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**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Centers for Medicare & Medicaid Services****42 CFR Part 457**

[CMS-2390-F2]

RIN-0938-AS25

**Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability; Correcting Amendment****AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects a technical error that appeared in the final rule published in the May 6, 2016 **Federal Register** (81 FR 27498 through 27901) entitled, "Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability." The effective date for the rule was July 5, 2016.

**DATES:** *Effective Date:* This correcting document is effective July 18, 2016.

*Applicability Date:* The corrections indicated in this document are applicable beginning July 5, 2016.

**FOR FURTHER INFORMATION CONTACT:** Melissa Williams, (410) 786-4435, CHIP.

**SUPPLEMENTARY INFORMATION:****I. Background**

In FR Doc. 2016-09581 (81 FR 27498 through 27901), the final rule entitled, "Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability" there was a technical error that is identified and corrected in this correcting document. The correction is applicable as of July 5, 2016.

**II. Summary of Errors in the Regulations Text**

On page 27896 of the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule, we made a technical error in the regulation text of § 457.10. In this paragraph, we inadvertently omitted an amendatory instruction to add the definition of "Federally Qualified HMO" in alphabetical order. Accordingly, we are revising the amendatory instruction for § 457.10 to add this definition as it was published in the May 6, 2016 **Federal Register**.

**III. Waiver of Proposed Rulemaking and Delay in Effective Date**

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. In addition, section 553(d) of the APA mandates a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA notice and comment, and delay in effective date requirements. Section 553(b)(B) of the APA authorizes an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest; and includes a statement of the finding and the reasons for it in the notice. In addition, section 553(d)(3) of the APA allows the agency to avoid the 30-day delay in effective date where such delay is contrary to the public interest and the agency includes in the rule a statement of the finding and the reasons for it.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical errors in the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were

adopted subject to notice and comment procedures in the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule. As a result, the corrections made through this correcting document are intended to ensure that the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule accurately reflects the policies adopted in that rule.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements.

Undertaking further notice and comment procedures to incorporate the corrections in this document into the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule or delaying the effective date of the corrections would be contrary to the public interest because it is in the public interest to ensure that the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule accurately reflects our final policies as soon as possible following the date they take effect. Further, such procedures would be unnecessary, because we are not altering the payment methodologies or policies or making any substantive revision to the description of the definition as proposed or purported to be finalized in the preamble of the final rule, but rather, we are simply correcting the **Federal Register** document to reflect the policies that we previously proposed, received comment on, and subsequently finalized. This correcting document is intended solely to ensure that the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule accurately reflects these policies. For these reasons, we believe there is good cause to waive the

requirements for notice and comment and delay in effective date.

**List of Subjects in 42 CFR Part 457**

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

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendment to part 457:

**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).

■ 2. Section 457.10 is amended by adding the definition of “Federally Qualified HMO” in alphabetical order to read as follows:

**§ 457.10 Definitions and use of terms.**

\* \* \* \* \*

*Federally qualified HMO* means an HMO that CMS has determined is a qualified HMO under section 2791(b)(3) of the Public Health Service Act.

\* \* \* \* \*

Dated: July 14, 2016.

**Madhura Valverde,**

*Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2016–17157 Filed 7–18–16; 4:15 pm]

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**AGENCY FOR INTERNATIONAL DEVELOPMENT**

**48 CFR Part 752**

RIN 0412–AA82

**Agency for International Development Acquisition Regulation (AIDAR): Preference for Privately Owned U.S.-Flag Commercial Vessels.**

**AGENCY:** U.S. Agency for International Development.

**ACTION:** Direct final rule.

**SUMMARY:** The U.S. Agency for International Development (USAID) is revising the Agency for International Development Acquisition Regulation (AIDAR) clause to conform to the current requirements of the Cargo Preference Act of 1954 and provide up-to-date submission instructions to the Maritime Administration (MARAD).

