column G, for each jurisdiction.

TABLE 2 - FY 2009 CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS UNDER THE CHILDREN'S HEALTH INSURANCE PROGRAM REAUTHORIZATION ACT OF 2009

STATE	FY 2008 Total Federal CHIP Payments	FY 2008 CHIP Allotments	FY 2009 Allotment Increase Factor	FY 2008 Tot. Fed. Pmts x Incr. Factor Col B x D	FY 2008 Allotments x Incr. Factor Col C x D	FY 2009 Projected Expenditures /1	Maximum of Col E, F, G /3	FY 2009 Allotments Col H x 1.1
A	B	C	D	E	F	G	H	I
Alabama	$108,802,989	$72,328,116	1.0726	$116,703,406	$77,580,015	$127,546,000	$127,546,000	$140,300,600
Alaska	$14,387,020	$11,186,515	1.0692	$15,382,281	$11,960,372	$22,332,000	$22,332,000	$24,565,200
Arizona	$119,364,458	$142,956,789	1.0883	$129,900,816	$155,575,653	$115,364,000	$155,575,653	$171,133,218
Arkansas	$113,217,801	$47,543,965	1.0740	$121,593,360	$51,061,144	$86,577,000	$121,593,360	$133,752,696
California	$1,259,347,793	$789,164,316	1.0692	$1,346,466,554	$843,756,874	$1,411,736,000	$1,411,736,000	$1,552,909,600
Colorado	$82,481,275	$71,544,798	1.0817	$89,220,209	$77,390,194	$91,542,000	$91,542,000	$100,696,200
Connecticut	$26,290,673	$38,810,205	1.0692	$28,109,401	$41,495,005	$39,112,000	$41,495,005	$45,644,506
Delaware	$9,664,288	$12,759,650	1.0756	$10,394,694	$13,723,997	$10,816,000	$13,723,997	$15,096,397
District of Columbia	$10,138,224	$12,057,061	1.0692	$10,839,563	$12,891,141	$10,006,000	$12,891,141	$14,180,255
Florida	$272,305,390	$301,724,376	1.0729	$292,159,232	$323,723,162	$263,903,000	$323,723,162	$356,095,478
Georgia	$224,990,230	$167,923,820	1.0844	$243,986,570	$182,101,938	$274,595,000	$274,595,000	$302,054,500
Hawaii	$17,603,151	$15,242,690	1.0788	$18,989,604	$16,443,229	$18,945,000	$18,989,604	$20,888,564
Idaho	$35,351,472	$23,803,069	1.0871	$38,429,768	$25,875,766	$40,468,000	$40,468,000	$44,514,800
Illinois	$292,862,843	$208,343,771	1.0696	$313,238,004	$222,838,740	$309,564,000	$313,238,004	$344,561,804
Indiana	$102,383,574	$97,384,888	1.0703	$109,584,257	$104,234,011	$125,077,000	$125,077,000	$137,584,700
Iowa	$55,307,598	$33,177,409	1.0692	$59,133,649	$35,472,545	$59,323,000	$59,323,000	$65,255,300
Kansas	$47,850,684	$36,635,060	1.0727	$51,327,314	$39,296,810	$51,967,000	$51,967,000	$57,163,700
Kentucky	$90,295,307	$68,236,560	1.0707	$96,678,566	$73,060,417	$114,558,000	$114,558,000	$126,013,800
Louisiana	$159,214,074	$84,083,019	1.0779	$171,612,023	$90,630,537	$188,548,000	$188,548,000	$207,402,800
Maine	$33,391,598	$15,449,944	1.0692	$35,701,551	$16,518,735	$33,427,000	$35,701,551	$39,271,706
Maryland	$156,230,248	$72,403,254	1.0692	$167,037,894	$77,411,943	$177,067,000	$177,067,000	$194,773,700
Massachusetts	$259,309,763	$73,334,995	1.0692	$277,248,211	$78,408,140	$292,417,000	$292,417,000	$321,658,700
Michigan	$172,932,643	$147,082,132	1.0692	$184,895,722	$157,256,933	$201,022,000	$201,022,000	$221,124,200
Minnesota	$71,388,962	$48,613,498	1.0692	$76,327,485	$51,976,467	$34,380,000	$76,327,485	$83,960,234
Mississippi	$142,912,495	$60,988,699	1.0753	$153,674,252	$65,581,339	$175,399,000	$175,399,000	$192,938,900
Missouri	$79,645,045	$77,617,870	1.0692	$85,154,705	$82,987,294	$144,390,000	$144,390,000	$158,829,000
Montana	$24,945,517	$15,921,821	1.0692	$26,672,098	$17,023,835	$29,990,000	$29,990,000	$32,989,000
Nebraska	$35,562,811	$21,376,574	1.0720	$38,121,881	$22,914,815	$38,141,000	$38,141,000	$41,955,100
Nevada	$28,766,219	$51,071,928	1.0929	$31,438,025	$55,815,487	$26,786,000	$55,815,487	$61,397,036
New Hampshire	$11,248,518	$10,656,681	1.0692	$12,026,664	$11,393,885	$13,495,000	$13,495,000	$14,844,500
New Jersey	$323,057,000	$105,519,251	1.0692	$345,405,334	$112,818,828	$459,450,000	$459,450,000	$505,395,000
New Mexico	$124,318,151	$52,045,406	1.0812	$134,406,828	$56,268,999	$255,200,000	$255,200,000	$280,720,000
New York	$326,890,431	$328,679,791	1.0692	$349,503,953	$351,417,097	$394,066,000	$394,066,000	$433,472,600
North Carolina	$193,685,712	$136,117,313	1.0853	$210,205,129	$147,726,732	$219,691,000	$219,691,000	$241,660,100
North Dakota	$13,452,611	$7,888,996	1.0692	$14,383,231	$8,434,738	$13,212,000	$14,383,231	$15,821,554
Ohio	$227,466,032	$157,858,294	1.0692	$243,201,605	$168,778,565	$259,341,000	$259,341,000	$285,275,100
Oklahoma	$99,351,936	$70,828,185	1.0800	$107,303,838	$76,497,111	$137,636,000	$137,636,000	$151,399,600
Oregon	$66,339,195	$60,115,810	1.0716	$71,087,951	$64,419,078	$91,089,000	$91,089,000	$100,197,900
Pennsylvania	$204,468,133	$168,758,145	1.0692	$218,612,764	$180,432,442	$282,099,000	$282,099,000	$310,308,900
Rhode Island	$59,115,228	$13,957,989	1.0692	$63,204,682	$14,923,570	$30,823,000	$63,204,682	$69,525,150
South Carolina	$57,786,536	$71,016,874	1.0770	$62,236,733	$76,485,952	$97,148,000	$97,148,000	$106,862,800
South Dakota	$15,628,267	$10,504,473	1.0743	$16,789,051	$11,284,689	$18,778,000	$18,778,000	$20,655,800
Tennessee	$77,517,851	$99,841,627	1.0756	$83,381,279	$107,393,620	$142,390,000	$142,390,000	$156,629,000
Texas	$697,962,599	$556,190,553	1.0898	$760,635,343	$606,133,040	$788,500,000	$788,500,000	$867,350,000
Utah	$50,253,013	$41,291,966	1.0947	$55,013,662	$45,203,703	$59,331,000	$59,331,000	$65,264,100
Vermont	$5,660,421	$5,636,822	1.0692	$6,051,996	$6,026,764	$8,627,000	$8,627,000	$9,489,700
Virginia	$131,264,569	$90,338,630	1.0728	$140,819,606	$96,914,578	$159,873,000	$159,873,000	$175,860,300
Washington	$43,367,730	$79,883,308	1.0730	$46,533,003	$85,713,737	$36,754,000	$85,713,737	$94,285,111
West Virginia	$36,785,678	$25,666,451	1.0692	$39,330,426	$27,441,997	$37,764,000	$39,330,426	$43,263,469
Wisconsin	$75,282,751	$69,563,162	1.0692	$80,490,637	$74,375,380	$185,705,000	$185,705,000	$204,275,500
Wyoming	$8,740,819	$6,373,481	1.0877	$9,507,529	$6,932,538	$10,297,000	$10,297,000	$11,326,700
States/DC Total	$6,896,587,326	$4,987,500,000		$7,410,152,339	$5,362,023,581	$8,216,267,000	$8,520,540,525	$9,372,594,578

