

formed on or after Jan. 1, 1990, see section 204(e) of Pub. L. 100-360, set out as a note under section 1395m of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by section 411(d)(4)(B)(ii) of Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 4025(b) of Pub. L. 100-203 applicable with respect to agreements entered into or renewed on or after Dec. 22, 1987, see section 4025(c) of Pub. L. 100-203, as amended, set out as a note under section 1395aa of this title.

For effective date of amendment by section 4072(d) of Pub. L. 100-203, see section 4072(e) of Pub. L. 100-203, set out as a note under section 1395x of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 9305(c)(3) of Pub. L. 99-509 applicable to hospitals as of one year after Oct. 21, 1986, see section 9305(c)(4) of Pub. L. 99-509, set out as a note under section 1395x of this title.

Amendment by section 9320(h)(3) of Pub. L. 99-509 applicable to services furnished on or after Jan. 1, 1989, with exceptions for hospitals located in rural areas which meet certain requirements related to certified registered nurse anesthetists, see section 9320(i), (k) of Pub. L. 99-509, as amended, set out as notes under section 1395k of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title III, §2345(b), July 18, 1984, 98 Stat. 1096, provided that: “The amendments made by this section [amending this section] shall become effective on the date of the enactment of this Act [July 18, 1984], and shall apply with respect to surveys released to the Secretary on, before, or after such date.”

Pub. L. 98-369, div. B, title III, §2346(b), July 18, 1984, 98 Stat. 1096, provided that: “The amendments made by this section [amending this section] shall become effective on the date of the enactment of this Act [July 18, 1984].”

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 122(g)(4) of Pub. L. 97-248 applicable to hospice care provided on or after Nov. 1, 1983, see section 122(h)(1) of Pub. L. 97-248, as amended, set out as a note under section 1395c of this title.

Amendment by section 128(d)(3) of Pub. L. 97-248 effective Sept. 3, 1982, see section 128(e)(3) of Pub. L. 97-248, set out as a note under section 1395x of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 234(h) of Pub. L. 92-603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92-603, set out as a note under section 1395x of this title.

#### TIMING FOR ACCEPTANCE OF REQUESTS FROM ACCREDITATION ORGANIZATIONS

Pub. L. 115-123, div. E, title IV, §50403(a)(2), Feb. 9, 2018, 132 Stat. 218, provided that: “Not later than 90 days after the date of enactment of this Act [Feb. 9, 2018], the Secretary of Health and Human Services shall begin accepting requests from national accreditation bodies for a finding described in section 1865(a)(3)(A) of the Social Security Act (42 U.S.C. 1395bb(a)(3)(A)) for purposes of accrediting provider entities that are required to meet the conditions and requirements under section 1881(b) of such Act (42 U.S.C. 1395rr(b)).”

#### AUTHORITY TO RECOGNIZE THE JOINT COMMISSION AS A NATIONAL ACCREDITATION BODY

Pub. L. 110-275, title I, §125(c), July 15, 2008, 122 Stat. 2519, provided that: “The Secretary of Health and

Human Services may recognize the Joint Commission as a national accreditation body under section 1865 of the Social Security Act (42 U.S.C. 1395bb), as amended by this section, upon such terms and conditions, and upon submission of such information, as the Secretary may require.”

#### § 1395cc. Agreements with providers of services; enrollment processes

##### (a) Filing of agreements; eligibility for payment; charges with respect to items and services

(1) Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title) shall be qualified to participate under this subchapter and shall be eligible for payments under this subchapter if it files with the Secretary an agreement—

(A)(i) not to charge, except as provided in paragraph (2), any individual or any other person for items or services for which such individual is entitled to have payment made under this subchapter (or for which he would be so entitled if such provider of services had complied with the procedural and other requirements under or pursuant to this subchapter or for which such provider is paid pursuant to the provisions of section 1395f(e) of this title), and (ii) not to impose any charge that is prohibited under section 1396a(n)(3) of this title,

(B) not to charge any individual or any other person for items or services for which such individual is not entitled to have payment made under this subchapter because payment for expenses incurred for such items or services may not be made by reason of the provisions of paragraph (1) or (9) of section 1395y(a) of this title, but only if (i) such individual was without fault in incurring such expenses and (ii) the Secretary’s determination that such payment may not be made for such items and services was made after the third year following the year in which notice of such payment was sent to such individual; except that the Secretary may reduce such three-year period to not less than one year if he finds such reduction is consistent with the objectives of this subchapter,

(C) to make adequate provision for return (or other disposition, in accordance with regulations) of any moneys incorrectly collected from such individual or other person,

(D) to promptly notify the Secretary of its employment of an individual who, at any time during the year preceding such employment, was employed in a managerial, accounting, auditing, or similar capacity (as determined by the Secretary by regulation) by an agency or organization which serves as a fiscal intermediary or carrier (for purposes of part A or part B, or both, of this subchapter) with respect to the provider,

(E) to release data with respect to patients of such provider upon request to an organization having a contract with the Secretary under part B of subchapter XI as may be necessary (i) to allow such organization to carry out its functions under such contract, or (ii) to allow such organization to carry out similar review functions under any contract the organization may have with a private or public agency paying for health care in the same area

with respect to patients who authorize release of such data for such purposes,

(F)(i) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b), (c), or (d) of section 1395ww of this title, to maintain an agreement with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or with a quality improvement organization which has a contract with the Secretary under part B of subchapter XI for the area in which the hospital is located, under which the organization will perform functions under that part with respect to the review of the validity of diagnostic information provided by such hospital, the completeness, adequacy, and quality of care provided, the appropriateness of admissions and discharges, and the appropriateness of care provided for which additional payments are sought under section 1395ww(d)(5) of this title, with respect to inpatient hospital services for which payment may be made under part A of this subchapter (and for purposes of payment under this subchapter, the cost of such agreement to the hospital shall be considered a cost incurred by such hospital in providing inpatient services under part A, and (I) shall be paid directly by the Secretary to such organization on behalf of such hospital in accordance with a rate per review established by the Secretary, (II) shall be transferred from the Federal Hospital Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and (III) shall not be less in the aggregate for a fiscal year than the aggregate amount expended in fiscal year 1988 for direct and administrative costs (adjusted for inflation and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year) of such reviews),

(ii) in the case of hospitals, critical access hospitals, rural emergency hospitals, skilled nursing facilities, and home health agencies, to maintain an agreement with a quality improvement organization (which has a contract with the Secretary under part B of subchapter XI for the area in which the hospital, facility, or agency is located) to perform the functions described in paragraph (3)(A),

(G) in the case of hospitals which provide inpatient hospital services for which payment may be made under subsection (b) or (d) of section 1395ww of this title, not to charge any individual or any other person for inpatient hospital services for which such individual would be entitled to have payment made under part A but for a denial or reduction of payments under section 1395ww(f)(2) of this title,

(H)(i) in the case of hospitals which provide services for which payment may be made under this subchapter and in the case of critical access hospitals which provide critical access hospital services, to have all items and services (other than physicians' services as defined in regulations for purposes of section 1395y(a)(14) of this title, and other than serv-

ices described by section 1395x(s)(2)(K) of this title, certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist) (I) that are furnished to an individual who is a patient of the hospital, and (II) for which the individual is entitled to have payment made under this subchapter, furnished by the hospital or otherwise under arrangements (as defined in section 1395x(w)(1) of this title) made by the hospital,

(ii) in the case of skilled nursing facilities which provide covered skilled nursing facility services—

(I) that are furnished to an individual who is a resident of the skilled nursing facility during a period in which the resident is provided covered post-hospital extended care services (or, for services described in section 1395x(s)(2)(D) of this title, that are furnished to such an individual without regard to such period), and

(II) for which the individual is entitled to have payment made under this subchapter,

to have items and services (other than services described in section 1395yy(e)(2)(A)(ii) of this title) furnished by the skilled nursing facility or otherwise under arrangements (as defined in section 1395x(w)(1) of this title) made by the skilled nursing facility,

(I) in the case of a hospital, critical access hospital, or rural emergency hospital—

(i) to adopt and enforce a policy to ensure compliance with the requirements of section 1395dd of this title and to meet the requirements of such section,

(ii) to maintain medical and other records related to individuals transferred to or from the hospital, critical access hospital, or rural emergency hospital for a period of five years from the date of the transfer, and

(iii) to maintain a list of physicians who are on call for duty after the initial examination to provide treatment necessary to stabilize an individual with an emergency medical condition,

(J) in the case of hospitals which provide inpatient hospital services for which payment may be made under this subchapter, to be a participating provider of medical care under any health plan contracted for under section 1079 or 1086 of title 10, or under section 1713<sup>1</sup> of title 38, in accordance with admission practices, payment methodology, and amounts as prescribed under joint regulations issued by the Secretary and by the Secretaries of Defense and Transportation, in implementation of sections 1079 and 1086 of title 10,

(K) not to charge any individual or any other person for items or services for which payment under this subchapter is denied under section 1320c-3(a)(2) of this title by reason of a determination under section 1320c-3(a)(1)(B) of this title,

(L) in the case of hospitals which provide inpatient hospital services for which payment may be made under this subchapter, to be a participating provider of medical care under

<sup>1</sup> See References in Text note below.

chapter 17 of title 38, in accordance with such admission practices, and such payment methodology and amounts, as are prescribed under joint regulations issued by the Secretary and by the Secretary of Veterans Affairs in implementation of such section,

(M) in the case of hospitals, to provide to each individual who is entitled to benefits under part A (or to a person acting on the individual's behalf), at or about the time of the individual's admission as an inpatient to the hospital, a written statement (containing such language as the Secretary prescribes consistent with this paragraph) which explains—

(i) the individual's rights to benefits for inpatient hospital services and for post-hospital services under this subchapter,

(ii) the circumstances under which such an individual will and will not be liable for charges for continued stay in the hospital,

(iii) the individual's right to appeal denials of benefits for continued inpatient hospital services, including the practical steps to initiate such an appeal, and

(iv) the individual's liability for payment for services if such a denial of benefits is upheld on appeal,

and which provides such additional information as the Secretary may specify,

(N) in the case of hospitals, critical access hospitals, and rural emergency hospitals—

(i) to make available to its patients the directory or directories of participating physicians (published under section 1395u(h)(4) of this title) for the area served by the hospital, critical access hospital, or rural emergency hospital,

(ii) if hospital personnel (including staff of any emergency or outpatient department) refer a patient to a nonparticipating physician for further medical care on an outpatient basis, the personnel must inform the patient that the physician is a nonparticipating physician and, whenever practicable, must identify at least one qualified participating physician who is listed in such a directory and from whom the patient may receive the necessary services,

(iii) to post conspicuously in any emergency department a sign (in a form specified by the Secretary) specifying rights of individuals under section 1395dd of this title with respect to examination and treatment for emergency medical conditions and women in labor, and

(iv) to post conspicuously (in a form specified by the Secretary) information indicating whether or not the hospital, critical access hospital, or rural emergency hospital participates in the medicaid program under a State plan approved under subchapter XIX,

(O) to accept as payment in full for services that are covered under this subchapter and are furnished to any individual enrolled with a Medicare+Choice organization under part C, with a PACE provider under section 1395eee or 1396u-4 of this title, or with an eligible organization with a risk-sharing contract under section 1395mm of this title, under section 1395mm(i)(2)(A) of this title (as in effect before

February 1, 1985), under section 1395b-1(a) of this title, or under section 222(a) of the Social Security Amendments of 1972, which does not have a contract (or, in the case of a PACE provider, contract or other agreement) establishing payment amounts for services furnished to members of the organization or PACE program eligible individuals enrolled with the PACE provider, the amounts that would be made as a payment in full under this subchapter (less any payments under sections 1395ww(d)(11) and 1395ww(h)(3)(D) of this title) if the individuals were not so enrolled,

(P) in the case of home health agencies which provide home health services to individuals entitled to benefits under this subchapter who require catheters, catheter supplies, ostomy bags, and supplies related to ostomy care (described in section 1395x(m)(5) of this title), to offer to furnish such supplies to such an individual as part of their furnishing of home health services,

(Q) in the case of hospitals, skilled nursing facilities, home health agencies, and hospice programs, to comply with the requirement of subsection (f) (relating to maintaining written policies and procedures respecting advance directives),

(R) to contract only with a health care clearinghouse (as defined in section 1320d of this title) that meets each standard and implementation specification adopted or established under part C of subchapter XI on or after the date on which the health care clearinghouse is required to comply with the standard or specification,

(S) in the case of a hospital that has a financial interest (as specified by the Secretary in regulations) in an entity to which individuals are referred as described in section 1395x(ee)(2)(H)(ii) of this title, or in which such an entity has such a financial interest, or in which another entity has such a financial interest (directly or indirectly) with such hospital and such an entity, to maintain and disclose to the Secretary (in a form and manner specified by the Secretary) information on—

(i) the nature of such financial interest,

(ii) the number of individuals who were discharged from the hospital and who were identified as requiring home health services, and

(iii) the percentage of such individuals who received such services from such provider (or another such provider),

(T) in the case of hospitals and critical access hospitals, to furnish to the Secretary such data as the Secretary determines appropriate pursuant to subparagraph (E) of section 1395ww(d)(12) of this title to carry out such section,

(U) in the case of hospitals which furnish inpatient hospital services for which payment may be made under this subchapter, to be a participating provider of medical care both—

(i) under the contract health services program funded by the Indian Health Service and operated by the Indian Health Service, an Indian tribe, or tribal organization (as those terms are defined in section 1603 of title 25), with respect to items and services

that are covered under such program and furnished to an individual eligible for such items and services under such program; and

(ii) under any program funded by the Indian Health Service and operated by an urban Indian organization with respect to the purchase of items and services for an eligible urban Indian (as those terms are defined in such section 1603),

in accordance with regulations promulgated by the Secretary regarding admission practices, payment methodology, and rates of payment (including the acceptance of no more than such payment rate as payment in full for such items and services.<sup>2</sup>

(V) in the case of hospitals that are not otherwise subject to the Occupational Safety and Health Act of 1970 [29 U.S.C. 651 et seq.] (or a State occupational safety and health plan that is approved under 18(b)<sup>3</sup> of such Act [29 U.S.C. 667(b)]), to comply with the Bloodborne Pathogens standard under section 1910.1030 of title 29 of the Code of Federal Regulations (or as subsequently redesignated),

(W) in the case of a hospital described in section 1395ww(d)(1)(B)(v) of this title, to report quality data to the Secretary in accordance with subsection (k),

(X) maintain and, upon request of the Secretary, provide access to documentation relating to written orders or requests for payment for durable medical equipment, certifications for home health services, or referrals for other items or services written or ordered by the provider under this subchapter, as specified by the Secretary, and

(Y) beginning 12 months after August 6, 2015, in the case of a hospital or critical access hospital, with respect to each individual who receives observation services as an outpatient at such hospital or critical access hospital for more than 24 hours, to provide to such individual not later than 36 hours after the time such individual begins receiving such services (or, if sooner, upon release)—

(i) such oral explanation of the written notification described in clause (ii), and such documentation of the provision of such explanation, as the Secretary determines to be appropriate;

(ii) a written notification (as specified by the Secretary pursuant to rulemaking and containing such language as the Secretary prescribes consistent with this paragraph) which—

(I) explains the status of the individual as an outpatient receiving observation services and not as an inpatient of the hospital or critical access hospital and the reasons for such status of such individual;

(II) explains the implications of such status on services furnished by the hospital or critical access hospital (including services furnished on an inpatient basis), such as implications for cost-sharing requirements under this title and for subsequent eligibility for coverage under this title for

services furnished by a skilled nursing facility;

(III) includes such additional information as the Secretary determines appropriate;

(IV) either—

(aa) is signed by such individual or a person acting on such individual's behalf to acknowledge receipt of such notification; or

(bb) if such individual or person refuses to provide the signature described in item (aa), is signed by the staff member of the hospital or critical access hospital who presented the written notification and includes the name and title of such staff member, a certification that the notification was presented, and the date and time the notification was presented; and

(V) is written and formatted using plain language and is made available in appropriate languages as determined by the Secretary.

