

conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 2, 2010.

**A. Federal Reserve Bank of Richmond** (A. Linwood Gill, III, Vice President) 701 East Byrd Street, Richmond, Virginia 23261-4528:

1. *Jacksonville Bancorp, Inc.*, Jacksonville, Florida; to merge with Atlantic BancGroup, Inc., and thereby indirectly acquire Oceanside Bank, both of Jacksonville Beach, Florida.

Board of Governors of the Federal Reserve System, June 2, 2010.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

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**BILLING CODE 6210-01-S**

## FEDERAL RESERVE SYSTEM

### Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at [www.ffiec.gov/nic/](http://www.ffiec.gov/nic/).

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 22, 2010.

**A. Federal Reserve Bank of New York** (Ivan Hurwitz, Vice President) 33 Liberty Street, New York, New York 10045-0001:

1. *Industrial and Commercial Bank of China, Limited*, Beijing, China; to acquire 100 percent of the voting shares of Strong City Securities, LLC, Newton, New Jersey, and thereby indirectly acquire voting shares of Fortis Securities LLC, New York, New York, and thereby engage in securities brokerage transactions, pursuant to section 225.28 (b)(7)(i), and in riskless principal transactions, pursuant to section 225.28(b)(7)(ii), both of Regulation Y.

Board of Governors of the Federal Reserve System, June 2, 2010.

**Robert deV. Frierson,**

*Deputy Secretary of the Board.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Medicaid Program: Proposed Implementation of Section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 for Adjustments to the Federal Medical Assistance Percentage for Medicaid Federal Matching Funds

**AGENCY:** Office of the Secretary, Department of Health and Human Services.

**ACTION:** Notice with comment period.

**SUMMARY:** For purposes of Title XIX (Medicaid) of the Social Security Act, the Federal Medical Assistance Percentage (FMAP), defined in section 1905(b) of the Social Security Act, for each state beginning with fiscal year 2006 is subject to adjustment pursuant to section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111-3. Section 614 provides for a recalculation of the FMAP disregarding identifiable significantly disproportionate employer pension or insurance fund contributions for a state. These contributions, when counted, increase state personal income and, by operation of the statutory formula to calculate the FMAP, would decrease the FMAP for the state. This notice announces the proposed methodology that the U.S. Department of Health and Human Services will use to determine the need for, and amount of, any such recalculation of the FMAP for a state.

**DATES: Comment Date:** To be assured consideration, comment must be received at the address provided below, no later than 5 p.m. EST on July 7, 2010.

**ADDRESSES:** Because of staff and resource limitations, we can only accept comments by regular mail. You may mail written comments (one original and one copy) to the following address only: Department of Health and Human Services, Room 447D, *Attention:* FMAP Adjustment Notice—CHIPRA, 200 Independence Ave., SW., Washington, DC 20201.

**Submitting Comments:** We welcome comments from the public on all issues set forth in this notice with comment period to assist us in fully considering issues and developing policies. Please provide a reference to the section on which you choose to comment.

### SUPPLEMENTARY INFORMATION:

#### A. Background

Section 1905(b) of the Social Security Act defines the Federal Medical Assistance Percentage (FMAP), which is used to determine the share of federal matching funds paid to each state for medical assistance payments under an approved Medicaid State plan under Title XIX of the Social Security Act. These FMAP rates are also used to determine federal matching fund rates for state expenditures for assistance payments under certain social service programs under Title IV of the Social Security Act and for child health assistance expenditures under the Children's Health Insurance Program under title XXI of the Social Security Act. In other **Federal Register** issuances, we have addressed changes to these FMAP rates required under the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5).

This notice addresses adjustments to the FMAP rates that are applicable only to the Medicaid program and required by Section 614 of the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA). Section 614 specifies that certain significantly disproportionate employer pension or insurance fund contributions shall be disregarded when computing the per capita income used to calculate the FMAP. The statutory formula for calculating the FMAP is based on the ratio of the state's per capita income to the per capita income of the entire United States. Under this formula, states with higher per capita income levels could have lower FMAP rates than states with lower per capita income levels. Significantly disproportionate employer pension or insurance fund contributions increase state personal income and, by operation of the statutory formula, could result in lower FMAPs than if those contributions were disregarded. CHIPRA requires adjustments to the Fiscal Year 2006

(FY06) through Fiscal Year 2010 (FY10) Medicaid FMAP rates and to any future FMAP calculation.

### **B. Calculation of the FMAP Adjustment under CHIPRA**

Section 614 of CHIPRA requires that the Title XIX Medicaid FMAP shall be adjusted for any states that had significantly disproportionate employer pension and insurance fund contributions. A significantly disproportionate employer contribution is defined as any identifiable employer contribution towards pension or other employee insurance funds that is estimated to accrue to residents of such state for a calendar year if the increase exceeds 25 percent of the total increase in state personal income. The personal income data set originally used in calculating FMAP rates shall be used for making this adjustment to the FMAP rates.