Commonwealths and Territories		MAX SCHIP PMT FY 1999-2008	Increase Factor	Col C x D	Sec. 2104(c)(3) Percent Alloc.	$40,000,000 x Col F /2		Tot. FY 09 Allot Col E + G
American Samoa	na	$794,872	1.0721	$852,152	1.2%	$480,000		$1,332,152
Guam	na	$3,523,345	1.0721	$3,777,242	3.5%	$1,400,000		$5,177,242
N. Mariana Islands	na	$728,633	1.0721	$781,139	1.1%	$440,000		$1,221,139
Puerto Rico	na	$104,474,207	1.0721	$112,002,755	91.6%	$36,640,000		$148,642,755
Virgin Islands	na	$2,135,295	1.0721	$2,289,167	2.6%	$1,040,000		$3,329,167
Total		$111,656,352		$119,702,455	100.0%	$40,000,000		$159,702,455
NATIONAL TOTAL								$9,532,297,033

Footnotes
/1 Final FY 2009 Allotments based on February 2009 budget submissions
/2 Under 2104(c)(4)(B) of the Act, Commonwealths and Territories receive an additional $40,000,000 for FY 2009
/3 Shaded entries in Columns E, F, and G represent the maximum value shown in Column H

C. Table 3—Coordination of CHIP Funding for Fiscal Year 2009

Table 3 contains the amounts of each States' FY 2009 CHIP allotment, as contained in Column I on Table 2, reduced by certain amounts of CHIP allotment funds already available to the State in FY 2009, as required under section 3(c) of CHIPRA.

Key to Table 3

Column/Description

Column A = *State.* Column A contains the name of the State.

Column B = *FY 2009 Pre-CHIPRA Allotment Grants Issued Before April 1, 2009.* Column B contains the amount if any of the State's FY 2009 allotment that was actually provided to the State in a grant award from such allotment before April 1, 2009, as determined under section 2104(a) of the Act before the enactment of CHIPRA, as published in the **Federal Register** on May 23, 2008 (30112, Vol. 73, No. 101).

Column C = *FY 2006 Unexpended Allotments Redistributed in FY 2009 Before April 1, 2009.* Column C contains the total amount, if any, that the State received from the amounts of States' unexpended FY 2006 allotments remaining at the end of FY 2008, and redistributed in FY 2009 before April 1, 2009, determined in accordance with the provisions of section 2104(k) of the Act.

Column D = *FY 2009 Shortfall Allotments After Retrospective Adjustment.* Column D contains the final amount if any, that the State received as an additional shortfall allotment for the first two quarters of FY 2009, as determined under the retrospective adjustment provision of

section 2104(l)(5) of the Act. Refer to Table 5 for further information regarding the determination of the amounts of the FY 2009 shortfall allotments under the retrospective adjustment.

Column E = *Total FY 2009 Pre-CHIPRA Allotment Funds.* Column E contains the total amount if any, that the State received as CHIP allotment funds in FY 2009 before April 1, 2009, determined as the sum of the amounts, if any, in Columns B, C, and D, for each State.

Column F = *FY 2009 Total Allotments Determined Under CHIPRA.* Column F contains the total FY 2009 CHIP allotment determined under CHIPRA, as contained in Column I in Table 2.

Column G = *FY 2009 Allotments Under CHIPRA Balance Effective April 1, 2009.* Column G contains the balance of the FY 2009 CHIP allotment after the reduction by the amounts of the FY 2009 allotment funds provided in FY 2009, determined as the amount in Column F minus the amount in Column E.

