(f) Inter-agency or intra-agency memoranda or letters that would not be available by law to a party other than an agency in litigation with the agency. This exemption shall not apply to records created 25 years or more before the date on which the records were requested.

* * * * *

■ 5. Amend § 3004.12 by revising paragraph (c) to read as follows:

§ 3004.12 Reading room.

* * * * *

(c) The Commission shall make available, in an electronic and physical reading room, records previously released under FOIA and which the Commission determines are or are likely to become of significant public interest, including agency records that have been requested three or more times.

■ 6. Amend § 3004.13 by revising paragraph (a) to read as follows:

§ 3004.13 Notice and publication of public information.

(a) Decisions, advisory opinions, orders, public reports, and agency records that have been requested three or more times will be made available to the public by posting on the Commission's Web site at *http://www.prc.gov*.

* * * * *

■ 7. Amend § 3004.43 by revising paragraph (a) to read as follows:

§ 3004.43 Response to requests.

(a) Within 20 days (excluding Saturdays, Sundays, and legal holidays) after receipt of a request for a Commission record, the Secretary or Assistant Secretary will notify the requester of its determination to grant or deny the request and the right to seek assistance from the Commission's FOIA Public Liaison. In the case of an adverse determination, the Commission will notify the requester of their right to appeal and right to seek dispute resolution services from the Commission's FOIA Public Liaison or the Office of Government Information Services.

* * * * *

■ 8. Amend § 3004.44 by revising paragraphs (b) and (c)(1) to read as follows:

§ 3004.44 Appeals.

* * * * *

(b) A requester who seeks to appeal any adverse determination must file an appeal with the Commission within 1 year of the date of the Commission's response.

(c)(1) The Commission will grant or deny the appeal in writing within 20 days (excluding Saturdays, Sundays, and legal holidays) of the date the appeal is received. If on appeal the adverse determination is upheld, the Commission will notify the requester of the availability of dispute resolution services from the Office of Government Information Services as a voluntary, non-exclusive alternative to litigation and the provisions for judicial review of that determination pursuant to 5 U.S.C. 552(c).

* * * * *

■ 9. Revise § 3004.45 to read as follows:

§ 3004.45 Extension of response time limit.

(a) The Commission may extend the time limit for a response to a request or appeal for up to 10 business days due to unusual circumstances, as specified in 5 U.S.C. 552(a)(6)(B)(iii). In such a case, the Commission will notify the requester in writing of the unusual circumstance causing the extension and the date by which the Commission estimates that the request can be processed.

(b) If an extension will exceed 10 business days, the Commission will:

(1) Provide the requester with an opportunity to limit the scope of the request or to arrange an alternative timeframe for processing the request or a modified request. The applicable time limits are not tolled while the Commission waits for a response from the requester under this subsection; and

(2) Make its FOIA Public Liaison available to the requester and apprise the requester of their right to seek dispute resolution services from the Office of Government Information Services.

■ 10. Amend § 3004.52 by revising paragraph (e) and adding paragraph (f) to read as follows:

§ 3004.52 Fees—general provisions.

* * * * *

(e) No requester will be charged a fee after any search or response which occurs after the applicable time limits as described in §§ 3004.43 and 3004.44, unless:

(1) The Commission extends the time limit for its response due to unusual circumstances, pursuant to § 3004.45(a), and the Commission completes its response within the extension of time provided under that section; or

(2) The Commission extends the time limit for its response due to unusual circumstances and more than 5,000 pages are necessary to respond to the request and the Commission has discussed with the requester how they could effectively limit the scope of the request or made at least three good faith attempts to do so; or

(3) A court has determined that exceptional circumstances exist and excused the Commission from responding by court order.

(f) The Commission may, however, charge fees for review, and in some cases duplication, for a partial grant of a request while it reviews records that may be exempt and may be responsive to the request, so long as the partial grant is made within the applicable time limits.

[FR Doc. 2017–04308 Filed 3–3–17; 8:45 am]

BILLING CODE 7710–FW–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 10

RIN 0906–AA89

340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties; Delay of Effective Date

AGENCY: Health Resources and Services Administration (HRSA), HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' this action temporarily delays for 60 days from the date of the memorandum the effective date of the final rule titled ''340B Drug Pricing Program Ceiling Price and Manufacturer Civil Monetary Penalties Regulation,'' published in the January 5, 2017, **Federal Register**. This document announces that the effective date is delayed until March 21, 2017.

DATES: *Effective date:* This regulation is effective March 3, 2017. The effective date of the final rule published in the January 5, 2017, **Federal Register** (82 FR 1210), is delayed until March 21, 2017. *Compliance date:* HHS recognizes that the effective date falls in the middle of a quarter. As such, HHS plans to begin enforcing the requirements of this final rule at the start of the next quarter, which begins April 1, 2017.

FOR FURTHER INFORMATION CONTACT: CAPT Krista Pedley, Director, Office of Pharmacy Affairs (OPA), Healthcare Systems Bureau (HSB), HRSA, 5600 Fishers Lane, Mail Stop 08W05A, Rockville, MD 20857, or by telephone at 301–594–4353.

SUPPLEMENTARY INFORMATION: The January 20, 2017 memorandum from the Assistant to the President and Chief of Staff, titled ''Regulatory Freeze Pending Review,'' published in the **Federal**

Register on January 24, 2017 (82 FR 8346) instructed federal agencies to delay the effective date of rules published in the **Federal Register**, but which have not yet taken effect, for a period of 60 days from the date of the memorandum. The final rule sets forth the calculation of the 340B ceiling price and application of civil monetary penalties (CMPs). The effective date of that rule, which would have been March 6, 2017, is now March 21, 2017. The temporary delay in the effective date of this final rule is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President and Chief of Staff's memorandum.

Dated: February 23, 2017.

James Macrae,

Acting Administrator, Health Resources and Services Administration.

Approved: March 1, 2017.

Thomas E. Price,

Secretary, Department of Health and Human Services.

[FR Doc. 2017–04337 Filed 3–2–17; 11:15 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 438

[CMS–2390–F4]

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; Corrections

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

ACTION: Final rule; correcting amendment.

SUMMARY: This document corrects technical errors that appeared in the correcting amendment published in the January 3, 2017 **Federal Register** (82 FR 37 through 40) 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; Corrections.''

DATES: *Effective Date:* This correcting document is effective March 3, 2017.

Applicability Date: The corrections indicated in this document are applicable beginning immediately.

FOR FURTHER INFORMATION CONTACT: Elmer Barksdale, 410–786–1943, Gaysha Brooks, 410–409–3837, or Annette Brewer, 410–786–6580.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2016–31650 (82 FR 37 through 40), the correcting amendment 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; Corrections'' there were technical errors that are identified and corrected in this correcting document. These corrections are applicable immediately.

II. Summary of Errors in Regulation Text

On page 39, we made technical errors in the amendatory instructions amending the regulation text of § 438.358(c)(3) and (4). Therefore, the Office of the Federal Register was not able to properly correct the regulations text as intended.

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 requirement for 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 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; Corrections correcting amendment. 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 could result in a period of confusion about the applicability of the rules while those procedures are pending. Further, such procedures would be unnecessary, because the corrections in this document do not make substantive changes in the underlying policies but are limited to technical errors. 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 the final policy determinations that were set forth in the overall rulemaking record. 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 438

Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

Correction

In FR Doc. 2016–31650, published on January 3, 2017 (82 FR 37), make the following correction:

On page 39, in the third column, remove amendatory instructions 8 and 9 and their amendments to § 438.358.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to part 438: