

Editorial Notes

AMENDMENTS

2023—Subsec. (a)(1)(B)(i). Pub. L. 118–22, § 502(b)(1), substituted “2024” for “2023”.

Subsec. (a)(1)(B)(ii). Pub. L. 118–22, § 502(b)(2), substituted “2025” for “2024” in two places.

Subsec. (b)(3)(A). Pub. L. 118–22, § 502(a)(1), substituted “2027” for “2026”.

Subsec. (b)(3)(B)(ii). Pub. L. 118–22, § 502(a)(2)(A), substituted “2024” for “2023”.

Subsec. (b)(3)(B)(iii). Pub. L. 118–22, § 502(a)(2)(B), substituted “2025 through 2027” for “2024 through 2026”.

2022—Subsec. (a)(1)(B)(i). Pub. L. 117–328, § 4114(b)(1), substituted “December 31, 2023” for “December 31, 2022”.

Subsec. (a)(1)(B)(ii). Pub. L. 117–328, § 4114(b)(2), substituted “January 1, 2024” for “January 1, 2023” and “March 31, 2024” for “March 31, 2023”.

Subsec. (b)(3)(A). Pub. L. 117–328, § 4114(a)(1), substituted “through 2026” for “through 2025”.

Subsec. (b)(3)(B)(ii). Pub. L. 117–328, § 4114(a)(2)(A), substituted “through 2023” for “and 2022”.

Subsec. (b)(3)(B)(iii). Pub. L. 117–328, § 4114(a)(2)(B), substituted “2024 through 2026” for “2023 through 2025”.

Subsec. (f)(2). Pub. L. 117–286 substituted “chapter 10 of title 5” for “FACA” in heading and “chapter 10 of title 5.” for “the Federal Advisory Committee Act (5 U.S.C. App.)” in text.

2021—Subsec. (a)(1)(B)(i). Pub. L. 117–71, § 4(b)(1), substituted “December 31, 2022” for “December 31, 2021”.

Subsec. (a)(1)(B)(ii). Pub. L. 117–71, § 4(b)(2), substituted “January 1, 2023” for “January 1, 2022” and “March 31, 2023” for “March 31, 2022”.

Subsec. (b)(3)(A). Pub. L. 117–71, § 4(a)(1), substituted “through 2025” for “through 2024”.

Subsec. (b)(3)(B)(ii). Pub. L. 117–71, § 4(a)(2)(A), substituted “for each of 2021 and 2022” for “for 2021”.

Subsec. (b)(3)(B)(iii). Pub. L. 117–71, § 4(a)(2)(B), substituted “2023 through 2025” for “2022 through 2024”.

2020—Subsec. (a)(1)(B)(i). Pub. L. 116–136, § 3718(a)(1), substituted “December 31, 2021” for “December 31, 2020”.

Subsec. (a)(1)(B)(ii). Pub. L. 116–136, § 3718(a)(2), substituted “January 1, 2022” for “January 1, 2021” and “March 31, 2022” for “March 31, 2021”.

Subsec. (b)(3)(A). Pub. L. 116–136, § 3718(b)(1), substituted “through 2024” for “through 2023”.

Subsec. (b)(3)(B). Pub. L. 116–136, § 3718(b)(2), added cl. (ii), redesignated former cl. (ii) as (iii), and substituted “2022 through 2024” for “2021 through 2023” in cl. (iii).

2019—Subsec. (a)(1). Pub. L. 116–94, § 105(a)(1)(A), designated existing provisions as subpar. (A) and inserted heading, substituted “Subject to subparagraph (B), beginning January 1, 2016” for “Beginning January 1, 2016”, inserted “(referred to in this subsection as the ‘reporting period’)” after “at a time specified by the Secretary”, and added subpar. (B).

Subsec. (a)(4). Pub. L. 116–94, § 105(a)(1)(B), designated existing provisions as subpar. (A) and inserted heading, substituted “Subject to subparagraph (B), in this section” for “In this section”, and added subpar. (B).

Subsec. (b)(3)(A). Pub. L. 116–94, § 105(a)(2)(A), substituted “through 2023” for “through 2022”.

Subsec. (b)(3)(B)(i). Pub. L. 116–94, § 105(a)(2)(B)(i), substituted “through 2020” for “through 2019”.

Subsec. (b)(3)(B)(ii). Pub. L. 116–94, § 105(a)(2)(B)(ii), substituted “2021 through 2023” for “2020 through 2022”.

Statutory Notes and Related Subsidiaries

MONITORING OF MEDICARE EXPENDITURES AND IMPLEMENTATION OF NEW PAYMENT SYSTEM FOR LABORATORY TESTS

Pub. L. 113–93, title II, § 216(c)(2), Apr. 1, 2014, 128 Stat. 1061, provided that: “The Inspector General of the Department of Health and Human Services shall—

“(A) publicly release an annual analysis of the top 25 laboratory tests by expenditures under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.]; and

“(B) conduct analyses the Inspector General determines appropriate with respect to the implementation and effect of the new payment system for laboratory tests under section 1834A of the Social Security Act [42 U.S.C. 1395m–1], as added by subsection (a).”