TABLE 3 - COORDINATION OF CHIP FUNDING FOR FISCAL YEAR 2009

STATE	FY 2009 Pre-CHIPRA Allotment Grants Issued Prior to April 1, 2009	FY 2006 Unexpended Allotments Redistributed in FY 2009 Prior to April 1, 2009	FY 2009 Shortfall Allotments After Retrospective Adjustment**	Total FY 2009 Pre-CHIPRA Allotment Funds B + C + D	FY 2009 Total Allotments Determined Under CHIPRA	FY 2009 Allotments Under CHIPRA Balance Effective April 1, 2009* F - E
A	B	C	D	E	F	G
Alabama	$71,056,418	$0	$0	$71,056,418	$140,300,600	$69,244,182
Alaska	$10,419,103	$0	$0	$10,419,103	$24,565,200	$14,146,097
Arizona	$149,074,041	$0	$0	$149,074,041	$171,133,218	$22,059,177
Arkansas	$50,409,786	$0	$0	$50,409,786	$133,752,696	$83,342,910
California	$799,172,168	$0	$0	$799,172,168	$1,552,909,600	$753,737,432
Colorado	$0	$0	$0	$0	$100,696,200	$100,696,200
Connecticut	$0	$0	$0	$0	$45,644,506	$45,644,506
Delaware	$0	$0	$0	$0	$15,096,397	$15,096,397
District of Columbia	$0	$0	$0	$0	$14,180,255	$14,180,255
Florida	$0	$0	$0	$0	$356,095,478	$356,095,478
Georgia	$175,553,509	$0	$0	$175,553,509	$302,054,500	$126,500,991
Hawaii	$0	$0	$0	$0	$20,888,564	$20,888,564
Idaho	$0	$0	$0	$0	$44,514,800	$44,514,800
Illinois	$198,658,964	$0	$0	$198,658,964	$344,561,804	$145,902,840
Indiana	$0	$0	$0	$0	$137,584,700	$137,584,700
Iowa	$34,057,616	$0	$0	$34,057,616	$65,255,300	$31,197,684
Kansas	$37,854,500	$0	$0	$37,854,500	$57,163,700	$19,309,200
Kentucky	$67,371,232	$0	$0	$67,371,232	$126,013,800	$58,642,568
Louisiana	$84,083,019	$0	$9,861,967	$93,944,986	$207,402,800	$113,457,814
Maine	$14,748,335	$0	$1,102,937	$15,851,272	$39,271,706	$23,420,434
Maryland	$70,223,851	$0	$11,630,784	$81,854,635	$194,773,700	$112,919,065
Massachusetts	$72,449,046	$11,182,289	$52,237,721	$135,869,056	$321,658,700	$185,789,644
Michigan	$146,173,055	$0	$0	$146,173,055	$221,124,200	$74,951,145
Minnesota	$48,613,498	$0	$0	$48,613,498	$83,960,234	$35,346,736
Mississippi	$64,120,566	$0	$11,001,844	$75,122,410	$192,938,900	$117,816,490
Missouri	$81,870,388	$0	$0	$81,870,388	$158,829,000	$76,958,612
Montana	$14,489,345	$0	$0	$14,489,345	$32,989,000	$18,499,655
Nebraska	$22,516,181	$0	$0	$22,516,181	$41,955,100	$19,438,919
Nevada	$0	$0	$0	$0	$61,397,036	$61,397,036
New Hampshire	$0	$0	$0	$0	$14,844,500	$14,844,500
New Jersey	$102,154,736	$20,993,064	$79,929,758	$203,077,558	$505,395,000	$302,317,442
New Mexico	$52,045,406	$3,591,754	$43,893,031	$99,530,191	$280,720,000	$181,189,809
New York	$0	$0	$0	$0	$433,472,600	$433,472,600
North Carolina	$136,117,313	$0	$0	$136,117,313	$241,660,100	$105,542,787
North Dakota	$7,885,338	$0	$0	$7,885,338	$15,821,554	$7,936,216
Ohio	$157,285,194	$0	$0	$157,285,194	$285,275,100	$127,989,906
Oklahoma	$70,828,185	$0	$0	$70,828,185	$151,399,600	$80,571,415
Oregon	$0	$0	$0	$0	$100,197,900	$100,197,900
Pennsylvania	$167,008,303	$0	$0	$167,008,303	$310,308,900	$143,300,597
Rhode Island	$13,209,840	$2,532,441	$0	$15,742,281	$69,525,150	$53,782,869
South Carolina	$0	$0	$0	$0	$106,862,800	$106,862,800
South Dakota	$10,862,735	$0	$0	$10,862,735	$20,655,800	$9,793,065
Tennessee	$0	$0	$0	$0	$156,629,000	$156,629,000
Texas	$0	$0	$0	$0	$867,350,000	$867,350,000
Utah	$0	$0	$0	$0	$65,264,100	$65,264,100
Vermont	$0	$0	$0	$0	$9,489,700	$9,489,700
Virginia	$96,877,519	$0	$0	$96,877,519	$175,860,300	$78,982,781
Washington	$0	$0	$0	$0	$94,285,111	$94,285,111
West Virginia	$25,009,711	$0	$0	$25,009,711	$43,263,469	$18,253,758
Wisconsin	$69,563,162	$0	$0	$69,563,162	$204,275,500	$134,712,338
Wyoming	$0	$0	$0	$0	$11,326,700	$11,326,700
States/DC Total	$3,121,762,063	$38,299,548	$209,658,042	$3,369,719,653	$9,372,594,578	$6,002,874,925
Commonwealths and Territories						
American Samoa	$0	$0	$0	$0	$1,332,152	$1,332,152
Guam	$1,837,500	$0	$0	$1,837,500	$5,177,242	$3,339,742
N. Mariana Islands	$0	$0	$0	$0	$1,221,139	$1,221,139
Puerto Rico	$48,090,000	$0	$0	$48,090,000	$148,642,755	$100,552,755
Virgin Islands	$0	$0	$0	$0	$3,329,167	$3,329,167
Total	$49,927,500	$0	$0	$49,927,500	$159,702,455	$109,774,955
NATIONAL TOTAL	$3,171,689,563	$38,299,548	$209,658,042	$3,419,647,153	$9,532,297,033	$6,112,649,880

Footnotes

*Under section 3(c) of CHIPRA, funding from the FY 2009 allotments determined under CHIPRA is coordinated with certain CHIP funds issued prior to April 1, 2009: grants from the FY 2009 allotments determined under Pre-CHIPRA title XXI (Column B); unexpended FY 2006 allotments redistributed in FY 2009 (Column C); and the FY 2009 additional/shortfall allotments (Column D). These amounts (totaled in Column E), are applied to reduce the the total FY 2009 allotments determined under CHIPRA (in Column F).

**From Column H Table 5

D. Table 4—Retrospective Adjustment for the FY 2008 Shortfall Allotments

Table 4 contains the final retrospective adjustment determination with respect to the amounts of the additional shortfall allotments provided to States to eliminate their CHIP funding shortfalls in FY 2008, in accordance with the provisions of section 2104(j)(5) of the Act. Under section 2104(j)(2) and (3)(A) of the Act, additional FY 2008 shortfall allotments were made available only to those 50 States and the District of Columbia that were determined to have a shortfall in CHIP funding in FY 2008 based on their FY 2008 expenditure projections as submitted and certified by the States by November 30, 2007. For those States, under section 2104(j)(5) of the Act, the retrospective adjustment to the amounts of their additional FY 2008 shortfall allotments is based on the FY 2008 expenditure projections submitted and certified by such States by November 30, 2008.

Key to Table 4

Column/Description

Column A = *State.* Column A contains the name of the State.

Column B = *FY 2008 Actual Expenditures 11/30/08.* Column B contains the total Federal share amount of the CHIP expenditures reported by the States for FY 2008, as contained on the States' expenditure reports submitted and certified by the States by November 30, 2008.

Column C = *FY 2006 Carryover Allotments into FY 08.* Column C contains the amounts of the States' unused FY 2006 allotments remaining at the end of FY 2007, if any, and carried over into FY 2008.

Column D = *FY 2007 Carryover Allotments into FY 08.* Column D contains the amounts of the States' unused FY 2007 allotments remaining at the end of FY 2007, if any, and carried over into FY 2008.

Column E = *FY 2008 Allotments.* Column E contains the amounts of the States' FY 2008 allotments, as published in the May 23, 2008 **Federal Register** (30112, Vol. 73, No. 101).

Column F = *FY 2005 Redistribution Based on November 30, 2007 Estimates.* Column F contains the amounts of the FY 2005 redistributed allotments issued to the State in FY 2008, if any, as based on the States' estimates of CHIP funding needed for FY 2008 submitted and certified by the State by November 30, 2007.

Column G = *Total Avail. Allotments in FY 2008.* Column G contains the total amount of CHIP funds available to the State in FY 2008 without consideration of the issuance of any additional FY 2008 shortfall allotments, determined as the sum of the amounts, if any, in Columns C, D, E, and F.

Column H = *Retro. Adjusted Shortfall in FY 2008.* Column H contains the retrospective adjustment amount of States' shortfall in CHIP funding for FY 2008. This amount is based on the States' actual FY 2008 CHIP expenditures as submitted and certified by the State by November 30, 2008 and the actually available CHIP funds without any additional FY 2008 shortfall allotments. The retrospective adjustment is applicable only for States that were determined to have a shortfall in CHIP funding in FY 2008 based on their FY 2008 expenditure projections submitted and certified by November 30, 2007; such States are those with an FY 2008 shortfall amount shown in Column I. For such States, the amount of the retrospective adjustment shortfall amount in Column H is calculated as the difference between the amounts of the States' projected Federal share CHIP expenditures for FY 2008 in Column B and the amounts of the States' available allotments funds in FY 2008 Column G.

Column I = *Total FY 2008 SF Allotment Grants Issued in FY 2008.* Column I contains the total amounts of the additional FY 2008 shortfall allotments actually issued to the State in FY 2008 to address States' CHIP funding shortfalls in FY 2008.