In the case of a hospital which has an agreement in effect with an organization described in subparagraph (F), which organization's contract with the Secretary under part B of subchapter XI is terminated on or after October 1, 1984, the hospital shall not be determined to be out of compliance with the requirement of such subparagraph during the six month period beginning on the date of the termination of that contract.

(2)(A) A provider of services may charge such individual or other person (i) the amount of any deduction or coinsurance amount imposed pursuant to section 1395e(a)(1), (a)(3), or (a)(4), section 1395l(b), or section 1395x(y)(3) of this title with respect to such items and services (not in excess of the amount customarily charged for such items and services by such provider), and (ii) an amount equal to 20 per centum of the reasonable charges for such items and services (not in excess of 20 per centum of the amount customarily charged for such items and services by such provider) for which payment is made under part B or which are durable medical equipment furnished as home health services (but in the case of items and services furnished to individuals with end-stage renal disease, an amount equal to 20 percent of the estimated amounts for such items and services calculated on the basis established by the Secretary). In the case of items and services described in section 1395l(c) of this title, clause (ii) of the preceding sentence shall be applied by substituting for 20 percent the proportion which is appropriate under such section. A provider of services may not impose a charge under clause (ii) of the first sentence of this subparagraph with respect to items and services described in section 1395x(s)(10)(A) of this title and with respect to clinical diagnostic laboratory tests for which payment is made under part B. Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section 1395m(a) of this title, the amount of any deduction imposed under section 1395l(b) of this

<sup>2</sup> So in original. The comma probably should be preceded by a closing parenthesis.

<sup>3</sup> So in original. Probably should be preceded by "section".

title and 20 percent of the payment basis described in section 1395m(a)(1)(B) of this title. In the case of items and services for which payment is made under part B under the prospective payment system established under section 1395l(t) of this title, clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable co-payment amount established under section 1395l(t)(5)<sup>1</sup> of this title. In the case of services described in section 1395l(a)(8) of this title or section 1395l(a)(9) of this title for which payment is made under part B under section 1395m(k) of this title, clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge for such services 20 percent of the lesser of the actual charge or the applicable fee schedule amount (as defined in such section) for such services.

(B) Where a provider of services has furnished, at the request of such individual, items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider of services may also charge such individual or other person for such more expensive items or services to the extent that the amount customarily charged by it for the items or services furnished at such request exceeds the amount customarily charged by it for the items or services with respect to which payment may be made under this subchapter.

(C) A provider of services may in accordance with its customary practice also appropriately charge any such individual for any whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished him with respect to which a deductible is imposed under section 1395e(a)(2) of this title, except that (i) any excess of such charge over the cost to such provider for the blood (or equivalent quantities of packed red blood cells, as so defined) shall be deducted from any payment to such provider under this subchapter, (ii) no such charge may be imposed for the cost of administration of such blood (or equivalent quantities of packed red blood cells, as so defined), and (iii) such charge may not be made to the extent such blood (or equivalent quantities of packed red blood cells, as so defined) has been replaced on behalf of such individual or arrangements have been made for its replacement on his behalf. For purposes of this subparagraph, whole blood (or equivalent quantities of packed red blood cells, as so defined) furnished an individual shall be deemed replaced when the provider of services is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is imposed under section 1395e(a)(2) of this title.

(D) Where a provider of services customarily furnishes items or services which are in excess of or more expensive than the items or services with respect to which payment may be made under this subchapter, such provider, notwithstanding the preceding provisions of this paragraph, may not, under the authority of subparagraph (B)(ii) of this paragraph, charge any individual or other person any amount for such items or services in excess of the amount of the

payment which may otherwise be made for such items or services under this subchapter if the admitting physician has a direct or indirect financial interest in such provider.

(3)(A) Under the agreement required under paragraph (1)(F)(ii), the quality improvement organization must perform functions (other than those covered under an agreement under paragraph (1)(F)(i)) under the third sentence of section 1320c-3(a)(4)(A) of this title and under section 1320c-3(a)(14) of this title with respect to services, furnished by the hospital, critical access hospital, rural emergency hospital, facility, or agency involved, for which payment may be made under this subchapter.

(B) For purposes of payment under this subchapter, the cost of such an agreement to the hospital, critical access hospital, rural emergency hospital, facility, or agency shall be considered a cost incurred by such hospital, critical access hospital, rural emergency hospital, facility, or agency in providing covered services under this subchapter and shall be paid directly by the Secretary to the quality improvement organization on behalf of such hospital, critical access hospital, rural emergency hospital, facility, or agency in accordance with a schedule established by the Secretary.

(C) Such payments—

(i) shall be transferred in appropriate proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, without regard to amounts appropriated in advance in appropriation Acts, in the same manner as transfers are made for payment for services provided directly to beneficiaries, and

(ii) shall not be less in the aggregate for a fiscal year—

(I) in the case of hospitals, than the amount specified in paragraph (1)(F)(i)(III), and

(II) in the case of facilities, critical access hospitals, rural emergency hospitals, and agencies, than the amounts the Secretary determines to be sufficient to cover the costs of such organizations' conducting the activities described in subparagraph (A) with respect to such facilities, critical access hospitals, rural emergency hospitals, or agencies under part B of subchapter XI.

**(b) Termination or nonrenewal of agreements**

(1) A provider of services may terminate an agreement with the Secretary under this section at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than six months shall not be required.

(2) The Secretary may refuse to enter into an agreement under this section or, upon such reasonable notice to the provider and the public as may be specified in regulations, may refuse to renew or may terminate such an agreement after the Secretary—

(A) has determined that the provider fails to comply substantially with the provisions of the agreement, with the provisions of this subchapter and regulations thereunder, or with a corrective action required under section 1395ww(f)(2)(B) of this title,

(B) has determined that the provider fails substantially to meet the applicable provisions of section 1395x of this title,

(C) has excluded the provider from participation in a program under this subchapter pursuant to section 1320a-7 of this title or section 1320a-7a of this title, or

(D) has ascertained that the provider has been convicted of a felony under Federal or State law for an offense which the Secretary determines is detrimental to the best interests of the program or program beneficiaries.

(3) A termination of an agreement or a refusal to renew an agreement under this subsection shall become effective on the same date and in the same manner as an exclusion from participation under the programs under this subchapter becomes effective under section 1320a-7(c) of this title.

(4)(A) A hospital that fails to comply with the requirement of subsection (a)(1)(V) (relating to the Bloodborne Pathogens standard) is subject to a civil money penalty in an amount described in subparagraph (B), but is not subject to termination of an agreement under this section.

(B) The amount referred to in subparagraph (A) is an amount that is similar to the amount of civil penalties that may be imposed under section 17 of the Occupational Safety and Health Act of 1970 [29 U.S.C. 666] for a violation of the Bloodborne Pathogens standard referred to in subsection (a)(1)(U)<sup>4</sup> by a hospital that is subject to the provisions of such Act [29 U.S.C. 651 et seq.].

(C) A civil money penalty under this paragraph shall be imposed and collected in the same manner as civil money penalties under subsection (a) of section 1320a-7a of this title are imposed and collected under that section.

**(c) Refiling after termination or nonrenewal; agreements with skilled nursing facilities**

(1) Where the Secretary has terminated or has refused to renew an agreement under this subchapter with a provider of services, such provider may not file another agreement under this subchapter unless the Secretary finds that the reason for the termination or nonrenewal has been removed and that there is reasonable assurance that it will not recur.

(2) Where the Secretary has terminated or has refused to renew an agreement under this subchapter with a provider of services, the Secretary shall promptly notify each State agency which administers or supervises the administration of a State plan approved under subchapter XIX of such termination or nonrenewal.

**(d) Decision to withhold payment for failure to review long-stay cases**

If the Secretary finds that there is a substantial failure to make timely review in accordance with section 1395x(k) of this title of long-stay cases in a hospital, he may, in lieu of terminating his agreement with such hospital, decide that, with respect to any individual admitted to such hospital after a subsequent date specified by him, no payment shall be made under this subchapter for inpatient hospital services (in-

cluding inpatient psychiatric hospital services) after the 20th day of a continuous period of such services. Such decision may be made effective only after such notice to the hospital and to the public, as may be prescribed by regulations, and its effectiveness shall terminate when the Secretary finds that the reason therefor has been removed and that there is reasonable assurance that it will not recur. The Secretary shall not make any such decision except after reasonable notice and opportunity for hearing to the institution or agency affected thereby.

**(e) "Provider of services" defined**

For purposes of this section, the term "provider of services" shall include—

(1) 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 (l)(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 (l)(2) of section 1395x of this title), but only with respect to the furnishing of outpatient physical therapy services (as therein defined), (through the operation of section 1395x(g) of this title) with respect to the furnishing of outpatient occupational therapy services, or (through the operation of section 1395x(l)(2) of this title) with respect to the furnishing of outpatient speech-language pathology;

(2) a community mental health center (as defined in section 1395x(ff)(3)(B) of this title), but only with respect to the furnishing of partial hospitalization services (as described in section 1395x(ff)(1) of this title), or intensive outpatient services (as described in section 1395x(ff)(4) of this title); and

(3) opioid treatment programs (as defined in paragraph (2) of section 1395x(jjj) of this title), but only with respect to the furnishing of opioid use disorder treatment services (as defined in paragraph (1) of such section).

**(f) Maintenance of written policies and procedures**

(1) For purposes of subsection (a)(1)(Q) and sections 1395i-3(c)(2)(E),<sup>5</sup> 1395l(s), 1395w-25(i), 1395mm(c)(8), and 1395bbb(a)(6) of this title, the requirement of this subsection is that a provider of services, Medicare+Choice organization, or prepaid or eligible organization (as the case may be) maintain written policies and procedures with respect to all adult individuals receiving medical care by or through the provider or organization—

(A) to provide written information to each such individual concerning—

(i) an individual's rights under State law (whether statutory or as recognized by the courts of the State) to make decisions concerning such medical care, including the right to accept or refuse medical or surgical

<sup>4</sup> So in original. Probably should be subsection "(a)(1)(V)".

<sup>5</sup> So in original. Probably should refer to section 1395i-3(c)(1)(E).

treatment and the right to formulate advance directives (as defined in paragraph (3)), and

(ii) the written policies of the provider or organization respecting the implementation of such rights;

(B) to document in a prominent part of the individual's current medical record whether or not the individual has executed an advance directive;

(C) not to condition the provision of care or otherwise discriminate against an individual based on whether or not the individual has executed an advance directive;

(D) to ensure compliance with requirements of State law (whether statutory or as recognized by the courts of the State) respecting advance directives at facilities of the provider or organization; and

(E) to provide (individually or with others) for education for staff and the community on issues concerning advance directives.

Subparagraph (C) shall not be construed as requiring the provision of care which conflicts with an advance directive.

(2) The written information described in paragraph (1)(A) shall be provided to an adult individual—

(A) in the case of a hospital, at the time of the individual's admission as an inpatient,

(B) in the case of a skilled nursing facility, at the time of the individual's admission as a resident,

(C) in the case of a home health agency, in advance of the individual coming under the care of the agency,

(D) in the case of a hospice program, at the time of initial receipt of hospice care by the individual from the program, and

(E) in the case of an eligible organization (as defined in section 1395mm(b) of this title) or an organization provided payments under section 1395l(a)(1)(A) of this title or a Medicare+Choice organization, at the time of enrollment of the individual with the organization.

(3) In this subsection, the term "advance directive" means a written instruction, such as a living will or durable power of attorney for health care, recognized under State law (whether statutory or as recognized by the courts of the State) and relating to the provision of such care when the individual is incapacitated.

(4) For construction relating to this subsection, see section 14406 of this title (relating to clarification respecting assisted suicide, euthanasia, and mercy killing).

#### **(g) Penalties for improper billing**

Except as permitted under subsection (a)(2), any person who knowingly and willfully presents, or causes to be presented, a bill or request for payment inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement, is subject to a civil money penalty of not to exceed \$2,000. The provisions of section 1320a-7a of this title (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1320a-7a(a) of this title.

#### **(h) Dissatisfaction with determination of Secretary; appeal by institutions or agencies; single notice and hearing**

(1)(A) Except as provided in paragraph (2), an institution or agency dissatisfied with a determination by the Secretary that it is not a provider of services or with a determination described in subsection (b)(2) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 405(b) of this title, and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title, except that, in so applying such sections and in applying section 405(l) of this title thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively.

(B) An institution or agency described in subparagraph (A) that has filed for a hearing under subparagraph (A) shall have expedited access to judicial review under this subparagraph in the same manner as providers of services, suppliers, and individuals entitled to benefits under part A or enrolled under part B, or both, may obtain expedited access to judicial review under the process established under section 1395ff(b)(2) of this title. Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1395i-3 of this title during the pendency of an appeal under this subparagraph.

(C)(i) The Secretary shall develop and implement a process to expedite proceedings under this subsection in which—

(I) the remedy of termination of participation has been imposed;

(II) a remedy described in clause (i) or (iii) of section 1395i-3(h)(2)(B) of this title has been imposed, but only if such remedy has been imposed on an immediate basis; or

(III) a determination has been made as to a finding of substandard quality of care that results in the loss of approval of a skilled nursing facility's nurse aide training program.

(ii) Under such process under clause (i), priority shall be provided in cases of termination described in clause (i)(I).

(iii) Nothing in this subparagraph shall be construed to affect the application of any remedy imposed under section 1395i-3 of this title during the pendency of an appeal under this subparagraph.

(2) An institution or agency is not entitled to separate notice and opportunity for a hearing under both section 1320a-7 of this title and this section with respect to a determination or determinations based on the same underlying facts and issues.

#### **(i) Intermediate sanctions for psychiatric hospitals**

(1) If the Secretary determines that a psychiatric hospital which has an agreement in effect under this section no longer meets the requirements for a psychiatric hospital under this subchapter and further finds that the hospital's deficiencies—

(A) immediately jeopardize the health and safety of its patients, the Secretary shall terminate such agreement; or

(B) do not immediately jeopardize the health and safety of its patients, the Secretary may terminate such agreement, or provide that no payment will be made under this subchapter with respect to any individual admitted to such hospital after the effective date of the finding, or both.

(2) If a psychiatric hospital, found to have deficiencies described in paragraph (1)(B), has not complied with the requirements of this subchapter—

(A) within 3 months after the date the hospital is found to be out of compliance with such requirements, the Secretary shall provide that no payment will be made under this subchapter with respect to any individual admitted to such hospital after the end of such 3-month period, or

(B) within 6 months after the date the hospital is found to be out of compliance with such requirements, no payment may be made under this subchapter with respect to any individual in the hospital until the Secretary finds that the hospital is in compliance with the requirements of this subchapter.

**(j) Enrollment process for providers of services and suppliers**

**(1) Enrollment process**

**(A) In general**

The Secretary shall establish by regulation a process for the enrollment of providers of services and suppliers under this subchapter. Such process shall include screening of providers and suppliers in accordance with paragraph (2), a provisional period of enhanced oversight in accordance with paragraph (3), disclosure requirements in accordance with paragraph (5), the imposition of temporary enrollment moratoria in accordance with paragraph (7), and the establishment of compliance programs in accordance with paragraph (9).