§ 1395n. Procedure for payment of claims of providers of services

(a) Conditions for payment for services described in section 1395k(a)(2) of this title

Except as provided in subsections (b), (c), and (e), payment for services described in section 1395k(a)(2) of this title furnished an individual may be made only to providers of services which are eligible therefor under section 1395cc(a) of this title, and only if—

(1) written request, signed by such individual, except in cases in which the Secretary finds it impracticable for the individual to do so, is filed for such payment in such form, in such manner and by such person or persons as the Secretary may by regulation prescribe, no later than the close of the period ending 1 calendar year after the date of service; and

(2) a physician, or, in the case of services described in subparagraph (A), a physician, a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1395x(aa)(5) of this title) who is working in accordance with State law, or a physician assistant (as defined in section 1395x(aa)(5) of this title) who is working in accordance with State law, who is enrolled under section 1395cc(j) of this title, certifies (and recertifies, where such services are furnished over a period of time, in such cases, with such frequency, and accompanied by such supporting material, appropriate to the case involved, as may be provided by regulations) that—

(A) in the case of home health services (i) such services are or were required because the individual is or was confined to his home (except when receiving items and services referred to in section 1395x(m)(7) of this title) and needs or needed skilled nursing care (other than solely venipuncture for the purpose of obtaining a blood sample) on an intermittent basis or physical or speech therapy or, in the case of an individual who has been furnished home health services based on such a need and who no longer has such a need for such care or therapy, continues or continued to need occupational therapy, (ii) a plan for furnishing such services to such individual has been established and is periodically reviewed by a physician, a nurse practitioner, a clinical nurse specialist, or a physician assistant (as the case may be), (iii) such services are or were furnished while the individual is or was under the care of a physician, a nurse practitioner, a clinical nurse specialist, or a physician assistant (as the case may be), and (iv) in the case of a certification made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, or physician assistant (as the case may be) after a date specified by the Secretary (but in no case later than the date that is 6 months after March 27, 2020), prior to making such certification a physician, nurse practitioner, clin-

ical nurse specialist, or physician assistant must document that a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife (as defined in section 1395x(gg) of this title) as authorized by State law, or physician assistant has had a face-to-face encounter (including through use of telehealth and other than with respect to encounters that are incident to services involved) with the individual during the 6-month period preceding such certification, or other reasonable timeframe as determined by the Secretary;

(B) in the case of medical and other health services, except services described in subparagraphs (B), (C), and (D) of section 1395x(s)(2) of this title, such services are or were medically required;

(C) in the case of outpatient physical therapy services or outpatient occupational therapy services, (i) such services are or were required because the individual needed physical therapy services or occupational therapy services, respectively, (ii) a plan for furnishing such services has been established by a physician or by the qualified physical therapist or qualified occupational therapist, respectively, providing such services and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

(D) in the case of outpatient speech pathology services, (i) such services are or were required because the individual needed speech pathology services, (ii) a plan for furnishing such services has been established by a physician or by the speech pathologist providing such services and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician;

(E) in the case of comprehensive outpatient rehabilitation facility services, (i) such services are or were required because the individual needed skilled rehabilitation services, (ii) a plan for furnishing such services has been established and is periodically reviewed by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician; and

(F) in the case of partial hospitalization services, (i) the individual would require inpatient psychiatric care in the absence of such services, (ii) an individualized, written plan for furnishing such services has been established by a physician and is reviewed periodically by a physician, and (iii) such services are or were furnished while the individual is or was under the care of a physician.

For purposes of this section, the term “provider of services” shall include a clinic, rehabilitation agency, or public health agency if, in the case of a clinic or rehabilitation agency, such clinic or agency meets the requirements of section 1395x(p)(4)(A) of this title (or meets the requirements of such section through the operation of subsection (g) or (ll)(2) of section

1395x of this title), or if, in the case of a public health agency, such agency meets the requirements of section 1395x(p)(4)(B) of this title (or meets the requirements of such section through the operation of subsection (g) or (ll)(2) of section 1395x of this title), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of subsection (g) or (ll)(2) of section 1395x of this title) with respect to the furnishing of outpatient occupational therapy services or outpatient speech-language pathology services, respectively.

To the extent provided by regulations, the certification and recertification requirements of paragraph (2) shall be deemed satisfied where, at a later date, a physician, nurse practitioner, clinical nurse specialist, or physician assistant (as the case may be) makes a certification of the kind provided in subparagraph (A) or (B) of paragraph (2) (whichever would have applied), but only where such certification is accompanied by such medical and other evidence as may be required by such regulations. With respect to the certification required by paragraph (2) for home health services furnished to any individual by a home health agency (other than an agency which is a governmental entity) and with respect to the establishment and review of a plan for such services, the Secretary shall prescribe regulations which shall become effective no later than July 1, 1981 (or in the case of regulations to implement the amendments made by section 3708 of the CARES Act the Secretary shall prescribe regulations which shall become effective no later than 6 months after March 27, 2020), and which prohibit a physician, nurse practitioner, clinical nurse specialist, or physician assistant who has a significant ownership interest in, or a significant financial or contractual relationship with, such home health agency from performing such certification and from establishing or reviewing such plan, except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary). For purposes of the preceding sentence, service by a physician, nurse practitioner, clinical nurse specialist, or physician assistant as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency. For purposes of documentation for physician certification and recertification made under paragraph (2) on or after January 1, 2019 or no later than 6 months after March 27, 2020, for purposes of documentation for certification and recertification made under paragraph (2) by a nurse practitioner, clinical nurse specialist, or physician assistant,¹ and made with respect to home health services furnished by a home health agency, in addition to using documentation in the medical record of the physician, nurse practitioner, clinical nurse specialist, or physician assistant who so certifies or the medical record of the acute or post-acute care facility (in the case that home health services were