Column J = *FY 2008 Excess SF Allotments Provided In FY 2008.* Column J contains the amounts of the States' excess additional FY 2008 shortfall allotments provided in FY 2008, as determined under the retrospective adjustment provision. For States that received additional FY 2008 shortfall allotments, the amounts in Column J represent the amount of the FY 2008 shortfall allotments provided in FY 2008 that were greater than were needed to address such States' CHIP funding shortfalls in FY 2008. The amounts in Column J are calculated as the difference between the actual additional FY 2008 shortfall allotments in Column I and the amounts of the States' retrospectively adjusted FY 2008 shortfall in Column H.

Column K = *Additional FY 2008 SF Allotments Needed for FY 2008.* Column K contains the amounts of the additional FY 2008 shortfall allotments needed by FY 2008 shortfall States as determined under the retrospective adjustment provision. For States that received such shortfall allotments in FY 2008, the amounts in Column K represent the amount of the additional FY 2008 shortfall allotments needed in FY 2008 that were greater than were provided to address such States' CHIP funding shortfalls in FY 2008. The amounts in Column K are calculated as the difference between the amounts of the States' retrospectively adjusted FY 2008 shortfall in Column H and the actual FY 2008 shortfall allotments provided to the States in Column I.

TABLE 4 - RETROSPECTIVE ADJUSTMENT FOR THE ADDITIONAL FY 2008 SHORTFALL ALLOTMENTS

STATE	FY 2008 Actual Expenditures 11/30/08	FY 2006 Carryover Allotments Into FY 08	FY 2007 Carryover Allotments Into FY 08	FY 2008 Allotments	FY 2005 Redist. Based on 11/30/07 Estimates	Total Avail. Allotments in FY 2008 C+D+E+F	Retro Adjusted Shortfall in FY 2008* $0, or B - G	Total FY 2008 SF Allotments Issued in FY 2008	FY 2008 Excess SF Allotments Provided in FY 2008 I - H	Additional FY 2008 SF Allotments Needed for FY 2008* H - I
A	B	C	D	E	F	G	H	I	J	K
Alabama	$108,802,989	$0	$45,797,588	$72,328,116	$0	$118,125,704	$0	$0	$0	$0
Alaska	$14,387,020	$0	$587,849	$11,186,515	$0	$11,774,364	$2,612,656	$11,005,636	$8,392,980	$0
Arizona	$119,364,458	$0	$33,217,428	$142,956,789	$0	$176,174,217	$0	$0	$0	$0
Arkansas	$113,217,801	$7,180,217	$49,307,483	$47,543,965	$0	$104,031,665	$9,186,136	$13,945,335	$4,759,199	$0
California	$1,259,347,793	$0	$296,072,645	$789,164,316	$0	$1,085,236,961	$174,110,832	$205,193,039	$31,082,207	$0
Colorado	$82,481,275	$28,146,022	$71,544,798	$71,544,798	$0	$171,235,618	$0	$0	$0	$0
Connecticut	$26,290,673	$28,917,116	$39,890,581	$38,810,205	$0	$107,617,902	$0	$0	$0	$0
Delaware	$9,664,288	$6,882,772	$11,057,552	$12,759,650	$0	$30,699,974	$0	$0	$0	$0
District of Columbia	$10,138,224	$8,706,500	$11,708,552	$12,057,061	$0	$32,472,113	$0	$0	$0	$0
Florida	$272,305,390	$157,036,867	$296,066,768	$301,724,376	$0	$754,828,011	$0	$0	$0	$0
Georgia	$224,990,230	$0	$0	$167,923,820	$0	$167,923,820	$57,066,410	$157,577,180	$100,510,770	$0
Hawaii	$17,603,151	$0	$13,959,537	$15,242,690	$0	$29,202,227	$0	$0	$0	$0
Idaho	$35,351,472	$12,424,618	$24,316,412	$23,803,069	$0	$60,544,099	$0	$0	$0	$0
Illinois	$292,862,843	$0	$0	$208,343,771	$0	$208,343,771	$84,519,072	$60,478,562	$0	$24,040,510
Indiana	$102,383,574	$21,735,080	$93,469,355	$97,384,888	$0	$212,589,323	$0	$0	$0	$0
Iowa	$55,307,598	$0	$0	$33,177,409	$0	$33,177,409	$22,130,189	$29,196,591	$7,066,402	$0
Kansas	$47,850,684	$0	$19,417,884	$36,635,060	$0	$56,052,944	$0	$0	$0	$0
Kentucky	$90,295,307	$0	$62,854,053	$68,236,560	$0	$131,090,613	$0	$0	$0	$0
Louisiana	$159,214,074	$0	$36,969,662	$84,083,019	$0	$121,052,671	$38,161,403	$42,964,115	$4,802,712	$0
Maine	$33,391,598	$0	$0	$15,449,944	$338,174	$15,788,118	$17,603,480	$16,622,882	$0	$980,598
Maryland	$156,230,248	$0	$0	$72,403,254	$3,274,469	$75,677,723	$80,552,525	$87,518,277	$6,965,752	$0
Massachusetts	$259,309,763	$0	$0	$73,334,995	$46,902,941	$120,237,936	$139,071,827	$155,399,064	$16,327,237	$0
Michigan	$172,932,643	$0	$43,723,615	$147,082,132	$0	$190,805,747	$0	$0	$0	$0
Minnesota	$71,388,962	$0	$0	$48,613,498	$0	$48,613,498	$22,775,464	$35,445,502	$12,670,038	$0
Mississippi	$142,912,495	$0	$0	$60,988,699	$698,349	$61,687,048	$81,225,447	$83,718,841	$2,493,394	$0
Missouri	$79,645,045	$0	$16,027,960	$77,617,870	$0	$93,645,830	$0	$15,036,170	$15,036,170	$0
Montana	$24,945,517	$0	$14,006,755	$15,921,821	$0	$29,928,576	$0	$0	$0	$0
Nebraska	$35,562,811	$0	$444,038	$21,376,574	$0	$21,820,612	$13,742,199	$13,636,388	$0	$105,811
Nevada	$28,766,219	$38,330,640	$52,056,449	$51,071,928	$0	$141,459,017	$0	$0	$0	$0
New Hampshire	$11,248,518	$3,968,246	$10,779,193	$10,656,681	$0	$25,404,120	$0	$0	$0	$0
New Jersey	$323,057,000	$0	$0	$105,519,251	$42,807,025	$148,326,276	$174,730,724	$174,730,724	$0	$0
New Mexico	$124,318,151	$22,528,957	$52,045,406	$52,045,406	$0	$126,619,769	$0	$0	$0	$0
New York	$326,890,431	$106,152,058	$340,806,655	$328,679,791	$0	$775,638,504	$0	$0	$0	$0
North Carolina	$193,685,712	$0	$15,734,147	$136,117,313	$0	$151,851,460	$41,834,252	$42,802,540	$968,288	$0
North Dakota	$13,452,611	$0	$1,885,320	$7,889,996	$0	$9,774,316	$3,678,295	$3,128,684	$0	$549,611
Ohio	$227,466,032	$0	$62,395,823	$157,858,294	$0	$220,254,117	$0	$0	$0	$0
Oklahoma	$99,351,936	$0	$33,779,717	$70,828,185	$0	$104,607,902	$0	$19,753,098	$19,753,098	$0
Oregon	$66,339,195	$7,200,743	$55,734,200	$60,115,810	$0	$124,050,753	$0	$0	$0	$0
Pennsylvania	$204,468,133	$0	$149,194,869	$168,758,145	$0	$317,953,014	$0	$0	$0	$0
Rhode Island	$59,115,228	$0	$0	$13,957,989	$12,954,362	$26,912,351	$32,202,877	$32,820,649	$617,772	$0
South Carolina	$57,786,536	$51,797,690	$70,651,421	$71,016,874	$0	$193,465,985	$0	$0	$0	$0
South Dakota	$15,628,267	$0	$5,829,703	$10,504,473	$0	$16,334,176	$0	$0	$0	$0
Tennessee	$77,517,851	$80,406,910	$97,459,570	$99,841,627	$0	$277,708,107	$0	$0	$0	$0
Texas	$697,962,599	$454,741,626	$557,980,188	$556,190,553	$0	$1,568,912,367	$0	$0	$0	$0
Utah	$50,253,013	$0	$40,381,700	$41,291,966	$0	$81,673,666	$0	$0	$0	$0
Vermont	$5,560,421	$1,724,022	$5,753,333	$4,509,457	$0	$11,986,812	$0	$0	$0	$0
Virginia	$131,264,569	$0	$65,363,316	$90,338,630	$0	$155,701,946	$0	$0	$0	$0
Washington	$43,367,730	$64,705,479	$79,883,308	$79,883,308	$0	$224,472,095	$0	$0	$0	$0
West Virginia	$36,785,678	$0	$23,305,943	$25,666,451	$0	$48,972,394	$0	$0	$0	$0
Wisconsin	$75,282,751	$0	$11,728,098	$69,563,162	$0	$81,291,260	$0	$0	$0	$0
Wyoming	$8,740,819	$2,771,961	$6,942,463	$6,373,481	$0	$16,087,905	$0	$0	$0	$0
TOTAL	$6,896,587,326	$1,105,357,524	$2,921,131,327	$4,986,372,635	$106,975,320	$9,119,836,806	$995,203,788	$1,200,973,277	$231,446,019	$25,676,530