The required adjustment is a recalculation of the FMAP rate disregarding any significantly disproportionate employer pension or insurance fund contribution in computing the state per capita income, but not disregarding such contributions in computing the United States per capita income used in the FMAP calculation. Section 614(c) provides that in no case shall a state have its FMAP reduced because of the application of this disregard.

Section 614(b)(3) specifies a special adjustment for negative growth in state personal income. In that instance, for the purposes of calculating the FMAP for a calendar year, an employer pension and insurance fund contribution shall be disregarded to the extent that it exceeds 125 percent of the amount of employer contribution in the previous calendar year. The methodology to implement this provision will be addressed in a future **Federal Register** notice.

### **C. Methodology Utilized in the Calculation of the Adjustment to the Medicaid FMAP**

This Notice announces the methodology that the U.S. Department of Health and Human Services (HHS) proposes to use in implementing the employer contribution disregard required by Section 614 of CHIPRA. The proposed approach reflects the absence of a federal source of reliable and timely data on pension and insurance contributions by individual employer and state.

We propose to identify significantly disproportionate employer pension or insurance contributions for a state by reviewing contributions identified by

the state. We believe that states may have greater access to timely and relevant data on such contributions than is available from federal data sources. We would request that any state that believes an individual employer has made a significantly disproportionate employer or insurance contribution provide data on that individual employer contribution to HHS. The state may submit official audited financial statements for the employer for the year of the contribution (starting with the year 2003) and the prior year. If the state does not submit official audited financial statements for the employer, the state may submit other evidence that the increase in the employer's contribution is likely to exceed 25 percent of the increase in the state's personal income in that year.

After a state submits written notification that such a contribution occurred, HHS will verify the state's data. As part of this verification process, HHS will search the Security Exchange Commission (SEC) filings or the Internal Revenue Service (IRS) 5500 Annual Return/Report of Employee Benefit Plan database to find the employer's contributions for the relevant two-year period. If HHS is unable to verify the state's submitted data, no FMAP adjustment will be made after the state's data for an employer is verified, HHS will allocate employer contributions in both years to the state according to the methodology used by the Department of Commerce Bureau of Economic Analysis. Under that methodology, employer contributions to pension and insurance funds are distributed according to state wages and salaries by the employer's industry subsector. Then, HHS will determine whether the state increase in the employer contribution exceeds the trigger of 25 percent of the increase in total state personal income.

If the employer contribution is significantly disproportionate, HHS will disregard the state-allocated contribution, *i.e.*, subtract it from the state's personal income in that year. HHS will calculate the FMAP adjustment for the state using the revised state per capita income based on the newly calculated state personal income. Since the FMAP calculation involves the average per capita income for three years, the FMAP adjustment will be calculated for each fiscal year affected by the state's revised per capita income. For instance, a significantly disproportionate employer contribution in 2003 would affect the FMAPs for FY06 (based on state per capita income for calendar years 2001, 2002, and 2003), FY07 (based on state per capita

income for calendar years 2002, 2003, and 2004), and FY08 (based on state per capita income for calendar years 2003, 2004, and 2005).

HHS will release a final Notice of the CHIPRA methodology after receipt and review of comments to this Notice. Following the release of the final Notice, states may submit data on disproportionate employer contributions made between 2003 and 2008 to HHS by the end of FY 2010. Future submissions of data shall be submitted by the end of the next fiscal year following the year end of the employer's annual financial statement that includes the disproportionate employer contribution.

To summarize this methodology, after receipt of a state submission, HHS will verify the employer contributions from SEC filings or IRS 5500 reports for the year of the contribution and the prior year. If the employer contributions are verified, HHS will allocate the employer contributions for the state for both years and determine whether the state increase in the employer contribution exceeds the trigger of 25 percent of the increase in the state's personal income. If the employer contribution meets the definition of significantly disproportionate by exceeding the trigger, HHS will recalculate the FMAP rates for the corresponding fiscal years. The Centers for Medicare & Medicaid Services (CMS) will then calculate the changes in federal medical assistance payments resulting from the adjusted FMAP rates for the state's applicable fiscal years. If HHS is unable to verify the state's submitted data, then no FMAP adjustment will be made.

In addition to comments on the proposed methodology, we request comments on how prevalent significantly disproportionate employer contributions to pension or insurance funds may be in a particular state or industry and whether a state may currently qualify for this adjustment.

*Effective Dates:* The adjusted percentages will be effective under title XIX of the Social Security Act for fiscal years 2006 and beyond, beginning October 1, 2005.

**FOR FURTHER INFORMATION CONTACT:** Rose Chu or Thomas Musco, Office of Health Policy, Office of the Assistant Secretary for Planning and Evaluation, Room 447D, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, (202) 690-6870.

Dated: May 18, 2010.

**Kathleen Sebelius,**  
*Secretary.*

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