¹ So in original.

furnished to an individual who was directly admitted to the home health agency from such a facility), the Secretary may use documentation in the medical record of the home health agency as supporting material, as appropriate to the case involved. For purposes of paragraph (2)(A), an individual shall be considered to be “confined to his home” if the individual has a condition, due to an illness or injury, that restricts the ability of the individual to leave his or her home except with the assistance of another individual or the aid of a supportive device (such as crutches, a cane, a wheelchair, or a walker), or if the individual has a condition such that leaving his or her home is medically contraindicated. While an individual does not have to be bedridden to be considered “confined to his home”, the condition of the individual should be such that there exists a normal inability to leave home and that leaving home requires a considerable and taxing effort by the individual. Any absence of an individual from the home attributable to the need to receive health care treatment, including regular absences for the purpose of participating in therapeutic, psychosocial, or medical treatment in an adult day-care program that is licensed or certified by a State, or accredited, to furnish adult day-care services in the State shall not disqualify an individual from being considered to be “confined to his home”. Any other absence of an individual from the home shall not so disqualify an individual if the absence is of infrequent or of relatively short duration. For purposes of the preceding sentence, any absence for the purpose of attending a religious service shall be deemed to be an absence of infrequent or short duration. In applying paragraph (1), the Secretary may specify exceptions to the 1 calendar year period specified in such paragraph.

(b) Conditions for payment for services described in section 1395x(s) of this title

(1) Payment may also be made to any hospital for services described in section 1395x(s) of this title furnished as an outpatient service by a hospital or by others under arrangements made by it to an individual entitled to benefits under this part even though such hospital does not have an agreement in effect under this subchapter if (A) such services were emergency services, (B) the Secretary would be required to make such payment if the hospital had such an agreement in effect and otherwise met the conditions of payment hereunder, and (C) such hospital has made an election pursuant to section 1395f(d)(1)(C) of this title with respect to the calendar year in which such emergency services are provided. Such payments shall be made only in the amounts provided under section 1395l(a)(2) of this title and then only if such hospital agrees to comply, with respect to the emergency services provided, with the provisions of section 1395cc(a) of this title.

(2) Payment may also be made on the basis of an itemized bill to an individual for services described in paragraph (1) of this subsection if (A) payment cannot be made under such paragraph (1) solely because the hospital does not elect, in accordance with section 1395f(d)(1)(C) of this title, to claim such payments and (B) such individual files application (submitted within such

time and in such form and manner, and containing and supported by such information as the Secretary shall by regulations prescribe) for reimbursement. The amounts payable under this paragraph shall, subject to the provisions of section 1395l of this title, be equal to 80 percent of the hospital's reasonable charges for such services.

(c) Collection of charges from individuals for services specified in section 1395x(s) of this title

Notwithstanding the provisions of this section and sections 1395k, 1395l, and 1395cc(a)(1)(A) of this title, a hospital or a critical access hospital may, subject to such limitations as may be prescribed by regulations, collect from an individual the customary charges for services specified in section 1395x(s) of this title and furnished to him by such hospital as an outpatient, but only if such charges for such services do not exceed the applicable supplementary medical insurance deductible, and such customary charges shall be regarded as expenses incurred by such individual with respect to which benefits are payable in accordance with section 1395l(a)(1) of this title. Payments under this subchapter to hospitals which have elected to make collections from individuals in accordance with the preceding sentence shall be adjusted periodically to place the hospital in the same position it would have been had it instead been reimbursed in accordance with section 1395l(a)(2) of this title (or, in the case of a critical access hospital, in accordance with section 1395l(a)(6) of this title).

(d) Payment to Federal provider of services or other Federal agencies prohibited

Subject to section 1395qq of this title, no payment may be made under this part to any Federal provider of services or other Federal agency, except a provider of services which the Secretary determines is providing services to the public generally as a community institution or agency; and no such payment may be made to any provider of services or other person for any item or service which such provider or person is obligated by a law of, or a contract with, the United States to render at public expense.

(e) Payment to fund designated by medical staff or faculty of medical school

For purposes of services (1) which are inpatient hospital services by reason of paragraph (7) of section 1395x(b) of this title or for which entitlement exists by reason of clause (II) of section 1395k(a)(2)(B)(i) of this title, and (2) for which the reasonable cost thereof is determined under section 1395x(v)(1)(D) of this title (or would be if section 1395ww of this title did not apply), payment under this part shall be made to such fund as may be designated by the organized medical staff of the hospital in which such services were furnished or, if such services were furnished in such hospital by the faculty of a medical school, to such fund as may be designated by such faculty, but only if—

(A) such hospital has an agreement with the Secretary under section 1395cc of this title, and

(B) the Secretary has received written assurances that (i) such payment will be used by

such fund solely for the improvement of care to patients in such hospital or for educational or charitable purposes and (ii) the individuals who were furnished such services or any other persons will not be charged for such services (or if charged provision will be made for return of any moneys incorrectly collected).