* FY 2008 Shortfall allotment retrospective adjustment is only applicable for States that were detemined to have an FY 2008 shortfall based on their November 2007 budget estimates for FY 2008 submitted by November 30, 2007

E. Table 5—Retrospective Adjustment for the FY 2009 Shortfall Funding

Table 5 contains the final retrospective adjustment determination with respect to the amounts of the additional shortfall allotments provided to States to eliminate their CHIP funding shortfalls for the first two quarters of FY 2009, in accordance with the provisions of section 2104(l)(5) of the Act. Under section 2104(l)(2) and (3)(A) of the Act, additional FY 2009 shortfall allotments were initially made available only to those States that were projected to have a shortfall in CHIP funding for the first two quarters of FY 2009 based on their FY 2009 expenditure projections as submitted and certified by the States by November 30, 2008. For those States, under section 2104(l)(5) of the Act, the retrospective adjustment to the amounts of their additional FY 2009 shortfall allotments are based on the FY 2009 expenditures for the first two quarters of FY 2009 as submitted and certified by such States by May 31, 2009.

Key to Table 5

Column/Description

Column A = *State.* Column A contains the name of the State.

Column B = *FY 09 Actual Expends. Thru 3/31/09 Reported By 5/31/09.* Column B contains the total Federal share amount of the CHIP expenditures reported by the States for the first two quarters of FY 2009 (the period ending March 31, 2009), as contained on the States' expenditure reports submitted and certified by the States by May 31, 2009.

Column C = *FY 07 Carryover Allotments into FY 09.* Column C contains the amounts of the States' unused FY 2007 allotments remaining at the end of FY 2008, if any, and carried over into FY 2009.

Column D = *FY 08 Carryover Allotments into FY 09.* Column D contains the amounts of the States' unused FY 2008 allotments remaining at the end of FY 2008, if any, and carried over into FY 2009.

Column E = *FY 09 Pre-CHIPRA Allot. Grants.* Column E contains the amounts of the States' FY 2009 allotment grants as issued to States prior to April 1, 2009 from the FY 2009 allotments as determined under the CHIP statute in effect prior to the enactment of CHIPRA, as published in the May 23, 2008 **Federal Register** (30112, Vol. 73, No. 101).

Column F = *FY 2006 Redistribution Based on 11/30/08 Estimates.* Column F contains the amounts of the FY 2006 redistributed allotments issued to the State in FY 2009, if any, as based on the States' estimates of CHIP funding needed for FY 2009 submitted and certified by the State by November 30, 2008.

Column G = *Total Avail. Allotments in FY 2009.* Column G contains the total amount of CHIP funds available to the State in FY 2009 without consideration of the issuance of any additional FY 2009 shortfall allotments, determined as the sum of the amounts, if any, in Columns C, D, E, and F.

Column H = *Retro. Adjusted Shortfall FY 2009 Thru 3/31/09.* Column H contains the retrospective adjustment amount of States' shortfalls in CHIP funding through the end of March 31, 2009, based on the States' actual FY 2009 CHIP expenditures for the first two quarters of FY 2009 as submitted and certified by the State by May 31, 2009 and the actually available CHIP funds not including any additional FY 2009 shortfall allotments. The amount of the retrospective adjustment shortfall amount in Column H is calculated as the difference between the amounts of the States' projected Federal share CHIP expenditures for the first two quarters of FY 2009 in Column B and the amounts of the States' available allotments funds in FY 2009 Column G.

Column I = *Total FY 2009 SF Allotments Issued in FY 2009.* Column I contains the total amounts of the additional FY 2009 shortfall allotments actually issued to the State in the first two quarters of FY 2009 prior to April 1, 2009 to address States' CHIP funding shortfalls for the first two quarters of FY 2009.

Column J = *FY 2009 Excess SF Allotments Provided In FY 2009.* Column J contains the amounts of the States' excess additional FY 2009 shortfall allotments provided in FY 2009, as determined under the retrospective adjustment provision. For States that received additional FY 2009 shortfall allotments, the amounts in Column J represent the amount of the FY 2009 shortfall allotments provided in FY 2009 that were greater than were needed to address such States' CHIP funding shortfalls in FY 2009. The amounts in Column J are calculated as the difference between the actual additional FY 2009 shortfall allotments in Column I and the amounts of the States' retrospectively adjusted FY 2009 shortfall in Column H.