**(B) Deadlines**

The Secretary shall establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of medicare administrative contractors in meeting the deadlines established under this subparagraph.

**(C) Consultation before changing provider enrollment forms**

The Secretary shall consult with providers of services and suppliers before making changes in the provider enrollment forms required of such providers and suppliers to be eligible to submit claims for which payment may be made under this subchapter.

**(2) Provider screening**

**(A) Procedures**

Not later than 180 days after March 23, 2010, the Secretary, in consultation with the Inspector General of the Department of

Health and Human Services, shall establish procedures under which screening is conducted with respect to providers of medical or other items or services and suppliers under the program under this subchapter, the Medicaid program under subchapter XIX, and the CHIP program under subchapter XXI.

**(B) Level of screening**

The Secretary shall determine the level of screening conducted under this paragraph according to the risk of fraud, waste, and abuse, as determined by the Secretary, with respect to the category of provider of medical or other items or services or supplier. Such screening—

(i) shall include a licensure check, which may include such checks across States; and

(ii) may, as the Secretary determines appropriate based on the risk of fraud, waste, and abuse described in the preceding sentence, include—

(I) a criminal background check;

(II) fingerprinting;

(III) unscheduled and unannounced site visits, including preenrollment site visits;

(IV) database checks (including such checks across States); and

(V) such other screening as the Secretary determines appropriate.

**(C) Application fees**

**(i) Institutional providers**

Except as provided in clause (ii), the Secretary shall impose a fee on each institutional provider of medical or other items or services or supplier (such as a hospital or skilled nursing facility) with respect to which screening is conducted under this paragraph in an amount equal to—

(I) for 2010, \$500; and

(II) for 2011 and each subsequent year, the amount determined under this clause for the preceding year, adjusted by the percentage change in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with June of the previous year.

**(ii) Hardship exception; waiver for certain Medicaid providers**

The Secretary may, on a case-by-case basis, exempt a provider of medical or other items or services or supplier from the imposition of an application fee under this subparagraph if the Secretary determines that the imposition of the application fee would result in a hardship. The Secretary may waive the application fee under this subparagraph for providers enrolled in a State Medicaid program for whom the State demonstrates that imposition of the fee would impede beneficiary access to care.

**(iii) Use of funds**

Amounts collected as a result of the imposition of a fee under this subparagraph



shall be used by the Secretary for program integrity efforts, including to cover the costs of conducting screening under this paragraph and to carry out this subsection and section 1320a-7k of this title.

**(D) Application and enforcement**

**(i) New providers of services and suppliers**

The screening under this paragraph shall apply, in the case of a provider of medical or other items or services or supplier who is not enrolled in the program under this subchapter, subchapter XIX, or subchapter XXI as of March 23, 2010, on or after the date that is 1 year after such date.

**(ii) Current providers of services and suppliers**

The screening under this paragraph shall apply, in the case of a provider of medical or other items or services or supplier who is enrolled in the program under this subchapter, subchapter XIX, or subchapter XXI as of such date, on or after the date that is 2 years after such date.

**(iii) Revalidation of enrollment**

Effective beginning on the date that is 180 days after such date, the screening under this paragraph shall apply with respect to the revalidation of enrollment of a provider of medical or other items or services or supplier in the program under this subchapter, subchapter XIX, or subchapter XXI.

**(iv) Limitation on enrollment and revalidation of enrollment**

In no case may a provider of medical or other items or services or supplier who has not been screened under this paragraph be initially enrolled or reenrolled in the program under this subchapter, subchapter XIX, or subchapter XXI on or after the date that is 3 years after such date.

**(E) Use of information from the Department of Treasury concerning tax debts**

In reviewing the application of a provider of services or supplier to enroll or reenroll under the program under this subchapter, the Secretary shall take into account the information supplied by the Secretary of the Treasury pursuant to section 6103(l)(22) of the Internal Revenue Code of 1986, in determining whether to deny such application or to apply enhanced oversight to such provider of services or supplier pursuant to paragraph (3) if the Secretary determines such provider of services or supplier owes such a debt.

**(F) Expedited rulemaking**

The Secretary may promulgate an interim final rule to carry out this paragraph.

**(3) Provisional period of enhanced oversight for new providers of services and suppliers**

**(A) In general**

The Secretary shall establish procedures to provide for a provisional period of not less than 30 days and not more than 1 year during which new providers of medical or other items or services and suppliers, as the Sec-

retary determines appropriate, including categories of providers or suppliers, would be subject to enhanced oversight, such as prepayment review and payment caps, under the program under this subchapter, the Medicaid program under subchapter XIX,<sup>6</sup> and the CHIP program under subchapter XXI.

**(B) Implementation**

The Secretary may establish by program instruction or otherwise the procedures under this paragraph.

**(4) 90-day period of enhanced oversight for initial claims of DME suppliers**

For periods beginning after January 1, 2011, if the Secretary determines that there is a significant risk of fraudulent activity among suppliers of durable medical equipment, in the case of a supplier of durable medical equipment who is within a category or geographic area under this subchapter identified pursuant to such determination and who is initially enrolling under such subchapter, the Secretary shall, notwithstanding sections 1395h(c), 1395u(c), and 1395ff(a)(2) of this title, withhold payment under such subchapter with respect to durable medical equipment furnished by such supplier during the 90-day period beginning on the date of the first submission of a claim under such subchapter for durable medical equipment furnished by such supplier.

**(5) Increased disclosure requirements**

**(A) Disclosure**

A provider of medical or other items or services or supplier who submits an application for enrollment or revalidation of enrollment in the program under this subchapter, subchapter XIX, or subchapter XXI on or after the date that is 1 year after March 23, 2010, shall disclose (in a form and manner and at such time as determined by the Secretary) any current or previous affiliation (directly or indirectly) with a provider of medical or other items or services or supplier that has uncollected debt, has been or is subject to a payment suspension under a Federal health care program (as defined in section 1320a-7b(f) of this title), has been excluded from participation under the program under this subchapter, the Medicaid program under subchapter XIX, or the CHIP program under subchapter XXI, or has had its billing privileges denied or revoked.

**(B) Authority to deny enrollment**

If the Secretary determines that such previous affiliation poses an undue risk of fraud, waste, or abuse, the Secretary may deny such application. Such a denial shall be subject to appeal in accordance with paragraph (7).

**(6) Authority to adjust payments of providers of services and suppliers with the same tax identification number for medicare obligations**

**(A) In general**

Notwithstanding any other provision of this subchapter, in the case of an applicable

<sup>6</sup> So in original. Probably should be a comma.

provider of services or supplier, the Secretary may make any necessary adjustments to payments to the applicable provider of services or supplier under the program under this subchapter in order to satisfy any amount described in subparagraph (B)(ii) due from such obligated provider of services or supplier.

**(B) Definitions**

In this paragraph:

**(i) In general**

The term “applicable provider of services or supplier” means a provider of services or supplier that has the same taxpayer identification number assigned under section 6109 of the Internal Revenue Code of 1986 as is assigned to the obligated provider of services or supplier under such section, regardless of whether the applicable provider of services or supplier is assigned a different billing number or national provider identification number under the program under this subchapter than is assigned to the obligated provider of services or supplier.

**(ii) Obligated provider of services or supplier**

The term “obligated provider of services or supplier” means a provider of services or supplier that owes an amount that is more than the amount required to be paid under the program under this subchapter (as determined by the Secretary).

**(7) Temporary moratorium on enrollment of new providers; nonpayment**

**(A) In general**

The Secretary may impose a temporary moratorium on the enrollment of new providers of services and suppliers, including categories of providers of services and suppliers, in the program under this subchapter, under the Medicaid program under subchapter XIX, or under the CHIP program under subchapter XXI if the Secretary determines such moratorium is necessary to prevent or combat fraud, waste, or abuse under either such program.

**(B) Limitation on review**

There shall be no judicial review under section 1395ff of this title, section 1395oo of this title, or otherwise, of a temporary moratorium imposed under subparagraph (A).

**(C) Nonpayment**

**(i) In general**

No payment may be made under this subchapter or under a program described in subparagraph (A) with respect to an item or service described in clause (ii) furnished on or after October 1, 2017.

**(ii) Item or service described**

An item or service described in this clause is an item or service furnished—

(I) within a geographic area with respect to which a temporary moratorium imposed under subparagraph (A) is in effect; and

(II) by a provider of services or supplier that meets the requirements of clause (iii).

**(iii) Requirements**

For purposes of clause (ii), the requirements of this clause are that a provider of services or supplier—

(I) enrolls under this subchapter on or after the effective date of such temporary moratorium; and

(II) is within a category of providers of services and suppliers (as described in subparagraph (A)) subject to such temporary moratorium.

**(iv) Prohibition on charges for specified items or services**

In no case shall a provider of services or supplier described in clause (ii)(II) charge an individual or other person for an item or service described in clause (ii) furnished on or after October 1, 2017, to an individual entitled to benefits under part A or enrolled under part B or an individual under a program specified in subparagraph (A).

**(8) Hearing rights in cases of denial or non-renewal**

A provider of services or supplier whose application to enroll (or, if applicable, to renew enrollment) under this subchapter is denied may have a hearing and judicial review of such denial under the procedures that apply under subsection (h)(1)(A) to a provider of services that is dissatisfied with a determination by the Secretary.

**(9) Compliance programs**

**(A) In general**

On or after the date of implementation determined by the Secretary under subparagraph (C), a provider of medical or other items or services or supplier within a particular industry sector or category shall, as a condition of enrollment in the program under this subchapter, subchapter XIX, or subchapter XXI, establish a compliance program that contains the core elements established under subparagraph (B) with respect to that provider or supplier and industry or category.

**(B) Establishment of core elements**

The Secretary, in consultation with the Inspector General of the Department of Health and Human Services, shall establish core elements for a compliance program under subparagraph (A) for providers or suppliers within a particular industry or category.

**(C) Timeline for implementation**

The Secretary shall determine the timeline for the establishment of the core elements under subparagraph (B) and the date of the implementation of subparagraph (A) for providers or suppliers within a particular industry or category. The Secretary shall, in determining such date of implementation, consider the extent to which the adoption of compliance programs by a provider of medical or other items or services or

supplier is widespread in a particular industry sector or with respect to a particular provider or supplier category.

**(k) Quality reporting by cancer hospitals**

**(1) In general**

For purposes of fiscal year 2014 and each subsequent fiscal year, a hospital described in section 1395ww(d)(1)(B)(v) of this title shall submit data to the Secretary in accordance with paragraph (2) with respect to such a fiscal year.

**(2) Submission of quality data**

For fiscal year 2014 and each subsequent fiscal year, each hospital described in such section shall submit to the Secretary data on quality measures specified under paragraph (3). Such data shall be submitted in a form and manner, and at a time, specified by the Secretary for purposes of this subparagraph.

**(3) Quality measures**

**(A) In general**

Subject to subparagraph (B), any measure specified by the Secretary under this paragraph must have been endorsed by the entity with a contract under section 1395aaa(a) of this title.

**(B) Exception**

In the case of a specified area or medical topic determined appropriate by the Secretary for which a feasible and practical measure has not been endorsed by the entity with a contract under section 1395aaa(a) of this title, the Secretary may specify a measure that is not so endorsed as long as due consideration is given to measures that have been endorsed or adopted by a consensus organization identified by the Secretary.

**(C) Time frame**

Not later than October 1, 2012, the Secretary shall publish the measures selected under this paragraph that will be applicable with respect to fiscal year 2014.

**(4) Public availability of data submitted**

The Secretary shall establish procedures for making data submitted under paragraph (4) available to the public. Such procedures shall ensure that a hospital described in section 1395ww(d)(1)(B)(v) of this title has the opportunity to review the data that is to be made public with respect to the hospital prior to such data being made public. The Secretary shall report quality measures of process, structure, outcome, patients' perspective on care, efficiency, and costs of care that relate to services furnished in such hospitals on the Internet website of the Centers for Medicare & Medicaid Services.

(Aug. 14, 1935, ch. 531, title XVIII, §1866, as added Pub. L. 89-97, title I, §102(a), July 30, 1965, 79 Stat. 327; amended Pub. L. 90-248, title I, §§129(c)(12), 133(c), 135(b), Jan. 2, 1968, 81 Stat. 849, 851, 852; Pub. L. 92-603, title II, §§223(e), (g), 227(d)(2), 229(b), 249A(b)-(d), 278(a)(17), (b)(18), 281(c), Oct. 30, 1972, 86 Stat. 1394, 1406, 1409, 1427, 1453-1455; Pub. L. 95-142, §§3(b), 8(b), 13(b)(3), 15(a), Oct. 25, 1977, 91 Stat. 1178, 1194, 1195, 1198,