(Aug. 14, 1935, ch. 531, title XVIII, § 1835, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79 Stat. 303; amended Pub. L. 90-248, title I, §§ 126(b), 129(c)(9)(A), (B), 130(a), (b), 133(e), Jan. 2, 1968, 81 Stat. 846, 848, 849, 851; Pub. L. 92-603, title II, §§ 204(b), 227(e)(2), 251(b)(2), 281(f), 283(b), Oct. 30, 1972, 86 Stat. 1377, 1406, 1445, 1456; Pub. L. 94-437, title IV, § 401(a), Sept. 30, 1976, 90 Stat. 1408; Pub. L. 96-499, title IX, §§ 930(e), (j), 933(b), 944(a), Dec. 5, 1980, 94 Stat. 2631, 2632, 2635, 2642; Pub. L. 97-35, title XXI, §§ 2106(b)(1), 2122(a)(1), Aug. 13, 1981, 95 Stat. 792, 796; Pub. L. 98-21, title VI, § 602(b), Apr. 20, 1983, 97 Stat. 163; Pub. L. 98-369, div. B, title III, §§ 2336(a), (b), 2342(b), 2354(b)(1), (8), (9), July 18, 1984, 98 Stat. 1091, 1094, 1100; Pub. L. 98-617, § 3(a)(3), Nov. 8, 1984, 98 Stat. 3295; Pub. L. 99-509, title IX, § 9337(c), Oct. 21, 1986, 100 Stat. 2034; Pub. L. 100-203, title IV, §§ 4024(b), 4070(b)(3), 4085(i)(4), Dec. 22, 1987, 101 Stat. 1330-74, 1330-115, 1330-132; Pub. L. 100-360, title II, §§ 203(d)(1), 205(d), July 1, 1988, 102 Stat. 724, 731; Pub. L. 101-234, title II, § 201(a), Dec. 13, 1989, 103 Stat. 1981; Pub. L. 101-239, title VI, § 6003(g)(3)(D)(viii), Dec. 19, 1989, 103 Stat. 2153; Pub. L. 101-508, title IV, § 4008(m)(2)(D), Nov. 5, 1990, 104 Stat. 1388-53; Pub. L. 105-33, title IV, §§ 4201(c)(1), 4615(a), Aug. 5, 1997, 111 Stat. 373, 475; Pub. L. 106-554, § 1(a)(6) [title V, § 507(a)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-532; Pub. L. 108-173, title VII, § 736(c)(2)(B), Dec. 8, 2003, 117 Stat. 2356; Pub. L. 110-275, title I, § 143(b)(4), July 15, 2008, 122 Stat. 2543; Pub. L. 111-148, title VI, §§ 6404(a)(2)(B), 6405(b)(2), 6407(a)(2), title X, §§ 10604, 10605(b), Mar. 23, 2010, 124 Stat. 768, 770, 1006; Pub. L. 115-123, div. E, title X, § 51002(b), Feb. 9, 2018, 132 Stat. 292; Pub. L. 116-136, div. A, title III, § 3708(b), Mar. 27, 2020, 134 Stat. 419.)

Editorial Notes

REFERENCES IN TEXT

The amendments made by section 3708 of the CARES Act, referred to in subsec. (a), are the amendments made by section 3708 of Pub. L. 116-136, which amended this section and sections 1395f, 1395x, and 1395ff of this title.

AMENDMENTS

2020—Subsec. (a). Pub. L. 116-136, § 3708(b)(5), in fourth sentence of concluding provisions, inserted “or no later than 6 months after March 27, 2020, for purposes of documentation for certification and recertification made under paragraph (2) by a nurse practitioner, clinical nurse specialist, or physician assistant,” after “January 1, 2019” and “, nurse practitioner, clinical nurse specialist, or physician assistant” after “of the physician”.

Pub. L. 116-136, § 3708(b)(4), in third sentence of concluding provisions, inserted “, nurse practitioner, clinical nurse specialist, or physician assistant” after “physician”.

Pub. L. 116-136, § 3708(b)(3), in second sentence of concluding provisions, substituted “certification” for “physician certification” and “a physician, nurse practitioner, clinical nurse specialist, or physician assistant who” for “a physician who” and inserted “(or in

the case of regulations to implement the amendments made by section 3708 of the CARES Act the Secretary shall prescribe regulations which shall become effective no later than 6 months after March 27, 2020)” after “1981”.

Pub. L. 116-136, § 3708(b)(2), in first sentence of concluding provisions, inserted “, nurse practitioner, clinical nurse specialist, or physician assistant (as the case may be)” after “physician”.

Subsec. (a)(2). Pub. L. 116-136, § 3708(b)(1)(A), in introductory provisions, inserted “, a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1395x(aa)(5) of this title) who is working in accordance with State law, or a physician assistant (as defined in section 1395x(aa)(5) of this title) who is working in accordance with State law, who is” after “in the case of services described in subparagraph (A), a physician”.

Subsec. (a)(2)(A)(ii), (iii). Pub. L. 116-136, § 3708(b)(1)(B)(i), inserted “, a nurse practitioner, a clinical nurse specialist, or a physician assistant (as the case may be)” after “physician”.