TABLE 5 - RETROSPECTIVE ADJUSTMENT FOR THE FY 2009 SHORTFALL FUNDING

STATE	FY 09 Actual Expends. Thru 3/31/09 Reported By 5/31/09	FY 07 Carryover Allotments Into FY 09	FY 08 Carryover Allotments Into FY 09	FY 09 Pre-CHIPRA Allot. Grants	FY 2006 Redist. Based on 11/30/08 Estimates	Total Avail. Allotments in FY 2009 C + D + E + F	Retro Adjusted Shortfall FY 2009 Thru 3/31/09 $0, or B - G	Total FY 2009 SF Allotments Issued In FY 2009	FY 2009 Excess SF Allotments Provided In FY 2009 I - H
A	B	C	D	E	F	G	H	I	J
Alabama	$60,559,462	$0	$9,322,715	$71,056,418	$0	$80,379,133	$0	$0	$0
Alaska	$7,942,457	$0	$0	$10,419,103	$0	$10,419,103	$0	$0	$0
Arizona	$56,066,050	$0	$56,809,759	$149,074,041	$0	$205,883,800	$0	$0	$0
Arkansas	$40,146,026	$0	$0	$50,409,786	$0	$50,409,786	$0	$0	$0
California	$527,752,666	$0	$0	$799,172,168	$0	$799,172,168	$0	$0	$0
Colorado	$40,178,173	$17,209,545	$71,544,798	$0	$0	$88,754,343	$0	$0	$0
Connecticut	$12,862,610	$39,890,581	$38,810,205	$0	$0	$78,700,786	$0	$0	$0
Delaware	$5,614,224	$8,276,036	$12,759,650	$0	$0	$21,035,686	$0	$0	$0
District of Columbia	$5,372,541	$10,276,828	$12,057,061	$0	$0	$22,333,889	$0	$0	$0
Florida	$129,829,818	$180,798,245	$301,724,376	$0	$0	$482,522,621	$0	$0	$0
Georgia	$114,457,150	$0	$0	$175,553,509	$0	$175,553,509	$0	$0	$0
Hawaii	$9,779,877	$0	$11,599,076	$0	$0	$11,599,076	$0	$0	$0
Idaho	$19,484,356	$1,389,558	$23,803,069	$0	$0	$25,192,627	$0	$0	$0
Illinois	$100,745,600	$0	$0	$198,658,964	$0	$198,658,964	$0	$0	$0
Indiana	$40,099,346	$12,820,861	$97,384,888	$0	$0	$110,205,749	$0	$0	$0
Iowa	$28,143,349	$0	$0	$34,057,616	$0	$34,057,616	$0	$0	$0
Kansas	$24,967,653	$0	$8,202,260	$37,854,500	$0	$46,056,760	$0	$0	$0
Kentucky	$54,603,413	$0	$40,795,306	$67,371,232	$0	$108,166,538	$0	$0	$0
Louisiana	$93,944,986	$0	$0	$84,083,019	$0	$84,083,019	$9,861,967	$10,302,981	$441,014
Maine	$15,851,272	$0	$0	$14,748,335	$0	$14,748,335	$1,102,937	$2,146,665	$1,043,728
Maryland	$81,854,635	$0	$0	$70,223,851	$0	$70,223,851	$11,630,784	$15,977,149	$4,346,365
Massachusetts	$135,869,056	$0	$0	$72,449,046	$11,182,289	$83,631,335	$52,237,721	$63,920,665	$11,682,944
Michigan	$78,256,918	$0	$17,873,104	$146,173,055	$0	$164,046,159	$0	$0	$0
Minnesota	$21,847,680	$0	$0	$48,613,498	$0	$48,613,498	$0	$0	$0
Mississippi	$75,122,410	$0	$0	$64,120,566	$0	$64,120,566	$11,001,844	$17,307,434	$6,305,590
Missouri	$47,735,376	$0	$14,000,785	$81,870,388	$0	$95,871,173	$0	$0	$0
Montana	$14,384,481	$0	$4,983,059	$14,489,345	$0	$19,472,404	$0	$0	$0
Nebraska	$19,192,924	$0	$0	$22,516,181	$0	$22,516,181	$0	$0	$0
Nevada	$12,717,326	$52,056,449	$51,071,928	$0	$0	$103,128,377	$0	$0	$0
New Hampshire	$7,385,491	$3,498,921	$10,656,681	$0	$0	$14,155,602	$0	$0	$0
New Jersey	$203,077,558	$0	$0	$102,154,736	$20,993,064	$123,147,800	$79,929,758	$96,422,200	$16,492,442
New Mexico	$101,831,809	$0	$2,301,618	$52,045,406	$3,591,754	$57,938,778	$43,893,031	$49,180,222	$5,287,191
New York	$178,311,385	$120,068,282	$328,679,791	$0	$0	$448,748,073	$0	$0	$0
North Carolina	$100,347,305	$0	$0	$136,117,313	$0	$136,117,313	$0	$0	$0
North Dakota	$6,360,000	$0	$0	$7,885,338	$0	$7,885,338	$0	$0	$0
Ohio	$123,193,237	$0	$0	$157,285,194	$0	$157,285,194	$0	$0	$0
Oklahoma	$57,718,738	$0	$5,255,966	$70,828,185	$0	$76,084,151	$0	$0	$0
Oregon	$35,447,075	$0	$57,711,558	$0	$0	$57,711,558	$0	$0	$0
Pennsylvania	$141,662,006	$0	$113,484,881	$167,008,303	$0	$280,493,184	$0	$0	$0
Rhode Island	$8,057,438	$0	$0	$13,209,840	$2,532,441	$15,742,281	$0	$12,452,719	$12,452,719
South Carolina	$41,125,685	$64,662,575	$71,016,874	$0	$0	$135,679,449	$0	$0	$0
South Dakota	$8,249,656	$0	$705,909	$10,862,735	$0	$11,568,644	$0	$0	$0
Tennessee	$55,886,039	$97,459,570	$99,841,627	$0	$0	$197,301,197	$0	$0	$0
Texas	$349,609,266	$314,759,215	$556,190,553	$0	$0	$870,949,768	$0	$0	$0
Utah	$20,651,964	$0	$31,420,653	$0	$0	$31,420,653	$0	$0	$0
Vermont	$2,804,074	$2,944,298	$4,509,458	$0	$0	$7,453,756	$0	$0	$0
Virginia	$75,327,449	$0	$24,437,377	$96,877,519	$0	$121,314,896	$0	$0	$0
Washington	$14,988,602	$78,001,432	$79,883,308	$0	$0	$157,884,740	$0	$0	$0
West Virginia	$18,357,987	$0	$12,186,716	$25,009,711	$0	$37,196,427	$0	$0	$0
Wisconsin	$8,817,907	$0	$6,008,509	$69,563,162	$0	$75,571,671	$0	$0	$0
Wyoming	$4,685,914	$973,605	$6,373,481	$0	$0	$7,347,086	$0	$0	$0
TOTAL	$3,439,278,420	$1,005,086,001	$2,183,406,999	$3,121,762,063	$38,299,548	$6,348,554,611	$209,658,042	$267,710,035	$58,051,993

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

V. Collection of Information Requirements

This document does not impose any information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

VI. Regulatory Impact Analysis

We have examined the impacts of this rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999), and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have determined that this proposed rule is economically significant, since it provides the methodologies under which State allotments for FY 2009 through FY 2013 were calculated and will be in the future. In particular, this rule implements the CHIP statute as amended by CHIPRA, under which approximately up to $44 billion in additional Federal funds may be made available for fiscal years FY 2009 through FY 2013 in addition to the amount of funds previously appropriated for States' CHIPs in accordance with the methodology established in the CHIP statute. This proposed rule also includes the actual State fiscal year CHIP allotments for FY 2009 determined in accordance with the methodology set out in this proposed rule. The methodologies for determining the States' CHIP allotments was established in accordance with the methodologies specified in statute and does not put forward any discretionary administrative policies for determining such allotments. Therefore, we have determined that there are no policy options that require an analysis beyond that which is presented in section II of this proposed rule.

The RFA requires agencies to analyze options for regulatory relief of small businesses, if a rule has a significant economic impact on a substantial number of small entities. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of less than $7 million to $34.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Core-Based Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this proposed rule would not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the UMRA also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $133 million. This proposed rule would not create an unfunded mandate on States, tribal, or local governments in the aggregate, or by the private sector in the amount of $133 million in any one year. Therefore, we are not required to perform an assessment of the costs and benefits of this rule.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have determined that this proposed rule would not significantly affect States' rights, roles, and responsibilities.