**DATES:** This rule is effective October 18, 2016 without further action, unless adverse comments are received by September 19, 2016. If adverse comments are received, USAID will

publish a timely withdrawal of this rule in the **Federal Register**. Submit comments on or before September 19, 2016.

**ADDRESSES:** Address all comments concerning this notice to Lyudmila Bond, Bureau for Management, Office of Acquisition and Assistance, Policy Division (M/OAA/P), Room 867J, SA–44, Washington, DC 20523–2052. Submit comments, identified by title of the action and Regulation Identifier Number (RIN) by any of the following methods:

1. Through the Federal eRulemaking Portal at <http://www.regulations.gov> by following the instructions for submitting comments.

2. By Email: Submit electronic comments to [lbond@usaid.gov](mailto:lbond@usaid.gov). See **SUPPLEMENTARY INFORMATION** for file formats and other information about electronic filing.

3. By Mail addressed to: USAID, Bureau for Management, Office of Acquisition & Assistance, Policy Division, Room 867J, SA–44, 1300 Pennsylvania Ave. NW., Washington, DC 20523–2052.

**FOR FURTHER INFORMATION CONTACT:** Lyudmila Bond, Telephone: 202–567–4753 or Email: [lbond@usaid.gov](mailto:lbond@usaid.gov).

**SUPPLEMENTARY INFORMATION:**

**A. Instructions**

All comments must be in writing and submitted through one of the methods specified in the **ADDRESSES** section above. All submissions must include the title of the action and RIN for this rulemaking. Please include your name, title, organization, postal address, telephone number, and email address in the text of the message.

Comments submitted by email must be included in the text of the email or attached as a PDF file. Please avoid using special characters and any form of encryption. Please note that USAID recommends sending all comments to the Federal eRulemaking Portal because security screening precautions have slowed the delivery and dependability of surface mail to USAID/Washington.

After receipt of a comment and until finalization of the action, all comments will be made available at <http://www.regulations.gov> for public review without change, including any personal information provided. We recommend you do not submit information that you consider Confidential Business Information (CBI) or any information that is otherwise protected from disclosure by statute.

USAID is publishing this revision as a direct final rule as the Agency views this as a conforming and administrative

amendment and does not anticipate any adverse comments. This rule will be effective on the date specified in the **DATES** section above without further notice unless adverse comment(s) are received by the date specified in the **DATES** section above.

USAID will only address substantive comments on the rule. Comments that are insubstantial or outside the scope of the rule may not be considered.

If adverse comments are received on the direct final rule, USAID will publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect. If no adverse comments are received, this final rule will become final after the designated period. Additionally, USAID is publishing a separate document in the “Proposed Rules” section of this **Federal Register** that will serve as the proposal to approve these AIDAR revisions if adverse comments are received.

USAID will address all public comments in a subsequent final rule based on the proposed rule. USAID will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

**B. Background**

USAID is revising AIDAR section 752.247–70, Preference for privately owned U.S.-flag commercial vessels to conform to the current requirements of the Cargo Preference Act of 1954. The Act mandates that at least 50 percent of the gross tonnage of all Government generated cargo be transported on privately owned, U.S.-flag commercial vessels, to the extent such vessels are available at fair and reasonable rates. Other changes to the clause include up-to-date submission requirements to the Maritime Administration (MARAD). The changes will not impose any additional requirements on contractors.

**C. Impact assessment**

*(1) Regulatory Planning and Review*

Under E.O. 12866, USAID must determine whether a regulatory action is “significant” and therefore subject to the requirements of the E.O. and subject to review by the Office of Management and Budget (OMB). USAID has determined that this Rule is not an “economically significant regulatory action” under Section 3(f)(1) of E.O. 12866. This rule is not a major rule under 5 U.S.C. 804.

*(2) Regulatory Flexibility Act*

The rule will not have an impact on a substantial number of small entities within the meaning of the Regulatory