Subsec. (a)(2)(A)(iv). Pub. L. 116-136, § 3708(b)(1)(B)(ii), substituted “made by a physician after January 1, 2010, or by a nurse practitioner, clinical nurse specialist, or physician assistant (as the case may be) after a date specified by the Secretary (but in no case later than the date that is 6 months after March 27, 2020), prior to making such certification a physician, nurse practitioner, clinical nurse specialist, or physician assistant must document that a physician, nurse practitioner, clinical nurse specialist, certified nurse-midwife (as defined in section 1395x(gg) of this title) as authorized by State law, or physician assistant has had a face-to-face encounter” for “after January 1, 2010, prior to making such certification the physician must document that the physician, or a nurse practitioner or clinical nurse specialist (as those terms are defined in section 1395x(aa)(5) of this title) who is working in collaboration with the physician in accordance with State law, or a certified nurse-midwife (as defined in section 1395x(gg) of this title) as authorized by State law, or a physician assistant (as defined in section 1395x(aa)(5) of this title) under the supervision of the physician, has had a face-to-face encounter”.

2018—Subsec. (a). Pub. L. 115-123 inserted “For purposes of documentation for physician certification and recertification made under paragraph (2) on or after January 1, 2019, and made with respect to home health services furnished by a home health agency, in addition to using documentation in the medical record of the physician who so certifies or the medical record of the acute or post-acute care facility (in the case that home health services were furnished to an individual who was directly admitted to the home health agency from such a facility), the Secretary may use documentation in the medical record of the home health agency as supporting material, as appropriate to the case involved.” before “For purposes of paragraph (2)(A),” in concluding provisions.

2010—Subsec. (a). Pub. L. 111-148, § 6404(a)(2)(B)(ii), inserted at end of concluding provisions “In applying paragraph (1), the Secretary may specify exceptions to the 1 calendar year period specified in such paragraph.”

Subsec. (a)(1). Pub. L. 111-148, § 6404(a)(2)(B)(i), substituted “period ending 1 calendar year after the date of service;” for “period of 3 calendar years following the year in which such services are furnished (deeming any services furnished in the last 3 calendar months of any calendar year to have been furnished in the succeeding calendar year) except that, where the Secretary deems that efficient administration so requires, such period may be reduced to not less than 1 calendar year;”.

Subsec. (a)(2). Pub. L. 111-148, § 6405(b)(2), as amended by Pub. L. 111-148, § 10604, inserted “, or, in the case of services described in subparagraph (A), a physician enrolled under section 1395cc(j) of this title,” after “a physician” in introductory provisions.

Subsec. (a)(2)(A)(iv). Pub. L. 111-148, § 10605(b), inserted “, or a nurse practitioner or clinical nurse spe-

cialist (as those terms are defined in section 1395x(aa)(5) of this title) who is working in collaboration with the physician in accordance with State law, or a certified nurse-midwife (as defined in section 1395x(gg) of this title) as authorized by State law, or a physician assistant (as defined in section 1395x(aa)(5) of this title) under the supervision of the physician," after "must document that the physician".

Pub. L. 111-148, §6407(a)(2), added cl. (iv).

2008—Subsec. (a). Pub. L. 110-275, in second sentence, substituted "subsection (g) or (ll)(2) of section 1395x of this title" for "section 1395x(g) of this title" wherever appearing and inserted "or outpatient speech-language pathology services, respectively" before period at end.

2003—Subsec. (a). Pub. L. 108-173 substituted "leave home and" for "leave home," in fifth sentence of concluding provisions.

2000—Subsec. (a). Pub. L. 106-554, in concluding provisions, struck out "and that absences of the individual from home are infrequent or of relatively short duration, or are attributable to the need to receive medical treatment" after "taxing effort by the individual" and inserted at end "Any absence of an individual from the home attributable to the need to receive health care treatment, including regular absences for the purpose of participating in therapeutic, psychosocial, or medical treatment in an adult day-care program that is licensed or certified by a State, or accredited, to furnish adult day-care services in the State shall not disqualify an individual from being considered to be 'confined to his home'. Any other absence of an individual from the home shall not so disqualify an individual if the absence is of infrequent or of relatively short duration. For purposes of the preceding sentence, any absence for the purpose of attending a religious service shall be deemed to be an absence of infrequent or short duration."

1997—Subsec. (a)(2)(A). Pub. L. 105-33, §4615(a), inserted "(other than solely venipuncture for the purpose of obtaining a blood sample)" after "skilled nursing care".

Subsec. (c). Pub. L. 105-33, §4201(c)(1), substituted "critical access" for "rural primary care" in two places.

1990—Subsec. (c). Pub. L. 101-508 substituted "a hospital or a rural primary care hospital may" for "a hospital may" in first sentence, substituted "section 1395(a)(2) of this title (or, in the case of a rural primary care hospital, in accordance with section 1395(a)(6) of this title)" for "section 1395(a)(2) of this title" in second sentence, and struck out at end "A rural primary care hospital shall be considered a hospital for purposes of this subsection."

1989—Subsec. (a)(2)(G), (H). Pub. L. 101-234 repealed Pub. L. 100-360, §§203(d)(1), 205(d), and provided that the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted, see 1988 Amendment notes below.

Subsec. (c). Pub. L. 101-239 inserted at end "A rural primary care hospital shall be considered a hospital for purposes of this subsection."

1988—Subsec. (a)(2)(G). Pub. L. 100-360, §203(d)(1), added subpar. (G) relating to home intravenous drug therapy services.

Subsec. (a)(2)(H). Pub. L. 100-360, §205(d), added subpar. (H) relating to in-home care provided to chronically dependent individuals.