Low-income children would benefit from payments under this program through increased opportunities for health insurance coverage. We believe this proposed rule would have an overall positive impact by informing States, the District of Columbia, and Commonwealths and Territories of the extent to which they are permitted to expend funds under their child health plans using the additional funds provided by the FY 2009 allotment amounts.

Accounting Statement: As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 6, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this rule. This table provides our best impact estimate of the rule, as it implements the CHIP statute as amended by CHIPRA, under which approximately up to $44 billion in additional Federal funds may be made available for fiscal years FY 2009 through FY 2013, in addition to the amount of funds previously appropriated for States' CHIPs. All expenditures are classified as transfers from the Federal Government to States.

Table 6: Accounting Statement: Classification of Estimated Expenditures, from FY 2009 to FY 2013 (in $Millions)

Category	TRANSFERS			
Annualized Monetized Transfers	Year Dollar	Units Discount Rate		Period Covered
		7%	3%	
	2009	$13,568.36	$13,690.49	FYs 2009-2013
From Whom To Whom?	Federal Government to States			

In accordance with the provisions of Executive Order 12866, this proposed rule was reviewed by the Office of Management and Budget.

List of Subjects in 42 CFR Part 457

Administrative practice and procedure, Grant programs—health, Health insurance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services proposes to amend 42 CFR chapter IV as set forth below:

PART 457—ALLOTMENTS AND GRANTS TO STATES

1. The authority citation for part 457 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart F—Payments to States

§ 457.600 [Amended]

2. Amend § 457.600(a) by removing the date ''2007'' and adding in its place ''2013''.

§ 457.608 [Amended]

3. Amend the section heading in § 457.608 by removing the words ''for a fiscal year'' and adding in its place ''prior to FY 2009''.

4. Add a new § 457.609 to subpart F to read as follows:

§ 457.609 Process and calculation of State allotments for a fiscal year after FY 2008.

(a) *General.* For each of the 50 States and the District of Columbia and for each Commonwealth and Territory with an approved State child health plan, the State allotments for FY 2009 through FY 2013 are determined by CMS as described in paragraphs (b) through (g) of this section. Unless otherwise indicated in this section, the reference to ''State'' refers to the 50 States and the District of Columbia and the Commonwealths and Territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

(b) *Amounts available for allotment.* The total amounts available for allotment for each fiscal year are as follows:

(1) FY 2009, $10,562,000,000.

(2) FY 2010, $12,520,000,000.

(3) FY 2011, $13,459,000,000.

(4) FY 2012, $14,982,000,000.

(5) FY 2013, for the period beginning October 1, 2012 and ending March 31, 2013, the following amounts are as follows:

(i) $2,850,000,000.

(ii) $11,706,000,000.

(6) FY 2013, for the period beginning April 1, 2013 and ending on September 30, 2013, $2,850,000,000.

(c) *Determination of a State allotment for FY 2009.* (1) *For the 50 States and the District of Columbia.* From the amount in paragraph (b)(1) of this section as appropriated for the fiscal year under section 2104(a) of the Act, subject to paragraph (e) of this section related to proration, and paragraph (b)(3) of this section relating to coordination of funding, the allotment for FY 2009 is equal to 110 percent of the highest of the following amounts for each State and the District of Columbia:

(i) The total Federal payments to the State under title XXI of the Act for FY 2008 as reported by the State and certified to the Secretary through the November 2008 submission of the quarterly expenditure reports, Forms CMS–21 and CMS–64, multiplied by the allotment increase factor determined under paragraph (f) of this section.

(ii) The amount allotted to the State for FY 2008, multiplied by the allotment increase factor determined under paragraph (f) of this section.

(iii) The projected total Federal payments to the State under title XXI of the Act for FY 2009, subject to paragraph (c)(1)(iv) of this section, as determined based on the February 2009 projections certified by the State to CMS by no later than March 31, 2009.

(iv) In the case of a State described in section 2105(g) of the Act and electing the option under paragraph (4) of such section, for purposes of the projections described in paragraph (c)(1)(iii) of this section, such projections would include an amount equal to the difference between the following amounts:

(A) The amount of Federal payments for the expenditures described in section 2104(g)(4)(B) of the Act made after February 4, 2009 that would have been paid to the State if claimed at the enhanced Federal medical assistance percentage determined under section 2105(b) of the Act.

(B) The amount of Federal payments for the expenditures described in section 2104(g)(4)(B) of the Act made after February 4, 2009 that would have been paid to the State if claimed at the Federal medical assistance percentage defined in section 1905(b) of the Act; during the recession adjustment period described in section 5001(h) of the American Recovery and Reinvestment Act of 2009 (ARRA), the Federal medical assistance percentage is as determined for the State under section 5001 of ARRA.

(2) *For the Commonwealths or Territories.*

(i) From the amount in paragraph (b)(1) of this section, as appropriated for the FY 2009 under section 2104(a) of the

Act, subject to paragraph (e) of this section related to proration, and paragraph (c)(3) of this section relating to coordination of funding, an amount equal to the highest amount of Federal payments made to the Commonwealth or Territory under title XXI of the Social Security Act for any fiscal year occurring during the period for FY 1999 through FY 2008, multiplied by the allotment increase factor determined under paragraph (f) of this section, plus the additional amount for the fiscal year specified in paragraph (c)(2)(ii) of this section

(ii) *Additional Amounts for FY 2009.* From the amount appropriated for the fiscal year under section 2104(c)(4)(B) of the Act, the additional amount for each Commonwealth or Territory is equal to $40,000,000 multiplied by the following percentage as specified in section 2104(c)(2) of the Act:

(A) For Puerto Rico, 91.6 percent.

(B) For Guam, 3.5 percent.

(C) For the Virgin Islands, 2.6 percent.

(D) For American Samoa, 1.2 percent.

(E) For the Northern Mariana Islands, 1.1 percent.

(3) *Coordination of CHIP Funding for FY 2009.* The amount of the CHIP allotment for FY 2009 available for payment for a States' expenditures may be reduced by the amounts appropriated and obligated before April 1, 2009 for States' FY 2009 allotments, FY 2006 allotments redistributed to the State in FY 2009 determined under section 2104(k) of the Act, and the amounts of additional FY 2009 shortfall allotments determined under section 2104(l) of the Act.

(d) *Determination of a State allotment for FY 2010 through FY 2013.* (1) *General.* Subject to the provisions of paragraph (e) of this section relating to proration and paragraph (g) of the section relating to increases in a fiscal year allotment for approved program expansions, the State allotments for FY 2010 through FY 2013 are determined as follows.

(2) *Determination of a State Allotment for FY 2010.* (i) For the 50 States and the District of Columbia, and for the Commonwealths and Territories subject to paragraph (d)(2)(ii) of this section, the State allotment for FY 2010 is equal to the product of the following:

(A) The sum of:

(*1*) The State Allotment for FY 2009, as determined under paragraph (c) of the section.

(*2*) The amount of any Federal payments made as redistributions of unexpended FY 2006 allotments under section 2104(k) of the Act.

(*3*) The amount of any Federal payments made as additional FY 2009 allotments under section 2104(l) of the Act.

(*4*) The amount of any Federal payments made as contingency fund payments for FY 2009 under section 2104(n) of the Act.

(B) The State allotment increase factor for FY 2010 as determined under paragraph (f) of the section.

(ii) In determining the amount of the FY 2010 allotment for each Commonwealth and Territory, for purposes of determining the amount of the FY 2009 allotment under paragraph (d)(2)(i)(A)(1) of this section, the amount of such FY 2009 allotment will not include the additional amount determined under paragraph (c)(2)(ii).

(3) *Determination of a State Allotment for FY 2011.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2011 is equal to the product of:

(i) The amount of Federal payments attributable and countable toward the available State allotments in FY 2010, including—

(A) Any amount redistributed to the State in FY 2010, and

(B) Any Federal payments made as contingency fund payments for FY 2010 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2011 as determined under paragraph (f) of the section.

(4) *Determination of a State Allotment for FY 2012.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2012 is equal to the product of:

(i) The sum of:

(A) The State Allotment for FY 2011, as determined under paragraph (d)(3) of this section.

(B) The amount of any Federal payments made as contingency fund payments for FY 2011 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2012 as determined under paragraph (f) of this section.

(5) *Determination of a State Allotment for FY 2013.*

(i) *General.* There are two State allotments for FY 2013; one for the period beginning October 1, 2012 and ending March 31, 2013 and the second beginning April 1, 2013 and ending September 30, 2013. These State allotments are determined for each of the 50 States and the District of Columbia, and the Commonwealths and Territories.

(ii) The State allotment for FY 2013 for the period October 1, 2012 and ending March 31, 2013 is determined as the product of the following:

(A) The first half ratio determined as the amount in paragraph (d)(5)(A)(*1*) of this section divided by the amount in paragraph (d)(5)(A)(*2*) of this section.

(*1*) $14,556,000,000 (calculated as the sum of the two amounts in paragraph (b)(5) of this section, $2,850,000,000 (appropriated in section 2104(a)(16)(A) of the Act) and $11,706,000,000 (appropriated in section 108 of Public Law 111–3)).

(*2*) $17,406,000,000, determined as the sum of the amount determined under paragraph (d)(5)(A)(*1*) of this section, $14,556,000,000, and $2,850,000,000, the amount in paragraph (b)(6) of this section, as appropriated in section 2104(a)(16)(B) of the Act.

(B) The product of:

(*1*) The amount of Federal payments attributable and countable toward the total amount of available State allotments in FY 2012, including—

(*i*) Any amount redistributed to the State in FY 2012; and

(*ii*) Any Federal payments made as contingency fund payments for FY 2012 under section 2104(n) of the Act.

(*2*) The State allotment increase factor for FY 2013 as determined under paragraph (f) of this section.

(iii) The State allotment for FY 2013 for the period April 1, 2013 and ending September 31, 2013 is determined as the product of the following:

(A) $2,850,000,000, the amount in paragraph (b)(6) of this section, as appropriated in section 2104(a)(16)(B) of the Act; and

(B) The ratio determined as the amount in paragraph (d)(5)(iii)(B)(*1*) of this section divided by the amount in paragraph (d)(5)(iii)(B)(*2*) of this section.

(*1*) The amount of the State allotment determined under paragraph (d)(5)(ii) of this section.

(*2*) The total of all the State allotments determined under paragraph (d)(5)(ii) of this section.

(e) *Proration.* (1) If for a fiscal year the sum of the State allotments for the 50 States and the District of Columbia, and the State allotments for the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section), exceeds the total amount available for allotment for the fiscal year under paragraph (b) of this section, the amount of the allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section) will be reduced on a proportional basis as indicated in paragraph (e)(2) of this section.

(2) The amount of the allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section) is equal to the product of:

(i) The percentage determined by dividing the amount in paragraph (e)(2)(i)(A) by the amount in paragraph (e)(2)(i)(B) of this section.

(A) The amount of the State allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section).

(B) The sum of the amounts for each of the 50 States and the District of Columbia, and the Commonwealths and Territories in paragraph (e)(2)(i) of this section.

(ii) The total amount available for allotment for the fiscal year under paragraph (b) of this section

(f) *Allotment increase factor.* The allotment increase factor for a fiscal year is equal to the product of the following:

(1) Per capita health care growth factor. The per capita health care growth factor for a fiscal year is equal to 1 plus the percentage increase in the projected per capita amount of the 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 CMS before the beginning of the fiscal year involved.

(2) *Child Population Growth Factor.* The child population growth factor for a fiscal year is equal to 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 CMS based on the most recent published estimates of the Census Bureau available before the beginning of the fiscal year involved plus 1 percentage point. For purposes of determining the Child Population Growth Factor for FY 2009 for the Commonwealths and Territories only, in applying the previous sentence, ''United States'' is substituted for ''the State''.

(g) *Increase in State allotment for the 50 States and the District of Columbia for FY 2010 through FY 2013 to account for approved program expansions.* In the case of the 50 States and the District of Columbia, the State allotment for FY 2010 through FY 2013, as determined in accordance with the provisions of this section, may be increased under the following conditions and amounts:

(1) The State 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 title XXI of the Act that becomes effective for a fiscal year (beginning with FY 2010 and ending with FY 2013); and

(2) The State 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 paragraph (g)(1) of this section, as certified by the State and submitted to the Secretary by not later than August 31 preceding 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.

(3) Subject to paragraph (e) of this section relating to proration, 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 paragraph (g)(2)(i). A State or District may only obtain an increase under paragraph (g)(2)(ii) of this section for an allotment for FY 2010 or FY 2012.

(h) *CHIP Fiscal Year Allotment Process.* As determined by the Secretary, the CHIP allotments for a fiscal year may be published as Preliminary Allotments or Final Allotments in the **Federal Register**.

§ 457.610 [Amended]

5. Amend the section heading for § 457.610 by—

A. Amending the section heading by removing the words ''for a fiscal year'' and adding in its place ''prior to FY 2009''.

B. Removing the words ''for a fiscal year'' and add in its place add ''prior to FY 2009''in the first line of the paragraph.

6. Add a new § 457.611 to subpart F to read as follows:

§ 457.611 Period of availability for State allotments for a fiscal year after FY 2008.

The amount of a final allotment for a fiscal year after FY 2008, as determined under § 457.609 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 2-year period of availability, beginning with the fiscal year of the final allotment and ending with the end of the succeeding fiscal year following the fiscal year.

Authority: (Section 1102 of the Social Security Act (42 U.S.C. 1302)

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program))

Dated: June 19, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: July 29, 2009.

Kathleen Sebelius,

Secretary.

[FR Doc. E9–22162 Filed 9–15–09; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2008–0073; 14420–1113–0000–C6]

Endangered and Threatened Wildlife and Plants; 12-Month Finding on a Petition to Remove the Bliss Rapids Snail (Taylorconcha serpenticola) From the List of Endangered and Threatened Wildlife

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of 12-month petition finding.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce a 12-month finding on a petition to remove the Bliss Rapids snail (*Taylorconcha serpenticola*) from the Federal List of Endangered and Threatened Wildlife (List) pursuant to the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). Based on a thorough review of the best scientific and commercial data available, the species continues to be restricted to a small geographic area in the middle-Snake River, Idaho, where it is dependent upon cool-water spring outflows. Although some threats identified at the time of listing in 1992 no longer exist or have been moderated, ground water depletion and impaired water quality still threaten the Bliss Rapids snail. In addition, there are significant uncertainties about the effects of hydropower operations and New Zealand mudsnails on the