1200; Pub. L. 95-210, §2(e), Dec. 13, 1977, 91 Stat. 1489; Pub. L. 95-292, §4(e), June 13, 1978, 92 Stat. 315; Pub. L. 96-272, title III, §308(b), June 17, 1980, 94 Stat. 531; Pub. L. 96-499, title IX, §916(a), Dec. 5, 1980, 94 Stat. 2623; Pub. L. 96-611, §1(b)(4), Dec. 28, 1980, 94 Stat. 3566; Pub. L. 97-35, title XXI, §2153, Aug. 13, 1981, 95 Stat. 802; Pub. L. 97-248, title I, §§122(g)(5), (6), 128(a)(5), (d)(4), 144, Sept. 3, 1982, 96 Stat. 362, 366, 367, 393; Pub. L. 97-448, title III, §309(a)(5), (b)(11), Jan. 12, 1983, 96 Stat. 2408, 2409; Pub. L. 98-21, title VI, §602(f), (l), Apr. 20, 1983, 97 Stat. 163, 166; Pub. L. 98-369, div. B, title III, §§2303(f), 2315(d), 2321(c), 2323(b)(3), 2335(d), 2347(a), 2348(a), 2354(b)(33), (34), July 18, 1984, 98 Stat. 1066, 1080, 1084, 1086, 1090, 1096, 1097, 1102; Pub. L. 99-272, title IX, §§912(a), 9122(a), 9401(b)(2)(F), 9402(a), 9403(b), Apr. 7, 1986, 100 Stat. 164, 167, 199, 200; Pub. L. 99-509, title IX, §§9305(b)(1), 9320(h)(2), 9332(e)(1), 9337(c)(2), 9343(c)(2), (3), 9353(e)(1), Oct. 21, 1986, 100 Stat. 1989, 2016, 2025, 2034, 2040, 2047; Pub. L. 99-514, title XVIII, §1895(b)(5), Oct. 22, 1986, 100 Stat. 2933; Pub. L. 99-576, title II, §233(a), Oct. 28, 1986, 100 Stat. 3265; Pub. L. 100-93, §8(d), Aug. 18, 1987, 101 Stat. 693; Pub. L. 100-203, title IV, §§4012(a), 4062(d)(4), 4085(i)(17), (28), 4097(a), (b), 4212(e)(4), Dec. 22, 1987, 101 Stat. 1330-60, 1330-109, 1330-133, 1330-140, 1330-213, as amended Pub. L. 100-360, title IV, §411(i)(4)(C)(vi), (j)(5), July 1, 1988, 102 Stat. 790, 791; Pub. L. 100-360, title I, §104(d)(5), title II, §§201(b), (d), 202(h)(1), title IV, §411(c)(2)(A)(i), (C), (g)(1)(D), July 1, 1988, 102 Stat. 689, 702, 718, 772, 782, as amended Pub. L. 100-485, title VI, §608(d)(3)(F), (19)(A), Oct. 13, 1988, 102 Stat. 2414, 2419; Pub. L. 100-485, title VI, §608(f)(1), Oct. 13, 1988, 102 Stat. 2424; Pub. L. 101-234, title I, §101(a), title II, §201(a), title III, §301(b)(4), (d)(1), Dec. 13, 1989, 103 Stat. 1979, 1981, 1985, 1986; Pub. L. 101-239, title VI, §§6003(g)(3)(D)(xii), (xiii), 6017, 6018(a), 6020, 6112(e)(3), Dec. 19, 1989, 103 Stat. 2154, 2165, 2166, 2216; Pub. L. 101-508, title IV, §§4008(b)(3)(B), (m)(3)(G)[(F)], 4153(d)(1), 4157(c)(2), 4162(b)(2), 4206(a), Nov. 5, 1990, 104 Stat. 1388-44, 1388-54, 1388-84, 1388-89, 1388-96, 1388-115; Pub. L. 102-54, §13(q)(3)(F), June 13, 1991, 105 Stat. 280; Pub. L. 102-83, §5(c)(2), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-296, title I, §108(c)(5), Aug. 15, 1994, 108 Stat. 1485; Pub. L. 103-432, title I, §§106(b)(1)(B), 147(e)(7), 156(a)(2)(E), 160(d)(2), Oct. 31, 1994, 108 Stat. 4406, 4430, 4441, 4443; Pub. L. 104-191, title II, §262(b)(1), Aug. 21, 1996, 110 Stat. 2031; Pub. L. 105-12, §9(a)(2), Apr. 30, 1997, 111 Stat. 26; Pub. L. 105-33, title IV, §§4002(d), (e), 4201(c)(1), 4302(a), 4321(b), 4432(b)(5)(F), 4511(a)(2)(D), 4523(b), 4541(a)(3), 4641(a), 4714(b)(1), Aug. 5, 1997, 111 Stat. 329, 373, 382, 395, 422, 442, 449, 456, 487, 510; Pub. L. 106-113, div. B, §1000(a)(6) [title III, §321(k)(11), (12)], Nov. 29, 1999, 113 Stat. 1536, 1501A-368; Pub. L. 106-554, §1(a)(6) [title III, §313(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-499; Pub. L. 108-173, title II, §236(a)(1), title V, §§505(b), 506(a), title VII, §736(a)(13), title IX, §§932(b), (c)(1), 936(a), 947(a), Dec. 8, 2003, 117 Stat. 2210, 2294, 2355, 2400, 2401, 2411, 2425; Pub. L. 110-275, title I, §143(b)(8), July 15, 2008, 122 Stat. 2543; Pub. L. 111-148, title III, §3005, title VI, §§6401(a), 6406(b), title X, §10603, Mar. 23, 2010, 124 Stat. 371, 747, 769, 1006; Pub. L. 111-152, title I, §1304, Mar. 30, 2010, 124 Stat. 1058; Pub. L. 111-192, title I, §103(b), (c), June 25, 2010, 124

Stat. 1283; Pub. L. 112-40, title II, § 261(a)(3)(A), (D), Oct. 21, 2011, 125 Stat. 423; Pub. L. 114-42, § 2, Aug. 6, 2015, 129 Stat. 468; Pub. L. 114-255, div. C, title XVII, § 17004(a), (b)(2)(A), Dec. 13, 2016, 130 Stat. 1331, 1333; Pub. L. 115-182, title I, § 144(a)(2), June 6, 2018, 132 Stat. 1430; Pub. L. 115-271, title II, § 2005(d), Oct. 24, 2018, 132 Stat. 3930; Pub. L. 116-260, div. CC, title I, § 125(b)(1), (2)(A), Dec. 27, 2020, 134 Stat. 2965; Pub. L. 117-328, div. FF, title IV, § 4124(b)(4)(B), Dec. 29, 2022, 136 Stat. 5909.)

#### APPLICABILITY OF AMENDMENT

*Amendment of section by section 4124(b)(4)(B) of Pub. L. 117-328 applicable with respect to items and services furnished on or after Jan. 1, 2024. See 2022 Amendment note below.*

#### Editorial Notes

##### REFERENCES IN TEXT

Section 1713 of title 38, referred to in subsec. (a)(1)(J), was renumbered section 1781 of title 38 by Pub. L. 107-135, title II, § 208(c)(1), (2), Jan. 23, 2002, 115 Stat. 2463.

Section 222(a) of the Social Security Amendments of 1972, referred to in subsec. (a)(1)(O), is section 222(a) of Pub. L. 92-603, which is set out as a note under section 1395b-1 of this title.

The Occupational Safety and Health Act of 1970, referred to in subssecs. (a)(1)(V) and (b)(4)(B), is Pub. L. 91-596, Dec. 29, 1970, 84 Stat. 1590, which is classified principally to chapter 15 (§ 651 et seq.) of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 651 of Title 29 and Tables.

Section 1395f(t)(5) of this title, referred to in subsec. (a)(2)(A), was redesignated section 1395f(t)(8) of this title by Pub. L. 106-113, div. B, § 1000(a)(6) [title II, §§ 201(a)(1), 202(a)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A-336, 1501A-342.

The Internal Revenue Code of 1986, referred to in subsec. (j)(2)(E), (6)(B)(i), is classified generally to Title 26, Internal Revenue Code.

#### AMENDMENTS

2022—Subsec. (e)(2). Pub. L. 117-328 inserted “, or intensive outpatient services (as described in section 1395x(ff)(4) of this title)” after “partial hospitalization services (as described in section 1395x(ff)(1) of this title)”.

2020—Subsec. (a)(1)(F)(ii). Pub. L. 116-260, § 125(b)(1)(A), inserted “rural emergency hospitals,” after “critical access hospitals,”.

Subsec. (a)(1)(I). Pub. L. 116-260, § 125(b)(2)(A)(i)(I), substituted “, critical access hospital, or rural emergency hospital” for “or critical access hospital” in introductory provisions.

Subsec. (a)(1)(I)(ii). Pub. L. 116-260, § 125(b)(2)(A)(i)(II), inserted “, critical access hospital, or rural emergency hospital” after “hospital”.

Subsec. (a)(1)(N). Pub. L. 116-260, § 125(b)(2)(A)(ii)(I), substituted “, critical access hospitals, and rural emergency hospitals” for “and critical access hospitals” in introductory provisions.

Subsec. (a)(1)(N)(i). Pub. L. 116-260, § 125(b)(2)(A)(ii)(II), substituted “, critical access hospital, or rural emergency hospital” for “or critical access hospital”.

Subsec. (a)(1)(N)(iv). Pub. L. 116-260, § 125(b)(2)(A)(ii)(III), inserted “, critical access hospital, or rural emergency hospital” after “hospital”.

Subsec. (a)(3)(A). Pub. L. 116-260, § 125(b)(1)(B)(i), inserted “rural emergency hospital,” after “critical access hospital,”.

Subsec. (a)(3)(B). Pub. L. 116-260, § 125(b)(1)(B)(ii), inserted “rural emergency hospital,” after “critical access hospital,” wherever appearing.

Subsec. (a)(3)(C)(ii)(II). Pub. L. 116-260, § 125(b)(1)(B)(iii), inserted “rural emergency hospitals,” after “critical access hospitals,” in two places.

2018—Subsec. (a)(1)(L). Pub. L. 115-182 substituted “under chapter 17” for “under section 603”. Amendment was executed by making the substitution for “under section 1703”, which appeared in text after the substitution of “section 1703” for “section 603” pursuant to Pub. L. 102-83. See 1991 Amendment note below.

Subsec. (e)(3). Pub. L. 115-271 added par. (3).

2016—Subsec. (j)(1)(A). Pub. L. 114-255, § 17004(b)(2)(A)(i), substituted “requirements in accordance with paragraph (5)” for “requirements in accordance with paragraph (4)”, “moratoria in accordance with paragraph (7)” for “moratoria in accordance with paragraph (5)”, and “paragraph (9)” for “paragraph (6)”.

Subsec. (j)(7). Pub. L. 114-255, § 17004(a)(1), in heading, inserted “; nonpayment” at end.

Subsec. (j)(7)(C). Pub. L. 114-255, § 17004(a)(2), added subpar. (C).

Subsec. (j)(8), (9). Pub. L. 114-255, § 17004(b)(2)(A)(ii), redesignated par. (8), relating to compliance programs, as (9).

2015—Subsec. (a)(1)(W), (X). Pub. L. 114-42, § 2(1)–(3)(A), redesignated subpar. (W), relating to maintaining and providing access to documentation, as (X).

Subsec. (a)(1)(Y). Pub. L. 114-42, § 2(3)(B), (4), added subpar. (Y).

2011—Subsec. (a)(1)(F). Pub. L. 112-40, § 261(a)(3)(A), substituted “quality improvement” for “utilization and quality control peer review” in cls. (i) and (ii).

Subsec. (a)(3). Pub. L. 112-40, § 261(a)(3)(D), substituted “quality improvement” for “peer review” in subpars. (A) and (B).

2010—Subsec. (a)(1)(U). Pub. L. 111-148, § 6406(b)(1), which directed amendment by striking out “and” at end, could not be executed because of the intervening amendment by Pub. L. 111-148, § 3005(1)(A). See Amendment note below.

Pub. L. 111-148, § 3005(1)(A), struck out “and” after “services,” in concluding provisions.

Subsec. (a)(1)(V). Pub. L. 111-148, § 6406(b)(2), which directed amendment by substituting “; and” for period at end, could not be executed because of the intervening amendment by Pub. L. 111-148, § 3005(1)(B). See Amendment note below.

Pub. L. 111-148, § 3005(1)(B), substituted “, and” for period at end.

Subsec. (a)(1)(W). Pub. L. 111-148, § 6406(b)(3), added subpar. (W) relating to maintaining and providing access to documentation. Subpar. (W) was added after subpar. (W) relating to reporting quality data to the Secretary to reflect the probable intent of Congress, notwithstanding directory language adding subpar. at the end of par. (1).

Pub. L. 111-148, § 3005(1)(C), added subpar. (W) relating to reporting quality data to the Secretary. Subpar. (W) was added after subpar. (V) to reflect the probable intent of Congress, notwithstanding directory language adding subpar. at the end of par. (1).

Subsec. (j)(1)(A). Pub. L. 111-148, § 6401(a)(1), inserted at end “Such process shall include screening of providers and suppliers in accordance with paragraph (2), a provisional period of enhanced oversight in accordance with paragraph (3), disclosure requirements in accordance with paragraph (4), the imposition of temporary enrollment moratoria in accordance with paragraph (5), and the establishment of compliance programs in accordance with paragraph (6).”

Subsec. (j)(2). Pub. L. 111-148, § 6401(a)(3), added par. (2). Former par. (2) redesignated (8).

Subsec. (j)(2)(C). Pub. L. 111-148, § 10603(a), redesignated cls. (ii) to (iv) as (i) to (iii), respectively, substituted “clause (ii)” for “clause (iii)” in cl. (i), and struck out former cl. (i) which read as follows: “Except as provided in clause (iii), the Secretary shall impose a fee on each individual provider of medical or other items or services or supplier (such as a physician, physician assistant, nurse practitioner, or clinical nurse

specialist) with respect to which screening is conducted under this paragraph in an amount equal to—

“(I) for 2010, \$200; and

“(II) for 2011 and each subsequent year, the amount determined under this clause for the preceding year, adjusted by the percentage change in the consumer price index for all urban consumers (all items; United States city average) for the 12-month period ending with June of the previous year.”

Subsec. (j)(2)(E), (F). Pub. L. 111-192, §103(b), added subpar. (E) and redesignated former subpar. (E) as (F).

Subsec. (j)(3). Pub. L. 111-148, §6401(a)(3), added par. (3).

Subsec. (j)(4), (5). Pub. L. 111-152, §1304, added par. (4) and redesignated former par. (4) as (5). Former par. (5) redesignated (6).

Pub. L. 111-148, §6401(a)(3), added pars. (4) and (5).

Subsec. (j)(6). Pub. L. 111-192, §103(c)(1), substituted “medicare” for “past-due” in heading.

Pub. L. 111-152, §1304(1), redesignated par. (5) as (6). Former par. (6) redesignated (7).

Pub. L. 111-148, §6401(a)(3), added par. (6).

Subsec. (j)(6)(A). Pub. L. 111-192, §103(c)(2), substituted “amount described in subparagraph (B)(ii) due from such” for “past-due obligations described in subparagraph (B)(ii) of an”.

Subsec. (j)(6)(B)(ii). Pub. L. 111-192, §103(c)(3), substituted “an amount that is more than the amount required to be paid” for “a past-due obligation”.

Subsec. (j)(7). Pub. L. 111-152, §1304(1), redesignated par. (6) as (7). Former par. (7) redesignated (8).

Pub. L. 111-148, §6401(a)(3), added par. (7).

Subsec. (j)(8). Pub. L. 111-152, §1304(1), redesignated par. (7) as (8) relating to compliance programs.

Pub. L. 111-148, §6401(a)(2), as amended by Pub. L. 111-148, §10603(b), redesignated par. (2) as (8).

Subsec. (k). Pub. L. 111-148, §3005(2), added subsec. (k).

2008—Subsec. (e)(1). Pub. L. 110-275 substituted “section through the operation of subsection (g) or (h)(2) of section 1395x” for “section through the operation of section 1395x(g)” in two places, substituted “defined,” for “defined” or”, and inserted “, or (through the operation of section 1395x(h)(2) of this title) with respect to the furnishing of outpatient speech-language pathology” before “; and”.

2003—Pub. L. 108-173, §936(a)(1), inserted “; enrollment processes” in section catchline.

Subsec. (a)(1)(O). Pub. L. 108-173, §236(a)(1), substituted “part C, with a PACE provider under section 1395eee or 1396u-4 of this title, or” for “part C or”, struck out “(i)” before “with a risk-sharing contract”, struck out “and (ii)” before “which does not have a contract”, inserted “(or, in the case of a PACE provider, contract or other agreement)” after “have a contract”, and substituted “members of the organization or PACE program eligible individuals enrolled with the PACE provider,” for “members of the organization”.

Subsec. (a)(1)(T). Pub. L. 108-173, §505(b), added subpar. (T).

Subsec. (a)(1)(U). Pub. L. 108-173, §506(a), added subpar. (U).

Subsec. (a)(1)(V). Pub. L. 108-173, §947(a)(1), added subpar. (V).

Subsec. (b)(2)(D). Pub. L. 108-173, §736(a)(13), realigned margins.

Subsec. (b)(4). Pub. L. 108-173, §947(a)(2), added par. (4).

Subsec. (h)(1). Pub. L. 108-173, §932(b), (c)(1), designated existing provisions as subpar. (A) and added subpars. (B) and (C).

Subsec. (j). Pub. L. 108-173, §936(a)(2), added subsec. (j).

2000—Subsec. (a)(1)(H)(ii)(I). Pub. L. 106-554 inserted “during a period in which the resident is provided covered post-hospital extended care services (or, for services described in section 1395x(s)(2)(D) of this title, that are furnished to such an individual without regard to such period)” after “skilled nursing facility”.

1999—Subsec. (a)(1)(I)(iii). Pub. L. 106-113, §1000(a)(6) [title III, §321(k)(11)(A)], substituted comma for semicolon at end.

Subsec. (a)(1)(N)(iv). Pub. L. 106-113, §1000(a)(6) [title III, §321(k)(11)(B)], struck out “and” at end.

Subsec. (a)(1)(O). Pub. L. 106-113, §1000(a)(6) [title III, §321(k)(11)(C)], substituted comma for semicolon at end.

Subsec. (a)(1)(Q). Pub. L. 106-113, §1000(a)(6) [title III, §321(k)(12)(A)], substituted comma for semicolon at end.

Subsec. (a)(1)(R). Pub. L. 106-113, §1000(a)(6) [title III, §321(k)(12)(B)], inserted “, and” at end.

1997—Subsec. (a)(1)(A). Pub. L. 105-33, §4714(b)(1), designated existing provisions as cl. (i) and inserted before comma at end “, and (ii) not to impose any charge that is prohibited under section 1396a(n)(3) of this title”.

Subsec. (a)(1)(F)(ii). Pub. L. 105-33, §4201(c)(1), substituted “critical access” for “rural primary care”.

Subsec. (a)(1)(H). Pub. L. 105-33, §4511(a)(2)(D), substituted “section 1395x(s)(2)(K) of this title” for “section 1395x(s)(2)(K)(i) or 1395x(s)(2)(K)(iii) of this title”.

Pub. L. 105-33, §4432(b)(5)(F), designated existing provisions as cl. (i), redesignated former cls. (i) and (ii) as subcls. (I) and (II), respectively, and added cl. (ii).

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

Subsec. (a)(1)(I), (N). Pub. L. 105-33, §4201(c)(1), substituted “critical access” for “rural primary care” in introductory provisions of subpars. (I) and (N) and in subpar. (N)(i).

Subsec. (a)(1)(O). Pub. L. 105-33, §4002(e), struck out “in the case of hospitals and skilled nursing facilities,” before “to accept as payment in full for”, “inpatient hospital and extended care” after “to accept as payment in full for”, and “(in the case of hospitals) or limits (in the case of skilled nursing facilities)” after “the organization the amounts”; inserted “with a Medicare+Choice organization under part C or” after “any individual enrolled” and “(less any payments under sections 1395ww(d)(11) and 1395ww(h)(3)(D) of this title)” after “under this subchapter”.

Subsec. (a)(1)(S). Pub. L. 105-33, §4321(b), added subpar. (S). Subpar. (S) was added after subpar. (R) to reflect the probable intent of Congress, notwithstanding directory language adding subpar. at the end of par. (1).

Subsec. (a)(2)(A). Pub. L. 105-33, §4541(a)(3), which directed the amendment of subsec. (a)(2)(A)(ii) by inserting the following at the end “In the case of services described in section 1395f(a)(8) of this title or section 1395f(a)(9) of this title for which payment is made under part B under section 1395m(k) of this title, clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge for such services 20 percent of the lesser of the actual charge or the applicable fee schedule amount (as defined in such section) for such services.”, was executed by inserting the material at the end of subpar. (A) to reflect the probable intent of Congress.

Pub. L. 105-33, §4523(b), which directed the amendment of subsec. (a)(2)(A)(ii) by inserting the following at the end “In the case of items and services for which payment is made under part B under the prospective payment system established under section 1395f(t) of this title, clause (ii) of the first sentence shall be applied by substituting for 20 percent of the reasonable charge, the applicable copayment amount established under section 1395f(t)(5) of this title.”, was executed by inserting the material at the end of subpar. (A) to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 105-33, §4201(c)(1), substituted “critical access” for “rural primary care” wherever appearing.

Subsec. (b)(2)(D). Pub. L. 105-33, §4302(a), added subpar. (D).

Subsec. (f)(1). Pub. L. 105-33, §4002(d)(1), inserted “1395w-25(i),” after “1395(s),” and “, Medicare+Choice organization,” after “provider of services” in introductory provisions.

Subsec. (f)(1)(B). Pub. L. 105-33, §4641(a), substituted “in a prominent part of the individual’s current medical record” for “in the individual’s medical record”.

Subsec. (f)(2)(E). Pub. L. 105-33, §4002(d)(2), inserted “or a Medicare+Choice organization” after “section 1395f(a)(1)(A) of this title”.

Subsec. (f)(4). Pub. L. 105-12 added par. (4).  
1996—Subsec. (a)(1)(R). Pub. L. 104-191 added subpar. (R).

1994—Subsec. (a)(1)(H). Pub. L. 103-432, § 147(e)(7), substituted “section 1395x(s)(2)(K)(i) or 1395x(s)(2)(K)(iii) of this title” for “section 1395x(s)(2)(K)(i) of this title”.

Subsec. (a)(2)(A). Pub. L. 103-432, § 156(a)(2)(E), struck out “, with respect to items and services furnished in connection with obtaining a second opinion required under section 1320c-13(c)(2) of this title (or a third opinion, if the second opinion was in disagreement with the first opinion),” after “section 1395x(s)(10)(A) of this title”.

Subsec. (d). Pub. L. 103-432, § 106(b)(1)(B), substituted “long-stay cases in a hospital” for “long-stay cases in a hospital or skilled nursing facility”, “such hospital” for “such hospital or facility” in two places, “period of such services” for “period of such services or for post-hospital extended care services after such day of a continuous period of such care as is prescribed in or pursuant to regulations, as the case may be”, and “notice to the hospital” for “notice to the hospital, or (in the case of a skilled nursing facility) to the facility and the hospital or hospitals with which it has a transfer agreement,”.

Subsec. (f)(1). Pub. L. 103-432, § 160(d)(2), substituted “1395l(s)” for “1395l(r)” in introductory provisions.

Subsec. (h)(1). Pub. L. 103-296 inserted before period at end “, except that, in so applying such sections and in applying section 405(l) of this title thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

1991—Subsec. (a)(1)(J). Pub. L. 102-83 substituted “section 1713 of title 38” for “section 613 of title 38”.

Subsec. (a)(1)(L). Pub. L. 102-83 substituted “section 1703 of title 38” for “section 603 of title 38”.

Pub. L. 102-54 substituted “Secretary of Veterans Affairs” for “Administrator of Veterans’ Affairs”.

1990—Subsec. (a)(1)(F)(i). Pub. L. 101-508, § 4008(m)(3)(G)(F)(i), substituted “,” for comma at end.

Subsec. (a)(1)(F)(ii). Pub. L. 101-508, § 4008(m)(3)(G)(F)(ii), substituted “paragraph (3)(A),” for “paragraph (4)(A),”.

Subsec. (a)(1)(H). Pub. L. 101-508, § 4157(c)(2), inserted “services described by section 1395x(s)(2)(K)(i) of this title, certified nurse-midwife services, qualified psychologist services, and” after “and other than”.

Subsec. (a)(1)(I)(i). Pub. L. 101-508, § 4008(b)(3)(B), inserted “and to meet the requirements of such section” after “section 1395dd of this title”.

Subsec. (a)(1)(P). Pub. L. 101-508, § 4153(d)(1), substituted “catheters, catheter supplies, ostomy bags, and supplies related to ostomy care” for “ostomy supplies”.

Subsec. (a)(1)(Q). Pub. L. 101-508, § 4206(a)(1), added subpar. (Q).

Subsec. (e). Pub. L. 101-508, § 4162(b)(2), substituted “include—” and pars. (1) and (2) for “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 section 1395x(g) 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 section 1395x(g) of this title), but only with respect to the furnishing of outpatient physical therapy services (as therein defined) or (through the operation of section 1395x(g) of this title) with respect to the furnishing of outpatient occupational therapy services.”

Subsec. (f). Pub. L. 101-508, § 4206(a)(2), added subsec. (f).

1989—Subsec. (a)(1)(F)(i)(III). Pub. L. 101-234, § 301(b)(4), (d)(1), amended subcl. (III) identically substituting “fiscal year” for “fiscal year)” before “of such reviews,” at end.

Subsec. (a)(1)(F)(ii). Pub. L. 101-239, § 6003(g)(3)(D)(xii)(I), inserted “rural primary care hospitals,” after “hospitals,”.

Subsec. (a)(1)(H). Pub. L. 101-239, § 6003(g)(3)(D)(xii)(II), inserted “and in the case of rural primary care hospitals which provide rural primary care hospital services” after “payment may be made under this subchapter”.

Subsec. (a)(1)(I). Pub. L. 101-239, § 6018(a)(1), amended subpar. (I) generally. Prior to amendment, subpar. (I) read as follows: “in the case of a hospital and in the case of a rural primary care hospital, to comply with the requirements of section 1395dd of this title to the extent applicable,”.

Pub. L. 101-239, § 6003(g)(3)(D)(xii)(III), inserted “and in the case of a rural primary care hospital” after “hospital”.

Subsec. (a)(1)(N). Pub. L. 101-239, § 6003(g)(3)(D)(xii)(IV), substituted “hospitals and rural primary care hospitals” for “hospitals” in introductory provisions and “hospital or rural primary care hospital,” for “hospital,” in cl. (i).

Subsec. (a)(1)(N)(iii), (iv). Pub. L. 101-239, § 6018(a)(2), added cls. (iii) and (iv).

Subsec. (a)(1)(P). Pub. L. 101-239, § 6112(e)(3), added subpar. (P).

Subsec. (a)(2)(A). Pub. L. 101-234, § 201(a), repealed Pub. L. 100-360, §§ 201(b), (d), 202(h)(1), 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. (a)(2)(B). Pub. L. 101-239, § 6017, redesignated cl. (i) as subpar. (B) and struck out cl. (ii) which authorized charges for items or services more expensive than determined to be necessary and which have not been requested by the individual to the extent that such costs in the second fiscal period preceding the fiscal period in which such charges are imposed exceed necessary costs, under certain circumstances.

Subsec. (a)(3)(A), (B). Pub. L. 101-239, § 6003(g)(3)(D)(xiii)(I), substituted “hospital, rural primary care hospital,” for “hospital,” wherever appearing.

Subsec. (a)(3)(C)(ii)(II). Pub. L. 101-239, § 6003(g)(3)(D)(xiii)(II), substituted “facilities, rural primary care hospitals,” for “facilities” in two places.

Subsec. (d). Pub. L. 101-234, § 101(a), repealed Pub. L. 100-360, § 104(d)(5), and provided that the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted, see 1988 Amendment note below.

Subsec. (i). Pub. L. 101-239, § 6020, added subsec. (i).

1988—Subsec. (a)(1)(M). Pub. L. 100-360, § 411(c)(2)(C)(i), as added by Pub. L. 100-485, § 608(d)(19)(A), struck out “and” at end.

Subsec. (a)(1)(N). Pub. L. 100-360, § 411(c)(2)(C)(ii), as added by Pub. L. 100-485, § 608(d)(19)(A), substituted “, and,” for period at end.

Subsec. (a)(1)(O). Pub. L. 100-360, § 411(c)(2)(A)(i), substituted cls. (i) and (ii) for “with a risk-sharing contract under section 1395mm of this title”.

Subsec. (a)(2)(A). Pub. L. 100-360, § 201(d), substituted “section 1395l(d)(1) of this title” for “section 1395l(c) of this title” in second sentence.

Pub. L. 100-360, § 411(g)(1)(D), substituted “section 1395m(a)(1)(B) of this title” for “section 1395m(a)(2) of this title” in last sentence.

Pub. L. 100-360, § 202(h)(1), inserted “1395m(c),” after “1395l(b),” and “and in the case of covered outpatient drugs, applicable coinsurance percent (specified in section 1395m(c)(2)(C) of this title) of the lesser of the actual charges for the drugs or the payment limit (established under section 1395m(c)(3) of this title)” after “established by the Secretary”.

Pub. L. 100-360, § 201(b), inserted at end “A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1395l(c) of this title (relating to catastrophic benefits).”

Subsec. (a)(3)(C)(ii). Pub. L. 100-360, § 411(j)(5), made technical correction to directory language of Pub. L. 100-203, § 4097(b), see 1987 Amendment note below.

Subsec. (d). Pub. L. 100-360, §104(d)(5), as amended by Pub. L. 100-485, §608(d)(3)(F), struck out “post-hospital” before “extended care services”.

Subsec. (f). Pub. L. 100-485, §608(f)(1), struck out subsec. (f) which provided for termination or decertification and alternatives thereto.

Subsec. (g). Pub. L. 100-360, §411(i)(4)(C)(vi), added Pub. L. 100-203, §4085(i)(28), see 1987 Amendment note below.

1987—Subsec. (a)(1)(F)(i)(III). Pub. L. 100-203, §4097(a), substituted “1988” for “1986” and inserted “and for any direct or administrative costs incurred as a result of review functions added with respect to a subsequent fiscal year” after “inflation”.

Subsec. (a)(1)(O). Pub. L. 100-203, §4012(a), added subpar. (O).

Subsec. (a)(2)(A). Pub. L. 100-203, §4062(d)(4), inserted at end “Notwithstanding the first sentence of this subparagraph, a home health agency may charge such an individual or person, with respect to covered items subject to payment under section 1395m(a) of this title, the amount of any deduction imposed under section 1395l(b) of this title and 20 percent of the payment basis described in section 1395m(a)(2) of this title.”

Subsec. (a)(3). Pub. L. 100-93, §8(d)(1), redesignated par. (4) as (3) and struck out former par. (3) which read as follows: “The Secretary may refuse to enter into or renew an agreement under this section with a provider of services if any person who has a direct or indirect ownership or control interest of 5 percent or more in such provider, or who is an officer, director, agent, or managing employee (as defined in section 1320a-5(b) of this title) of such provider, is a person described in section 1320a-5(a) of this title.”

Subsec. (a)(3)(C)(ii). Pub. L. 100-203, §4097(b), as amended by Pub. L. 100-360, §411(j)(5), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “shall not be less in the aggregate for hospitals, facilities, and agencies for a fiscal year than the amounts the Secretary determines to be sufficient to cover the costs of such organizations’ conducting the activities described in subparagraph (A) with respect to such hospitals, facilities, or agencies under part B of subchapter XI of this chapter.”

Subsec. (a)(4). Pub. L. 100-93, §8(d)(1)(B), redesignated par. (4) as (3).

Subsec. (b). Pub. L. 100-93, §8(d)(2), amended subsec. (b) generally, substituting pars. (1) to (3) for former pars. (1) to (5).

Subsec. (c)(1). Pub. L. 100-93, §8(d)(3), (4), substituted “the Secretary has terminated or has refused to renew an agreement under this subchapter with a provider of services” for “an agreement filed under this subchapter by a provider of services has been terminated by the Secretary” and inserted “or nonrenewal” after “termination”.

Subsec. (c)(2). Pub. L. 100-203, §4212(e)(4), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “In the case of a skilled nursing facility participating in the programs established by this subchapter and subchapter XIX of this chapter, the Secretary may enter into an agreement under this section only if such facility has been approved pursuant to section 1396i(a) of this title, and the term of any such agreement shall be in accordance with the period of approval of eligibility specified by the Secretary pursuant to such section.”

Subsec. (c)(3). Pub. L. 100-203, §4212(e)(4), redesignated par. (3) as (2).

Pub. L. 100-93, §8(d)(3), (4), substituted “the Secretary has terminated or has refused to renew an agreement under this subchapter with a provider of services” for “an agreement filed under this subchapter by a provider of services has been terminated by the Secretary” and inserted “or nonrenewal” after “termination”.

Subsec. (g). Pub. L. 100-203, §4085(i)(28), as added by Pub. L. 100-360, §411(i)(4)(C)(vi), substituted “money penalty” for “monetary penalty” in first sentence and amended second sentence generally. Prior to amendment, second sentence read as follows: “Such a penalty

shall be imposed in the same manner as civil monetary penalties are imposed under section 1320a-7a of this title with respect to actions described in subsection (a) of that section.”

Pub. L. 100-203, §4085(i)(17), substituted “inconsistent with an arrangement under subsection (a)(1)(H) or in violation of the requirement for such an arrangement” for “for a hospital outpatient service for which payment may be made under part B of this subchapter and such bill or request violates an arrangement under subsection (a)(1)(H)”.

Subsec. (h). Pub. L. 100-93, §8(d)(5), added subsec. (h).

1986—Subsec. (a)(1)(F). Pub. L. 99-509, §9353(e)(1)(A), designated existing provisions as cl. (i) and in cl. (i), as so designated, redesignated former cls. (i) to (iii) as subcls. (I) to (III), and added cl. (ii).

Pub. L. 99-272, §9402(a), redesignated cl. (iv) as (iii) and in cl. (iii), as so redesignated, substituted “1986” for “1982”, and struck out former cl. (iii) which provided that the cost of such agreement to the hospital shall not be less than amount which reflects the rates per review established in fiscal year 1982 for both direct and administrative costs (adjusted for inflation).

Subsec. (a)(1)(H). Pub. L. 99-509, §9343(c)(2), struck out “inpatient hospital” after “hospitals which provide” and substituted “a patient” for “an inpatient”.

Pub. L. 99-509, §9320(h)(2), inserted “, and other than services of a certified registered nurse anesthetist” after “section 1395y(a)(14) of this title”.

Subsec. (a)(1)(I). Pub. L. 99-514 redesignated subpar. (I) relating to agreement not to charge for certain items and services as subpar. (K).

Pub. L. 99-272, §9403(b), added subpar. (I) relating to agreement not to charge for certain items or services.

Pub. L. 99-272, §9121(a), added subpar. (I) relating to compliance with the requirements of section 1395dd of this title.

Subsec. (a)(1)(J). Pub. L. 99-272, §9122(a), added subpar. (J).

Subsec. (a)(1)(K). Pub. L. 99-514 redesignated subpar. (I) relating to agreement not to charge for certain items and services as subpar. (K).

Subsec. (a)(1)(L). Pub. L. 99-576 added subpar. (L).

Subsec. (a)(1)(M). Pub. L. 99-509, §9305(b)(1), added subpar. (M).

Subsec. (a)(1)(N). Pub. L. 99-509, §9332(e)(1), added subpar. (N).

Subsec. (a)(2)(A). Pub. L. 99-272, §9401(b)(2)(F), inserted “, with respect to items and services furnished in connection with obtaining a second opinion required under section 1320c-13(c)(2) of this title (or a third opinion, if the second opinion was in disagreement with the first opinion),” after “1395x(s)(10)(A) of this title” in last sentence.

Subsec. (a)(4). Pub. L. 99-509, §9353(e)(1)(B), added par. (4).

Subsec. (e). Pub. L. 99-509, §9337(c)(2), inserted “(or meets the requirements of such section through the operation of section 1395x(g) of this title)” in two places, and inserted “or (through the operation of section 1395x(g) of this title) with respect to the furnishing of outpatient occupational therapy services” after “(as therein defined)”.

Subsec. (g). Pub. L. 99-509, §9343(c)(3), added subsec. (g).

1984—Subsec. (a)(1)(E). Pub. L. 98-369, §2354(b)(33), inserted a comma at end.

Subsec. (a)(1)(F). Pub. L. 98-369, §2347(a)(2), repealed amendment made by Pub. L. 98-21, §602(l)(1). See 1983 Amendment note below.

Pub. L. 98-369, §2347(a)(1), substituted “maintain an agreement with a professional standards review organization (if there is such an organization in existence in the area in which the hospital is located) or with a utilization and quality control peer review organization which has a contract with the Secretary under part B of subchapter XI for the area in which the hospital is located, under which the organization” for “maintain an agreement with a utilization and quality control peer review organization (if there is such an organiza-

tion which has a contract with the Secretary under part B of subchapter XI for the area in which the hospital is located) under which the organization”.

Pub. L. 98-369, § 2315(d), substituted “(b), (c), or (d)” for “(c) or (d)”.

Subsec. (a)(2)(A). Pub. L. 98-369, § 2323(b)(3), substituted “section 1395x(s)(10)(A) of this title” for “section 1395x(s)(10) of this title”.

Pub. L. 98-369, § 2321(c), inserted “or which are durable medical equipment furnished as home health services” after “part B”.

Pub. L. 98-369, § 2303(f), inserted “and with respect to clinical diagnostic laboratory tests” after “section 1395x(s)(10) of this title”.

Subsec. (b)(3). Pub. L. 98-369, § 2354(b)(34), realigned margin.

Pub. L. 98-369, § 2335(d)(1), substituted “(including inpatient psychiatric hospital services)” for “(including tuberculosis hospital services and inpatient psychiatric hospital services)”.

Subsec. (b)(4). Pub. L. 98-369, § 2348(a), substituted “more than 30 days after such effective date” for “after the calendar year in which such termination is effective”.

Subsec. (d). Pub. L. 98-369, § 2335(d)(2), substituted “(including inpatient psychiatric hospital services)” for “(including inpatient tuberculosis hospital services and inpatient psychiatric hospital services)”.

1983—Subsec. (a)(1). Pub. L. 98-21, § 602(l)(2), inserted provision at end of par. (1) that in the case of a hospital which has an agreement in effect with an organization described in subparagraph (F), which organization’s contract with the Secretary under part B of subchapter XI terminates on or after October 1, 1984, the hospital shall not be determined to be out of compliance with the requirement of such subparagraph during the six month period beginning on the date of the termination of that contract.

Subsec. (a)(1)(F). Pub. L. 98-21, § 602(l)(1), which provided that, effective Oct. 1, 1984, subpar. (F) is amended by substituting “(with an organization)” for “(if there is such an organization)”, was repealed by Pub. L. 98-369, § 2347(a)(2), effective July 18, 1984.

Subsec. (a)(1)(F) to (H). Pub. L. 98-21, § 602(f)(1), added subpars. (F) to (H).

Subsec. (a)(2)(A). Pub. L. 97-448, § 309(b)(11), inserted a comma after “1395e(a)(1)”.

Pub. L. 97-448, § 309(a)(5), amended directory language of Pub. L. 97-248, § 122(g)(5), to correct an error, and did not involve any change in text. See 1982 Amendment note below.

Subsec. (a)(2)(B)(ii). Pub. L. 98-21, § 602(f)(2), inserted “and except with respect to inpatient hospital costs with respect to which amounts are payable under section 1395ww(d) of this title” after “(except with respect to emergency services)” in provision preceding subcl. (I).

1982—Subsec. (a)(1)(B). Pub. L. 97-248, § 128(d)(4), inserted “of section 1395y(a) of this title”.

Subsec. (a)(1)(E). Pub. L. 97-248, § 144, added subpar. (E).

Subsec. (a)(2)(A). Pub. L. 97-248, § 122(g)(5), as amended by Pub. L. 97-448, § 309(a)(5), substituted “(a)(3), or (a)(4)” for “or (a)(3)”.

Subsec. (b). Pub. L. 97-248, § 128(a)(5), in provisions preceding par. (1), struck out “(and in the case of a skilled nursing facility, prior to the end of the term specified in subsection (a)(1) of this section)” after “may be terminated”.

Subsec. (b)(4)(A). Pub. L. 97-248, § 122(g)(6), inserted “or hospice care” after “home health services”.

1981—Subsec. (a)(1). Pub. L. 97-35 struck out provision following subpar. (D) which provided that an agreement with a skilled nursing facility be for a term not exceeding 12 months with the exception that the Secretary could extend the time in specified situations.

1980—Subsec. (a)(2)(A). Pub. L. 96-611 inserted provision that a provider of services may not impose a charge under clause (ii) of the first sentence of this subparagraph with respect to items and services described

in section 1395x(s)(10) of this title for which payment is made under part B of this subchapter.

Subsec. (c)(3). Pub. L. 96-272 added par. (3).

Subsec. (f). Pub. L. 96-499 added subsec. (f).

1978—Subsec. (a)(2)(A). Pub. L. 95-292 provided for computation of and charging of coinsurance amounts for items and services furnished individuals with end stage renal disease on the basis established by the Secretary.

1977—Subsec. (a)(1)(D). Pub. L. 95-142, § 15(a), added subpar. (D).

Subsec. (a)(3). Pub. L. 95-142, § 8(b)(1), added par. (3).

Subsec. (b)(2)(C). Pub. L. 95-142, § 3(b), designated existing provisions as subcl. (i) and added subcl. (ii).

Subsec. (b)(2)(F). Pub. L. 95-142, § 13(b)(3), substituted “of a quality which fails to meet professionally recognized standards of health care” for “harmful to individuals or to be of a grossly inferior quality”, and struck out provisions relating to approval by an appropriate program review team.

Subsec. (b)(2)(G). Pub. L. 95-142, § 8(b)(2), added cl. (G).

Subsec. (c)(2). Pub. L. 95-210 substituted “section 1396i(a) of this title” for “section 1396i of this title”.

1972—Subsec. (a)(1). Pub. L. 92-603, §§ 227(d)(2), 249A(b), 278(a)(17), (b)(18), 281(c), substituted “Any provider of services (except a fund designated for purposes of section 1395f(g) and section 1395n(e) of this title)” for “Any provider of services”, “skilled nursing facility” for “extended care facility”, inserted provision that the agreement be for a term of not to exceed 12 months with an allowable extension of 2 months under specified circumstances, redesignated subpar. (B) as (C) and added subpar. (B).

Subsec. (a)(2)(B). Pub. L. 92-603, § 223(e), designated existing provisions as cl. (i) and added cl. (ii).

Subsec. (a)(2)(C). Pub. L. 92-603, § 223(g)(2), substituted “this subparagraph” for “clause (iii) of the preceding sentence”.

Subsec. (a)(2)(D). Pub. L. 92-603, § 223(g)(1), added subpar. (D).

Subsec. (b). Pub. L. 92-603, §§ 229(b), 249A(c), 278(a)(17), inserted “(and in the case of an extended care facility, prior to the end of the term specified in subsection (a)(1) of this section)” in provision preceding par. (1), in par. (2), added cls. (D) to (F), and in par. (3), substituted “(including tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to services furnished after the effective date of such termination, except that payment may be made for up to thirty days with respect to inpatient institutional services furnished to any eligible individual who was admitted to such institution prior to” for “(including inpatient tuberculosis hospital services and inpatient psychiatric hospital services) or post-hospital extended care services, with respect to such services furnished to any individual who is admitted to the hospital or extended care facility furnishing such services on or after” and substituted “skilled nursing facility” for “extended care facility”.

Subsec. (c). Pub. L. 92-603, § 249A(d), designated existing provisions as par. (1) and added par. (2).

Subsec. (d). Pub. L. 92-603, § 278(a)(17), substituted “skilled nursing facility” for “extended care facility” and “a” for “an”.

1968—Subsec. (a)(2)(A). Pub. L. 90-248, § 129(c)(12)(A)(i), (ii), substituted “or (a)(3)” for “, (a)(2), or (a)(4)” in cl. (i), and deleted “or, in the case of outpatient hospital diagnostic services, for which payment is made under part A” in cl. (ii).

Subsec. (a)(2)(C). Pub. L. 90-248, § 129(c)(12)(B), substituted “1395e(a)(2)” for “1395e(a)(3)”.

Pub. L. 90-248, § 135(b), authorized a provider of services to charge for blood in accordance with its customary practices, included, in addition to whole blood for which a provider of services may charge, equivalent quantities of packed red blood cells, and provided that blood furnished an individual will be deemed replaced when the provider is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells) furnished the individual to which the three pint deductible applies.



Subsec. (e). Pub. L. 90-248, §133(c), added subsec. (e).

### Statutory Notes and Related Subsidiaries

#### CHANGE OF NAME

References to Medicare+Choice deemed to refer to Medicare Advantage or MA, subject to an appropriate transition provided by the Secretary of Health and Human Services in the use of those terms, see section 201 of Pub. L. 108-173, set out as a note under section 1395w-21 of this title.

#### EFFECTIVE DATE OF 2022 AMENDMENT

Amendment by Pub. L. 117-328 applicable with respect to items and services furnished on or after Jan. 1, 2024, see section 4124(d) of Pub. L. 117-328, set out as a note under section 1395k of this section.

#### EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 125(b)(1), (2)(A) of Pub. L. 116-260 applicable to items and services furnished on or after Jan. 1, 2023, see section 125(g) of Pub. L. 116-260, set out as a note under section 1395l of this title.

#### EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-182 effective on the date described in section 101(b) of Pub. L. 115-182, see section 144(b) of Pub. L. 115-182, set out as a note under section 1712 of Title 38, Veterans' Benefits.

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-40 applicable to contracts entered into or renewed on or after Jan. 1, 2012, see section 261(e) of Pub. L. 112-40, set out as a note under section 1320c of this title.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 6406(b) of Pub. L. 111-148 applicable to orders, certifications, and referrals made on or after Jan. 1, 2010, see section 6406(d) of Pub. L. 111-148, set out as a note under section 1320a-7 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 2003 AMENDMENT

Pub. L. 108-173, title II, §236(c), Dec. 8, 2003, 117 Stat. 2212, provided that: "The amendments made by this section [amending this section and sections 1395eee, 1396a, and 1396u-4 of this title] shall apply to services furnished on or after January 1, 2004."

Amendment by section 505(b) of Pub. L. 108-173 first applicable to the wage index for discharges occurring on or after Oct. 1, 2004, see section 505(c) of Pub. L. 108-173, set out as a note under section 1395ww of this title.

Pub. L. 108-173, title V, §506(b), Dec. 8, 2003, 117 Stat. 2295, provided that: "The amendments made by this section [amending this section] shall apply as of a date specified by the Secretary of Health and Human Services (but in no case later than 1 year after the date of enactment of this Act [Dec. 8, 2003]) to medicare participation agreements in effect (or entered into) on or after such date."

Amendment by section 932(b), (c)(1) of Pub. L. 108-173 applicable to appeals filed on or after Oct. 1, 2004, see section 932(d) of Pub. L. 108-173, set out as a note under section 1395i-3 of this title.

Pub. L. 108-173, title IX, §936(b), Dec. 8, 2003, 117 Stat. 2412, provided that:

"(1) ENROLLMENT PROCESS.—The Secretary [of Health and Human Services] shall provide for the establishment of the enrollment process under section 1866(j)(1) of the Social Security Act [42 U.S.C. 1395cc(j)(1)], as

added by subsection (a)(2), within 6 months after the date of the enactment of this Act [Dec. 8, 2003].

"(2) CONSULTATION.—Section 1866(j)(1)(C) of the Social Security Act [42 U.S.C. 1395cc(j)(1)(C)], as added by subsection (a)(2), shall apply with respect to changes in provider enrollment forms made on or after January 1, 2004.

"(3) HEARING RIGHTS.—Section 1866(j)(2) [now 1866(j)(8)] of the Social Security Act [42 U.S.C. 1395cc(j)(8)], as added by subsection (a)(2), shall apply to denials occurring on or after such date (not later than 1 year after the date of the enactment of this Act [Dec. 8, 2003]) as the Secretary specifies."

Pub. L. 108-173, title IX, §947(b), Dec. 8, 2003, 117 Stat. 2425, provided that: "The amendments made by this [sic] subsection (a) [amending this section] shall apply to hospitals as of July 1, 2004."

#### EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-554 applicable to services furnished on or after Jan. 1, 2001, see section 1(a)(6) [title III, §313(c)] of Pub. L. 106-554, set out as a note under section 1395u of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-113 effective as if included in the enactment of the Balanced Budget Act of 1997, Pub. L. 105-33, except as otherwise provided, see section 1000(a)(6) [title III, §321(m)] of Pub. L. 106-113, set out as a note under section 1395d of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-12 effective Apr. 30, 1997, and applicable to Federal payments made pursuant to obligations incurred after Apr. 30, 1997, for items and services provided on or after such date, subject to also being applicable with respect to contracts entered into, renewed, or extended after Apr. 30, 1997, as well as contracts entered into before Apr. 30, 1997, to the extent permitted under such contracts, see section 11 of Pub. L. 105-12, set out as an Effective Date note under section 14401 of this title.

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 4302(a) of Pub. L. 105-33 effective Aug. 5, 1997, and applicable to the entry and renewal of contracts on or after such date, see section 4302(c) of Pub. L. 105-33, set out as a note under section 1395u of this title.

Amendment by section 4321(b) of Pub. L. 105-33 effective as of date specified by Secretary of Health and Human Services in regulations to be issued by Secretary not later than date which is one year after Aug. 5, 1997, see section 4321(d)(2) of Pub. L. 105-33, set out as an Effective Date note under section 1320b-16 of this title.

Amendment by section 4432(b)(5)(F) of Pub. L. 105-33 applicable to items and services furnished on or after July 1, 1998, see section 4432(d) of Pub. L. 105-33, set out as a note under section 1395i-3 of this title.

Amendment by section 4511(a)(2)(D) of Pub. L. 105-33 applicable with respect to services furnished and supplies provided on and after Jan. 1, 1998, see section 4511(e) of Pub. L. 105-33, set out as a note under section 1395k of this title.

Amendment by section 4541(a)(3) of Pub. L. 105-33 applicable to services furnished on or after Jan. 1, 1999, see section 4541(e) of Pub. L. 105-33, set out as a note under section 1395l of this title.

Pub. L. 105-33, title IV, §4641(b), Aug. 5, 1997, 111 Stat. 487, provided that: "The amendment made by subsection (a) [amending this section] shall apply to provider agreements entered into, renewed, or extended on or after such date (not later than 1 year after the date of the enactment of this Act [Aug. 5, 1997]) as the Secretary of Health and Human Services specifies."

Amendments by section 4714(b)(1) of Pub. L. 105-33 applicable to payment for (and with respect to provider

agreements with respect to) items and services furnished on or after Aug. 5, 1997, see section 4714(c) of Pub. L. 105-33, set out as a note under section 1396a of this title.

#### EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title I, §106(b)(2), Oct. 31, 1994, 108 Stat. 4406, provided that: “The amendments made by paragraph (1) [amending this section and section 1395f of this title] shall take effect as if included in the enactment of OBRA-1987 [Pub. L. 100-203].”

Amendment by section 147(e)(7) of Pub. L. 103-432 effective as if included in the enactment of Pub. L. 101-508, see section 147(g) of Pub. L. 103-432, set out as a note under section 1320a-3a of this title.

Amendment by section 156(a)(2)(E) of Pub. L. 103-432 applicable to services provided on or after Oct. 31, 1994, see section 156(a)(3) of Pub. L. 103-432, set out as a note under section 1320c-3 of this title.

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title IV, §4008(b)(4), Nov. 5, 1990, 104 Stat. 1388-44, provided that: “The amendments made by this subsection [amending this section and section 1395dd of this title] shall apply to actions occurring on or after the first day of the sixth month beginning after the date of the enactment of this Act [Nov. 5, 1990].”

Pub. L. 101-508, title IV, §4153(d)(2), Nov. 5, 1990, 104 Stat. 1388-84, as amended by Pub. L. 103-432, title I, §135(e)(7), Oct. 31, 1994, 108 Stat. 4424, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of the Omnibus Budget Reconciliation Act of 1989 [Pub. L. 101-239].”

Amendment by section 4157(c)(2) of Pub. L. 101-508 applicable to services furnished on or after Jan. 1, 1991, see section 4157(d) of Pub. L. 101-508, set out as a note under section 1395k of this title.

Amendment by section 4162(b)(2) of Pub. L. 101-508 applicable with respect to partial hospitalization services provided on or after Oct. 1, 1991, see section 4162(c) of Pub. L. 101-508, set out as a note under section 1395k of this title.

Amendment by section 4206(a) of Pub. L. 101-508 applicable with respect to services furnished on or after the first day of the first month beginning more than 1 year after Nov. 5, 1990, see section 4206(e)(1) of Pub. L. 101-508, set out as a note under section 1395i-3 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VI, §6018(b), Dec. 19, 1989, 103 Stat. 2165, provided that: “The amendments made by subsection (a) [amending this section] shall take effect on the first day of the first month that begins more than 180 days after the date of the enactment of this Act [Dec. 19, 1989], without regard to whether regulations to carry out such amendments have been promulgated by such date.”

Amendment by section 6112(e)(3) of Pub. L. 101-239 applicable with respect to items furnished on or after Jan. 1, 1990, see section 6112(e)(4) of Pub. L. 101-239, set out as a note under section 1395m of this title.

Amendment by section 101(a) of Pub. L. 101-234 effective Jan. 1, 1990, see section 101(d) of Pub. L. 101-234, set out as a note under section 1395c of this title.

Amendment by section 201(a) of 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 608(d)(3)(F), (19)(A) of Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, and amendment by section 608(f)(1) of Pub. L. 100-485 effective Oct. 13, 1988, see section 608(g)(1), (2) of

Pub. L. 100-485, set out as a note under section 704 of this title.

Amendment by section 104(d)(5) of Pub. L. 100-360 effective Jan. 1, 1989, except as otherwise provided, and applicable to inpatient hospital deductible for 1989 and succeeding years, to care and services furnished on or after Jan. 1, 1989, to premiums for January 1989 and succeeding months, and to blood or blood cells furnished on or after Jan. 1, 1989, see section 104(a) of Pub. L. 100-360, set out as a note under section 1395d of this title.

Amendment by section 202(h)(1) of Pub. L. 100-360 applicable to items dispensed on or after Jan. 1, 1990, see section 202(m)(1) of Pub. L. 100-360, set out as a note under section 1395u of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by section 411(c)(2)(C), (g)(1)(D), (i)(4)(C)(vi), (j)(5) of Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

Pub. L. 100-360, title IV, §411(c)(2)(A)(ii), July 1, 1988, 102 Stat. 773, provided that: “The amendment made by clause (i) [amending this section] shall apply to admissions occurring on or after the first day of the fourth month beginning after the date of the enactment of this Act [July 1, 1988].”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by section 4012(a) of Pub. L. 100-203 applicable to admissions occurring on or after Apr. 1, 1988, or, if later, the earliest date the Secretary can provide the information required under section 4012(c) of Pub. L. 100-203 [42 U.S.C. 1395mm note] in machine readable form, see section 4012(d) of Pub. L. 100-203, set out as a note under section 1395mm of this title.

Amendment by section 4062(d)(4) of Pub. L. 100-203 applicable to covered items (other than oxygen and oxygen equipment) furnished on or after Jan. 1, 1989, and to oxygen and oxygen equipment furnished on or after June 1, 1989, see section 4062(e) of Pub. L. 100-203, as amended, set out as a note under section 1395f of this title.

Pub. L. 100-203, title IV, §4085(i)(17), Dec. 22, 1987, 101 Stat. 1330-133, provided that the amendment made by such section 4085(i)(17) is effective as if included in the enactment of Pub. L. 99-509.

Pub. L. 100-203, title IV, §4097(c), Dec. 22, 1987, 101 Stat. 1330-140, provided that: “The amendments made by this section [amending this section] shall apply with respect to fiscal years beginning on or after October 1, 1988.”

Amendment by section 4212(e)(4) of Pub. L. 100-203 applicable to nursing facility services furnished on or after Oct. 1, 1990, without regard to whether regulations implementing such amendment are promulgated by such date, except as otherwise specifically provided in section 1396r of this title, with transitional rule, see section 4214(a), (b)(2) of Pub. L. 100-203, as amended, set out as an Effective Date note under section 1396r of this title.

Amendment by Pub. L. 100-93 effective at end of fourteen-day period beginning Aug. 18, 1987, and inapplicable to administrative proceedings commenced before end of such period, see section 15(a) of Pub. L. 100-93, set out as a note under section 1320a-7 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-576, title II, §233(b), Oct. 28, 1986, 100 Stat. 3265, provided that: “The amendments made by subsection (a) [amending this section] shall apply to inpatient hospital services provided pursuant to admissions to hospitals occurring after June 30, 1987.”

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in enactment of the Consolidated Omnibus Budget Reconciliation Act of 1985,

Pub. L. 99-272, see section 1895(e) of Pub. L. 99-514, set out as a note under section 162 of Title 26, Internal Revenue Code.

Pub. L. 99-509, title IX, §9305(b)(2), Oct. 21, 1986, 100 Stat. 1989, provided that: "The Secretary of Health and Human Services shall first prescribe the language required under section 1866(a)(1)(M) of the Social Security Act [42 U.S.C. 1395cc(a)(1)(M)] not later than six months after the date of the enactment of this Act [Oct. 21, 1986]. The requirement of such section shall apply to admissions to hospitals occurring on such date (not later than 60 days after the date such language is first prescribed) as the Secretary shall provide."

Amendment by section 9320(h)(2) of Pub. L. 99-509 applicable to services furnished on or after Jan. 1, 1989, with exceptions for hospitals located in rural areas which meet certain requirements related to certified registered nurse anesthetists, see section 9320(i), (k) of Pub. L. 99-509, as amended, set out as notes under section 1395k of this title.

Pub. L. 99-509, title IX, §9332(e)(2), Oct. 21, 1986, 100 Stat. 2025, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to agreements under section 1866(a) of the Social Security Act [42 U.S.C. 1395cc(a)] as of October 1, 1987."

Amendment by section 9337(c)(2) of 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.

Amendment by section 9343(c)(2), (3) of Pub. L. 99-509 applicable to services furnished after June 30, 1987, see section 9343(h)(4) of Pub. L. 99-509, as amended, set out as a note under section 1395l of this title.

Pub. L. 99-509, title IX, §9353(e)(3)(A), Oct. 21, 1986, 100 Stat. 2049, provided that: "The amendments made by paragraph (1) [amending this section] shall apply to provider agreements as of October 1, 1987."

Amendment by section 9121(a) of Pub. L. 99-272 effective on first day of first month that begins at least 90 days after Apr. 7, 1986, see section 9121(c) of Pub. L. 99-272, set out as a note under section 1395dd of this title.

Pub. L. 99-272, title IX, §9122(b), Apr. 7, 1986, 100 Stat. 167, as amended by Pub. L. 99-514, title XVIII, §1895(b)(6), Oct. 22, 1986, 100 Stat. 2933, provided that: "The amendments made by subsection (a) [amending this section] shall apply to inpatient hospital services provided pursuant to admissions to hospitals occurring on or after January 1, 1987."

Pub. L. 99-272, title IX, §9402(c)(1), Apr. 7, 1986, 100 Stat. 200, provided that: "The amendments made by subsection (a) [amending this section] shall become effective on the date of the enactment of this Act [Apr. 7, 1986]."

Amendment by section 9403(b) of Pub. L. 99-272 effective Apr. 7, 1986, see section 9403(c) of Pub. L. 99-272, set out as a note under section 1320c-3 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2303(f) of Pub. L. 98-369 applicable to clinical diagnostic laboratory tests furnished on or after July 1, 1984, but not applicable to clinical diagnostic laboratory tests furnished to inpatients of a provider operating under a waiver granted pursuant to section 602(k) of Pub. L. 98-21, set out as a note under section 1395y of this title, see section 2303(j)(1), (3) of Pub. L. 98-369, set out as a note under section 1395l of this title.

Amendment by section 2315(d) of Pub. L. 98-369 effective as though included in the enactment of the Social Security Amendments of 1983, Pub. L. 98-21, see section 2315(g) of Pub. L. 98-369, set out as an Effective and Termination Dates of 1984 Amendment note under section 1395ww of this title.

Amendment by section 2321(c) of Pub. L. 98-369 applicable to items and services furnished on or after July 18, 1984, see section 2321(g) of Pub. L. 98-369, set out as a note under section 1395f of this title.

Amendment by section 2323(b)(3) of Pub. L. 98-369 applicable to services furnished on or after Sept. 1, 1984,

see section 2323(d) of Pub. L. 98-369, set out as a note under section 1395l of this title.

Amendment by section 2335(d) of Pub. L. 98-369 effective July 18, 1984, see section 2335(g) of Pub. L. 98-369, set out as a note under section 1395f of this title.

Amendment by section 2347(a) of Pub. L. 98-369 effective July 18, 1984, see section 2347(d) of Pub. L. 98-369, set out as a note under section 1320c-2 of this title.

Pub. L. 98-369, div. B, title III, §2348(b), July 18, 1984, 98 Stat. 1097, provided that: "The amendment made by this section [amending this section] shall apply to terminations issued on or after the date of the enactment of this Act [July 18, 1984]."

Amendment by section 2354(b)(33), (34) 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

Pub. L. 98-21, title VI, §602(f), Apr. 20, 1983, 97 Stat. 166, as amended by Pub. L. 98-369, div. B, title III, §2347(a)(2), July 18, 1984, 98 Stat. 1096, provided that the amendment made by that section is effective Oct. 1, 1984.

Amendment by section 602(f)(2) of 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.

Subsec. (a)(1)(F) to (H) of this section, as added by section 602(f)(1)(C) of Pub. L. 98-21, effective Oct. 1, 1983, see section 604(a)(2) of Pub. L. 98-21, set out as a note under section 1395ww of this title.

Amendment by section 309(a)(5) of Pub. L. 97-448 effective as if originally included in the provision of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, to which such amendment relates, see section 309(c)(1) of Pub. L. 97-448, set out as a note under section 426 of this title.

Amendment by section 309(b)(11) of Pub. L. 97-448 effective as if originally included as a part of this section as this section was amended by the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248, see section 309(c)(2) of Pub. L. 97-448, set out as a note under section 426-1 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by section 122(g)(5), (6) of Pub. L. 97-248 applicable to hospice care provided on or after Nov. 1, 1983, see section 122(h)(1) of Pub. L. 97-248, as amended, set out as a note under section 1395c of this title.

Amendment by section 128(a)(5) of Pub. L. 97-248 effective as if originally included as part of this section as this section was amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, see section 128(e)(2) of Pub. L. 97-248, set out as a note under section 1395x of this title.

Amendment by section 128(d)(4) of Pub. L. 97-248 effective Sept. 3, 1982, see section 128(e)(3) of Pub. L. 97-248, set out as a note under section 1395x of this title.

Amendment by section 144 of Pub. L. 97-248 effective with respect to contracts entered into or renewed on or after Sept. 3, 1982, see section 149 of Pub. L. 97-248, set out as an Effective Date note under section 1320c of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-611 effective July 1, 1981, and applicable to services furnished on or after that date, see section 2 of Pub. L. 96-611, set out as a note under section 1395l of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-292 effective with respect to services, supplies, and equipment furnished after the

third calendar month beginning after June 13, 1978, except that provisions for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers to become effective with respect to a facility's or provider's first accounting period beginning after the last day of the twelfth month following the month of June 1978, and except that provisions for reimbursement rates for home dialysis to become effective on Apr. 1, 1979, see section 6 of Pub. L. 95-292, set out as a note under section 426 of this title.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-210, §2(f), Dec. 13, 1977, 91 Stat. 1489, provided that:

“(1) The amendments made by this section [amending this section and sections 1396a, 1396d, and 1396i of this title] shall (except as otherwise provided in paragraph (2)) apply to medical assistance provided, under a State plan approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.], on and after the first day of the first calendar quarter that begins more than six months after the date of enactment of this Act [Dec. 13, 1977].

“(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] which the Secretary determines requires State legislation in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title [42 U.S.C. 1396 et seq.] solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of enactment of this Act [Dec. 13, 1977].”

Amendment by section 3(b) of Pub. L. 95-142 effective Oct. 25, 1977, see section 3(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-3 of this title.

Amendment by section 8(b) of Pub. L. 95-142 [amending this section] applicable with respect to contracts, agreements, etc., made on and after first day of fourth month beginning after Oct. 25, 1977, see section 8(e) of Pub. L. 95-142, set out as an Effective Date note under section 1320a-5 of this title.

Amendment by section 13(b)(3) of Pub. L. 95-142 effective Oct. 25, 1977, see section 13(c) of Pub. L. 95-142, set out as a note under section 1395y of this title.

Pub. L. 95-142, §15(b), Oct. 25, 1977, 91 Stat. 1200, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to agreements entered into or renewed on and after the date of enactment of this Act [Oct. 25, 1977].”

#### EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 223(e), (g) of Pub. L. 92-603 effective with respect to accounting periods beginning after Dec. 31, 1972, see section 223(h) of Pub. L. 92-603, set out as a note under section 1395x of this title.

Amendment by section 227(d)(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.

Pub. L. 92-603, title II, §249A(e), Oct. 30, 1972, 86 Stat. 1427, provided that: “The provisions of this section [enacting section 1396 of this title and amending this section] shall be effective with respect to agreements filed with the Secretary under section 1866 of the Social Security Act [42 U.S.C. 1395cc] by skilled nursing facilities (as defined in section 1861(j) of such Act [42 U.S.C. 1395x(j)]) before, on, or after the date of enactment of this Act [Oct. 30, 1972], but accepted by him on or after such date.”

Amendment by section 281(c) of Pub. L. 92-603 applicable in the case of notices sent to individuals after 1968, see section 281(g) of Pub. L. 92-603, set out as a note under section 1395gg of this title.

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 129(c)(12) of Pub. L. 90-248 applicable with respect to services furnished after Mar. 31, 1968, see section 129(d) of Pub. L. 90-248, set out as a note under section 1395d of this title.

Amendment by section 133(c) 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.

Amendment by section 135(b) of Pub. L. 90-248 applicable with respect to payment for blood (or packed red blood cells) furnished an individual after Dec. 31, 1967, see section 135(d) of Pub. L. 90-248, set out as a note under section 1395e of this title.

#### REGULATIONS

Pub. L. 108-173, title V, §506(c), Dec. 8, 2003, 117 Stat. 2295, provided that: “The Secretary [of Health and Human Services] shall promulgate regulations to carry out the amendments made by subsection (a) [amending this section].”

#### RULE OF CONSTRUCTION

Nothing in section 102 of div. BB of Pub. L. 116-260 to be construed as modifying, reducing, or eliminating the requirements under 42 U.S.C. 1395cc(a)(1)(U), see section 102(d)(3) of div. BB of Pub. L. 116-260, set out as a note under section 1621u of Title 25, Indians.

#### DISCLOSURE OF MEDICARE TERMINATED PROVIDERS AND SUPPLIERS TO STATES

Pub. L. 111-148, title VI, §6401(b)(2), Mar. 23, 2010, 124 Stat. 752, provided that: “The Administrator of the Centers for Medicare & Medicaid Services shall establish a process for making available to the each [sic] State agency with responsibility for administering a State Medicaid plan (or a waiver of such plan) under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] or a child health plan under title XXI [42 U.S.C. 1397aa et seq.] the name, national provider identifier, and other identifying information for any provider of medical or other items or services or supplier under the Medicare program under title XVIII [42 U.S.C. 1395 et seq.] or under the CHIP program under title XXI that is terminated from participation under that program within 30 days of the termination (and, with respect to all such providers or suppliers who are terminated from the Medicare program on the date of enactment of this Act [Mar. 23, 2010], within 90 days of such date).”

#### OFFICE OF THE INSPECTOR GENERAL REPORT ON COMPLIANCE WITH AND ENFORCEMENT OF NATIONAL STANDARDS ON CULTURALLY AND LINGUISTICALLY APPROPRIATE SERVICES (CLAS) IN MEDICARE

Pub. L. 110-275, title I, §187, July 15, 2008, 122 Stat. 2588, provided that:

“(a) REPORT.—Not later than two years after the date of the enactment of this Act [July 15, 2008], the Inspector General of the Department of Health and Human Services shall prepare and publish a report on—

“(1) the extent to which Medicare providers and plans are complying with the Office for Civil Rights' Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons and the Office of Minority Health's Culturally and Linguistically Appropriate Services Standards in health care; and

“(2) a description of the costs associated with or savings related to the provision of language services. Such report shall include recommendations on improving compliance with CLAS Standards and recommendations on improving enforcement of CLAS Standards.

“(b) IMPLEMENTATION.—Not later than one year after the date of publication of the report under subsection (a), the Department of Health and Human Services shall implement changes responsive to any deficiencies identified in the report.”

GAO STUDY AND REPORT ON THE PROPAGATION OF  
CONCIERGE CARE

Pub. L. 108-173, title VI, §650, Dec. 8, 2003, 117 Stat. 2331, provided that:

“(a) STUDY.—

“(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study on concierge care (as defined in paragraph (2)) to determine the extent to which such care—

“(A) is used by medicare beneficiaries (as defined in section 1802(b)(5)(A) of the Social Security Act [42 U.S.C. 1395a(b)(5)(A)]); and

“(B) has impacted upon the access of medicare beneficiaries (as so defined) to items and services for which reimbursement is provided under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.).

“(2) CONCIERGE CARE.—In this section, the term ‘concierge care’ means an arrangement under which, as a prerequisite for the provision of a health care item or service to an individual, a physician, practitioner (as described in section 1842(b)(18)(C) of the Social Security Act (42 U.S.C. 1395u(b)(18)(C))), or other individual—

“(A) charges a membership fee or another incidental fee to an individual desiring to receive the health care item or service from such physician, practitioner, or other individual; or

“(B) requires the individual desiring to receive the health care item or service from such physician, practitioner, or other individual to purchase an item or service.

“(b) REPORT.—Not later than the date that is 12 months after the date of enactment of this Act [Dec. 8, 2003], the Comptroller General of the United States shall submit to Congress a report on the study conducted under subsection (a)(1) together with such recommendations for legislative or administrative action as the Comptroller General determines to be appropriate.”

EFFECT ON STATE LAW

Pub. L. 101-508, title IV, §4206(c), Nov. 5, 1990, 104 Stat. 1388-116, provided that: “Nothing in subsections (a) and (b) [amending this section and sections 1395l and 1395mm of this title] shall be construed to prohibit the application of a State law which allows for an objection on the basis of conscience for any health care provider or any agent of such provider which, as a matter of conscience, cannot implement an advance directive.”

REPORTS TO CONGRESS ON NUMBER OF HOSPITALS TERMINATING OR NOT RENEWING PROVIDER AGREEMENTS

Pub. L. 99-576, title II, §233(c), Oct. 28, 1986, 100 Stat. 3265, provided that:

“(1) The Secretary of Health and Human Services shall periodically submit to the Congress a report on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act [42 U.S.C. 1395cc] as a result of the additional conditions imposed under the amendments made by subsection (a) [amending this section].

“(2) Not later than October 1, 1987, the Administrator of Veterans’ Affairs shall submit to the Committees on Veterans’ Affairs of the Senate and House of Representatives a report regarding implementation of this section [amending this section]. Thereafter, the Administrator shall notify such committees if any hospital terminates or fails to renew an agreement described in paragraph (1) for the reasons described in that paragraph.”

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which item 7 on page 96 identifies a report on “Hospitals that have terminated or failed to renew an agreement under section 1866 of Social Security Act as a result of the additional conditions imposed” authorized by 42 U.S.C. 1395cc note), see

section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

Pub. L. 99-272, title IX, §9122(d), Apr. 7, 1986, 100 Stat. 167, provided that: “The Secretary of Health and Human Services shall report to Congress periodically on the number of hospitals that have terminated or failed to renew an agreement under section 1866 of the Social Security Act [42 U.S.C. 1395cc] as a result of the additional conditions imposed under the amendments made by subsection (a) [amending this section].”

[For termination, effective May 15, 2000, of provisions of law requiring submittal to Congress of any annual, semiannual, or other regular periodic report listed in House Document No. 103-7 (in which item 7 on page 96 identifies a report on “Hospitals that have terminated or failed to renew an agreement under section 1866 of Social Security Act as a result of the additional conditions imposed” authorized by 42 U.S.C. 1395cc note), see section 3003 of Pub. L. 104-66, as amended, set out as a note under section 1113 of Title 31, Money and Finance.]

DELAY IN IMPLEMENTATION OF REQUIREMENT THAT  
HOSPITALS MAINTAIN AGREEMENTS WITH UTILIZATION  
AND QUALITY CONTROL PEER REVIEW ORGANIZATION

Pub. L. 98-369, div. B, title III, §2347(b), July 18, 1984, 98 Stat. 1096, provided that: “Notwithstanding section 604(a)(2) of the Social Security Amendments of 1983 [section 604(a)(2) of Pub. L. 98-21, set out as an Effective Date of 1983 Amendment note under section 1395ww of this title], the requirement that a hospital maintain an agreement with a utilization and quality control peer review [now “quality improvement”] organization, as contained in section 1866(a)(1)(F) of the Social Security Act [42 U.S.C. 1395cc(a)(1)(F)], shall become effective on November 15, 1984.”

INTERIM WAIVER IN CERTAIN CASES OF BILLING RULE  
FOR ITEMS AND SERVICES OTHER THAN PHYSICIANS’  
SERVICES

For authority to waive the requirements of subsec. (a)(1)(H) of this section for any cost period prior to Oct. 1, 1986, where immediate compliance would threaten the stability of patient care, see section 602(k) of Pub. L. 98-21, set out as a note under section 1395y of this title.

PRIVATE SECTOR REVIEW INITIATIVE

Pub. L. 97-248, title I, §119, Sept. 3, 1982, 96 Stat. 355, provided that:

“(a) The Secretary of Health and Human Services shall undertake an initiative to improve medical review by intermediaries and carriers under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] and to encourage similar review efforts by private insurers and other private entities. The initiative shall include the development of specific standards for measuring the performance of such intermediaries and carriers with respect to the identification and reduction of unnecessary utilization of health services.

“(b) Where such review activity results in the denial of payment to providers of services under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.], such providers shall be prohibited, in accordance with sections 1866 and 1879 of such title [42 U.S.C. 1395cc, 1395pp], from collecting any payments from beneficiaries unless otherwise provided under such title.”

AGREEMENTS FILED AND ACCEPTED PRIOR TO OCT. 30,  
1972, DEEMED TO BE FOR SPECIFIED TERM ENDING  
DEC. 31, 1973

Pub. L. 92-603, title II, §249A(f), Oct. 30, 1972, 86 Stat. 1427, provided that: “Notwithstanding any other provision of law, any agreement, filed by a skilled nursing facility (as defined in section 1861(j) of the Social Security Act [42 U.S.C. 1395x(j)]) with the Secretary under section 1866 of such Act [42 U.S.C. 1395cc] and accepted by him prior to the date of enactment of this Act [Oct. 30, 1972], which was in effect on such date shall be deemed to be for a specified term ending on December 31, 1973.”

**§ 1395cc-1. Demonstration of application of physician volume increases to group practices**

**(a) Demonstration program authorized**

**(1) In general**

The Secretary shall conduct demonstration projects to test and, if proven effective, expand the use of incentives to health care groups participating in the program under this subchapter that—

(A) encourage coordination of the care furnished to individuals under the programs under parts A and B by institutional and other providers, practitioners, and suppliers of health care items and services;

(B) encourage investment in administrative structures and processes to ensure efficient service delivery; and

(C) reward physicians for improving health outcomes.

Such projects shall focus on the efficiencies of furnishing health care in a group-practice setting as compared to the efficiencies of furnishing health care in other health care delivery systems.

**(2) Administration by contract**

Except as otherwise specifically provided, the Secretary may administer the program under this section in accordance with section 1395cc-2 of this title.

**(3) Definitions**

For purposes of this section, terms have the following meanings:

**(A) Physician**

Except as the Secretary may otherwise provide, the term “physician” means any individual who furnishes services which may be paid for as physicians’ services under this subchapter.

**(B) Health care group**

The term “health care group” means a group of physicians (as defined in subparagraph (A)) organized at least in part for the purpose of providing physicians’ services under this subchapter. As the Secretary finds appropriate, a health care group may include a hospital and any other individual or entity furnishing items or services for which payment may be made under this subchapter that is affiliated with the health care group under an arrangement structured so that such individual or entity participates in a demonstration under this section and will share in any bonus earned under subsection (d).

**(b) Eligibility criteria**

**(1) In general**

The Secretary is authorized to establish criteria for health care groups eligible to participate in a demonstration under this section, including criteria relating to numbers of health care professionals in, and of patients served by, the group, scope of services provided, and quality of care.

**(2) Payment method**

A health care group participating in the demonstration under this section shall agree

with respect to services furnished to beneficiaries within the scope of the demonstration (as determined under subsection (c))—

(A) to be paid on a fee-for-service basis; and

(B) that payment with respect to all such services furnished by members of the health care group to such beneficiaries shall (where determined appropriate by the Secretary) be made to a single entity.

**(3) Data reporting**

A health care group participating in a demonstration under this section shall report to the Secretary such data, at such times and in such format as the Secretary requires, for purposes of monitoring and evaluation of the demonstration under this section.

**(c) Patients within scope of demonstration**

**(1) In general**

The Secretary shall specify, in accordance with this subsection, the criteria for identifying those patients of a health care group who shall be considered within the scope of the demonstration under this section for purposes of application of subsection (d) and for assessment of the effectiveness of the group in achieving the objectives of this section.

**(2) Other criteria**

The Secretary may establish additional criteria for inclusion of beneficiaries within a demonstration under this section, which may include frequency of contact with physicians in the group or other factors or criteria that the Secretary finds to be appropriate.

**(3) Notice requirements**

In the case of each beneficiary determined to be within the scope of a demonstration under this section with respect to a specific health care group, the Secretary shall ensure that such beneficiary is notified of the incentives, and of any waivers of coverage or payment rules, applicable to such group under such demonstration.

**(d) Incentives**

**(1) Performance target**

The Secretary shall establish for each health care group participating in a demonstration under this section—

(A) a base expenditure amount, equal to the average total payments under parts A and B for patients served by the health care group on a fee-for-service basis in a base period determined by the Secretary; and

(B) an annual per capita expenditure target for patients determined to be within the scope of the demonstration, reflecting the base expenditure amount adjusted for risk and expected growth rates.

**(2) Incentive bonus**

The Secretary shall pay to each participating health care group (subject to paragraph (4)) a bonus for each year under the demonstration equal to a portion of the medicare savings realized for such year relative to the performance target.