1987—Subsec. (a). Pub. L. 100-203, §4024(b), inserted two sentences at end clarifying "confined to his home" for purposes of par. (2)(A).

Subsec. (a)(2)(C)(i). Pub. L. 100-203, §4085(i)(4), struck out second comma at end.

Subsec. (a)(2)(F). Pub. L. 100-203, §4070(b)(3), added subpar. (F).

1986—Subsec. (a). Pub. L. 99-509, §9337(c)(2), inserted in second sentence "(or meets the requirements of such section through the operation of section 1395x(g) of this title)" in two places, and "or (through the operation of section 1395x(g) of this title) with respect to the furnishing of outpatient occupational therapy services".

Subsec. (a)(2)(C). Pub. L. 99-509, §9337(c)(1), inserted "or outpatient occupational therapy services" in introductory provisions, "or occupational therapy services, respectively," in cl. (i), and "or qualified occupational therapist, respectively," in cl. (ii).

1984—Subsec. (a). Pub. L. 98-369, §2354(b)(1), as amended by Pub. L. 98-617, §3(a)(3), in concluding provisions, substituted "contractual" for "contractual".

Pub. L. 98-369, §2336(b), inserted before period at end of fourth sentence "except that such prohibition shall not apply with respect to a home health agency which is a sole community home health agency (as determined by the Secretary)".

Pub. L. 98-369, §2336(a), inserted sentence at end that for purposes of the preceding sentence, service by a physician as an uncompensated officer or director of a home health agency shall not constitute having a significant ownership interest in, or a significant financial or contractual relationship with, such agency.

Subsec. (a)(2)(B), (C). Pub. L. 98-369, §2354(b)(8)(A), struck out "and" at end.

Subsec. (a)(2)(C)(ii). Pub. L. 98-369, §2342(b), substituted "by a physician or by the qualified physical therapist providing such services and is periodically reviewed by a physician" for "and is periodically reviewed, by a physician".

Subsec. (a)(2)(D). Pub. L. 98-369, §2354(b)(8)(B), realigned margin of subpar. (D).

Subsec. (e)(2). Pub. L. 98-369, §2354(b)(9), designated concluding pars. (1) and (2) as (A) and (B), respectively, and in par. (B) inserted "(i)" after "written assurances that" and substituted "(ii) the individuals who" for "(B) the individuals who" and "return of" for "return for".

1983—Subsec. (e). Pub. L. 98-21 inserted "(or would be if section 1395ww of this title did not apply)" after "section 1395(v)(1)(D) of this title".

1981—Subsec. (a)(2)(A). Pub. L. 97-35, §2122(a)(1), substituted "needs or needed skilled nursing care on an intermittent basis or physical or speech therapy or, in the case of an individual who has been furnished home health services based on such a need and who no longer has such a need for such care or therapy, continues or continued to need occupational therapy" for "needed skilled nursing care on an intermittent basis, or physical, occupational, or speech therapy".

Subsec. (a)(2)(D). Pub. L. 97-35, §2106(b)(1), inserted "and" after "physician".

Subsec. (a)(2)(E). Pub. L. 97-35, §2106(b)(1), substituted a period for "and" at the end.

1980—Subsec. (a). Pub. L. 96-499, §930(e), inserted sentence at end authorizing Secretary to prescribe regulations to prohibit significantly interested physicians from performing physician certification required by par. (2) for home health services.

Subsec. (a)(2)(A). Pub. L. 96-499, §930(j), substituted "physical, occupational, or speech" for "physical or speech".

Subsec. (a)(2)(D)(ii). Pub. L. 96-499, §944(a), inserted "by a physician or by the speech pathologist providing such services", after "has been established".

Subsec. (a)(2)(E). Pub. L. 96-499, §933(b), added subpar. (E).

1976—Subsec. (d). Pub. L. 94-437 substituted "Subject to section 1395qq of this title, no payment" for "No payment".

1972—Subsec. (a). Pub. L. 92-603, §227(e)(2)(A), inserted reference to subsec. (e) of this section in introductory provisions.

Subsec. (a)(1). Pub. L. 92-603, §281(f), placed a 3-year time limitation on time within which a written request for payment is filed, with provision for reduction of limit to 1 year.

Subsec. (a)(2)(C). Pub. L. 92-603, §251(b)(2), substituted "because the individual needed physical therapy services" for "because the individual needed physical therapy services on an outpatient basis".

Subsec. (a)(2)(D). Pub. L. 92-603, §283(b), added subpar. (D).

Subsec. (c). Pub. L. 92-603, §204(b), substituted "the applicable supplementary medical insurance deductible" for "\$50".

Subsec. (e). Pub. L. 92–603, § 227(e)(2)(B), added subsec. (e).

1968—Subsec. (a). Pub. L. 90–248, §§ 129(c)(9)(A), 130(a), inserted introductory exception phrase and included reference to subsec. (c).

Subsec. (a)(2). Pub. L. 90–248, § 133(e)(5), inserted sentence at end defining “provider of services”.

Subsec. (a)(2)(B). Pub. L. 90–248, §§ 126(b), 133(e)(4), inserted “except services described in subparagraphs (B) and (C) of section 1395x(s)(2) of this title,” after “health services,” and inserted reference to subpar. (d).

Subsec. (a)(2)(C). Pub. L. 90–248, § 133(e)(1)–(3), added subpar. (C).

Subsec. (b). Pub. L. 90–248, § 129(c)(9)(B), added subsec. (b). Former subsec. (b) redesignated (c), in turn redesignated (d).

Subsec. (c). Pub. L. 90–248, § 130(b), added subsec. (c). Former subsec. (c), previously designated (b), redesignated (d).

Subsec. (d). Pub. L. 90–248, §§ 129(c)(9)(B), 130(b), redesignated former subsec. (b) as (c), in turn as (d), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2020 AMENDMENT

Secretary of Health and Human Services to prescribe regulations to apply the amendments made by Pub. L. 116–136 to items and services furnished, which shall become effective no later than 6 months after Mar. 27, 2020, see section 3708(f) of Pub. L. 116–136, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 6404(a)(2)(B) of Pub. L. 111–148 applicable to services furnished on or after Jan. 1, 2010, and in case of services furnished before Jan. 1, 2010, a bill or request for payment under 42 U.S.C. 1395n(a) to be filed not later than Dec. 31, 2010, see section 6404(b) of Pub. L. 111–148, set out as a note under section 1395f of this title.

Amendment by section 6405(b)(2) of Pub. L. 111–148 applicable to written orders and certifications made on or after July 1, 2010, see section 6405(d) of Pub. L. 111–148, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110–275 applicable to services furnished on or after July 1, 2009, see section 143(c) of Pub. L. 110–275, set out as a note under section 1395k of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106–554 applicable to home health services furnished on or after Dec. 21, 2000, see section 1(a)(6) [title V, § 507(a)(2)] of Pub. L. 106–554, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 4201(c)(1) of Pub. L. 105–33 applicable to services furnished on or after Oct. 1, 1997, see section 4201(d) of Pub. L. 105–33, set out as a note under section 1395f of this title.

Amendment by section 4615(a) of Pub. L. 105–33 applicable to home health services furnished after 6-month period beginning after Aug. 5, 1997, see section 4615(b) of Pub. L. 105–33, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–234 effective Jan. 1, 1990, see section 201(c) of Pub. L. 101–234, set out as a note under section 1320a–7a of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by section 203(d)(1) of Pub. L. 100–360 applicable to items and services furnished on or after Jan. 1, 1990, see section 203(g) of Pub. L. 100–360, set out as a note under section 1320c–3 of this title.

Amendment by section 205(d) of Pub. L. 100–360 applicable to items and services furnished on or after Jan. 1, 1990, see section 205(f) of Pub. L. 100–360, set out as a note under section 1395k of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 4024(b) of Pub. L. 100–203 applicable to items and services provided on or after Jan. 1, 1988, see section 4024(c) of Pub. L. 100–203, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–509 applicable to expenses incurred for outpatient occupational therapy services furnished on or after July 1, 1987, see section 9337(e) of Pub. L. 99–509, set out as a note under section 1395k of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–617 effective as if originally included in the Deficit Reduction Act of 1984, Pub. L. 98–369, see section 3(c) of Pub. L. 98–617, set out as a note under section 1395f of this title.

Amendment by section 2336(a) of Pub. L. 98–369 applicable to certifications and plans of care made or established on or after July 18, 1984, see section 2336(c)(1) of Pub. L. 98–369, set out as a note under section 1395f of this title.

Pub. L. 98–369, div. B, title III, § 2342(c), July 18, 1984, 98 Stat. 1094, provided that: “The amendments made by this section [amending this section and section 1395x of this title] apply to plans of care established on or after the date of the enactment of this Act [July 18, 1984].”

Amendment by section 2354(b)(1), (8), (9) of Pub. L. 98–369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2354(e)(1) of Pub. L. 98–369, set out as a note under section 1320a–1 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 98–21 applicable to items and services furnished by or under arrangement with a hospital beginning with its first cost reporting period that begins on or after Oct. 1, 1983, any change in a hospital’s cost reporting period made after November 1982 to be recognized for such purposes only if the Secretary finds good cause therefor, see section 604(a)(1) of Pub. L. 98–21, set out as a note under section 1395ww of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 2122(a)(1) of Pub. L. 97–35 applicable to services furnished pursuant to plans of treatment implemented after the third month beginning after Aug. 13, 1981, see section 2122(b) of Pub. L. 97–35, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by section 930(e), (j) of Pub. L. 96–499 effective with respect to services furnished on or after July 1, 1981, see section 930(s)(1) of Pub. L. 96–499, set out as a note under section 1395x of this title.

Amendment by section 933(b) of Pub. L. 96–499 effective with respect to a comprehensive outpatient rehabilitation facility’s first accounting period beginning on or after July 1, 1981, see section 933(h) of Pub. L. 96–499, set out as a note under section 1395k of this title.

Pub. L. 96–499, title IX, § 944(b), Dec. 5, 1980, 94 Stat. 2642, provided that: “The amendment made by subsection (a) [amending this section] shall apply to plans for furnishing services established on or after January 1, 1981.”

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 204(b) of Pub. L. 92–603 effective with respect to calendar years after 1972, see sec-

tion 204(c) of Pub. L. 92-603, set out as a note under section 1395f of this title.

Amendment by section 227(e)(2) of Pub. L. 92-603 applicable with respect to accounting periods beginning after June 30, 1973, see section 227(g) of Pub. L. 92-603, set out as a note under section 1395x of this title.

Amendment by section 251(b)(2) of Pub. L. 92-603 applicable with respect to services furnished on or after Oct. 30, 1972, see section 251(d)(2) of Pub. L. 92-603, set out as a note under section 1395x of this title.

Amendment by section 281(f) of Pub. L. 92-603 applicable in the case of services furnished (or deemed to have been furnished) after 1970, see section 281(g) of Pub. L. 92-603, set out as a note under section 1395gg of this title.

Pub. L. 92-603, title II, § 283(c), Oct. 30, 1972, 86 Stat. 1456, provided that: “The provisions of this section [amending this section and section 1395x of this title] shall apply with respect to services rendered after December 31, 1972.”

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 126(b) of Pub. L. 90-248 applicable with respect to services furnished after Jan. 2, 1968, see section 126(c) of Pub. L. 90-248, set out as a note under section 1395f of this title.

Amendment by section 129(c)(9)(A), (B) of Pub. L. 90-248 applicable with respect to services furnished after March 31, 1968, see section 129(d) of Pub. L. 90-248, set out as a note under section 1395d of this title.

Pub. L. 90-248, title I, § 130(c), Jan. 2, 1968, 81 Stat. 849, provided that: “The amendments made by this section [amending this section] shall apply with respect to services furnished after March 31, 1968.”

Amendment by section 133(e) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90-248, set out as a note under section 1395k of this title.

REGULATIONS

Secretary of Health and Human Services required to provide, not later than 90 days after July 18, 1984, for revision of regulations as may be required to reflect amendment to subsec. (a) by section 2336(b) of Pub. L. 98-369, see section 2336(c)(2) of Pub. L. 98-369, set out as a note under section 1395f of this title.

MEDPAC STUDY ON DIRECT ACCESS TO PHYSICAL THERAPY SERVICES

Pub. L. 108-173, title VI, § 647, Dec. 8, 2003, 117 Stat. 2326, provided that:

“(a) **STUDY.**—The Medicare Payment Advisory Commission (in this section referred to as the ‘Commission’) shall conduct a study on the feasibility and advisability of allowing medicare fee-for-service beneficiaries direct access to outpatient physical therapy services and physical therapy services furnished as comprehensive rehabilitation facility services.

“(b) **REPORT.**—Not later than January 1, 2005, the Commission shall submit to Congress a report on the study conducted under subsection (a) together with recommendations for such legislation or administrative action as the Commission determines to be appropriate.

“(c) **DIRECT ACCESS DEFINED.**—The term ‘direct access’ means, with respect to outpatient physical therapy services and physical therapy services furnished as comprehensive outpatient rehabilitation facility services, coverage of and payment for such services in accordance with the provisions of title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], except that sections 1835(a)(2), 1861(p), and 1861(cc) of such Act (42 U.S.C. 1395n(a)(2), 1395x(p), and 1395x(cc), respectively) shall be applied—

“(1) without regard to any requirement that—

“(A) an individual be under the care of (or referred by) a physician; or

“(B) services be provided under the supervision of a physician; and

“(2) by allowing a physician or a qualified physical therapist to satisfy any requirement for—

“(A) certification and recertification; and

“(B) establishment and periodic review of a plan of care.”

HOME HEALTH PROSPECTIVE PAYMENT DEMONSTRATION PROJECT

Pub. L. 100-203, title IV, § 4027, Dec. 22, 1987, 101 Stat. 1330-75, as amended by Pub. L. 100-360, title IV, § 411(d)(6), July 1, 1988, 102 Stat. 775, directed Secretary of Health and Human Services to provide for a demonstration project to develop and test alternative methods of paying home health agencies on a prospective basis for services furnished under the medicare and medicaid programs, directed that the project be designed in a manner to enable the Secretary to evaluate the effects of various methods of prospective payment (including payments on a per-visit, per-case, and per-episode basis) on program expenditures, access to, and quality of, home health care, and home health agency operations, directed Secretary to assure that services are first furnished under the project not later than Apr. 1, 1989, and, for this purpose, authorized Secretary to reinstate a previously awarded contract, or award a sole source contract, to carry out the project, provided for funding, and directed Secretary to submit to Congress, not later than one year after Dec. 22, 1987, an interim report on the demonstration project and, not later than four years after Dec. 22, 1987, a final report on results of the project.

§ 1395o. Eligible individuals

(a) In general

Every individual who—

(1) is entitled to hospital insurance benefits under part A, or

(2) has attained age 65 and is a resident of the United States, and is either (A) a citizen or (B) an alien lawfully admitted for permanent residence who has resided in the United States continuously during the 5 years immediately preceding the month in which he applies for enrollment under this part,

is eligible to enroll in the insurance program established by this part.

(b) Individuals eligible for immunosuppressive drug coverage

(1) In general

Except as provided under paragraph (2), every individual whose entitlement to insurance benefits under part A ends (whether before, on, or after January 1, 2023) by reason of section 426-1(b)(2) of this title is eligible to enroll or to be deemed to have enrolled in the medical insurance program established by this part solely for purposes of coverage of immunosuppressive drugs in accordance with section 1395p(n) of this title.

(2) Exception if other coverage is available

(A) In general

An individual described in paragraph (1) shall not be eligible for enrollment in the program for purposes of coverage described in such paragraph with respect to any period in which the individual, as determined in accordance with subparagraph (B)—

(i) is enrolled in a group health plan or group or individual health insurance coverage, as such terms are defined in section 300gg-91 of this title;