

WAIVER OF LIMITATIONS TO ALLOW PRE-EXISTING
HOSPICES TO PARTICIPATE AS A HOSPICE PROGRAM

Pub. L. 97-248, title I, §122(k), formerly §122(j), Sept. 3, 1982, 96 Stat. 363, as redesignated and amended by Pub. L. 97-448, title III, §309(a)(6), (7), Jan. 12, 1983, 96 Stat. 2408, provided that: "The Secretary of Health and Human Services shall grant waivers of the limitations imposed by section 1814(i)(2) of the Social Security Act [42 U.S.C. 1395f(i)(2)] (relating to the cap amount), section 1861(dd)(1)(G) of such Act [42 U.S.C. 1395x(dd)(1)(G)] (relating to the limitations on the frequency and number of respite care days), and section 1861(dd)(2)(A)(iii) of such Act [42 U.S.C. 1395x(dd)(2)(A)(iii)] (relating to the aggregate limit on the number of days of inpatient care), as may be necessary to allow any institution which commenced operations as a hospice prior to January 1, 1975, to participate until October 1, 1986, in a viable manner as a hospice program under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.]"

MEDICARE PAYMENT BASIS FOR SERVICES PROVIDED BY
AGENCIES AND PROVIDERS; EFFECTIVE DATE

Pub. L. 93-233, §16, Dec. 31, 1973, 87 Stat. 967, provided that: "In the administration of titles V, XVIII, and XIX of the Social Security Act [42 U.S.C. 701 et seq., 1395 et seq., 1396 et seq.], the amount payable under such title to any provider of services on account of services provided by such hospital, skilled nursing facility, or home health agency shall be determined (for any period with respect to which the amendments made by section 233 of Public Law 92-603 [this section and sections 706, 709, 1395f, and 1396b of this title] would, except for the provisions of this section, be applicable) in like manner as if the date contained in the first and second sentences of subsection (f) of such section 233 [set out as an Effective Date of 1972 Amendment note above] were December 31, 1973, rather than December 31, 1972."

§ 1395g. Payments to providers of services

(a) Determination of amount

The Secretary shall periodically determine the amount which should be paid under this part to each provider of services with respect to the services furnished by it, and the provider of services shall be paid, at such time or times as the Secretary believes appropriate (but not less often than monthly) and prior to audit or settlement by the Government Accountability Office, from the Federal Hospital Insurance Trust Fund, the amounts so determined, with necessary adjustments on account of previously made overpayments or underpayments; except that no such payments shall be made to any provider unless it has furnished such information as the Secretary may request in order to determine the amounts due such provider under this part for the period with respect to which the amounts are being paid or any prior period.

(b) Conditions

No payment shall be made to a provider of services which is a hospital for or with respect to services furnished by it for any period with respect to which it is deemed, under section 1395x(w)(2) of this title, to have in effect an arrangement with a quality improvement organization for the conduct of utilization review activities by such organization unless such hospital has paid to such organization the amount due (as determined pursuant to such section) to such organization for the review activities conducted by it pursuant to such arrangements or such hospital has provided assurances satisfactory to the Secretary that such organization

will promptly be paid the amount so due to it from the proceeds of the payment claimed by the hospital. Payment under this subchapter for utilization review activities provided by a quality improvement organization pursuant to an arrangement or deemed arrangement with a hospital under section 1395x(w)(2) of this title shall be calculated without any requirement that the reasonable cost of such activities be apportioned among the patients of such hospital, if any, to whom such activities were not applicable.

(c) Payments under assignment or power of attorney

No payment which may be made to a provider of services under this subchapter for any service furnished to an individual shall be made to any other person under an assignment or power of attorney; but nothing in this subsection shall be construed (1) to prevent the making of such a payment in accordance with an assignment from the provider if such assignment is made to a governmental agency or entity or is established by or pursuant to the order of a court of competent jurisdiction, or (2) to preclude an agent of the provider of services from receiving any such payment if (but only if) such agent does so pursuant to an agency agreement under which the compensation to be paid to the agent for his services for or in connection with the billing or collection of payments due such provider under this subchapter is unrelated (directly or indirectly) to the amount of such payments or the billings therefor, and is not dependent upon the actual collection of any such payment.

(d) Accrual of interest on balance of excess or deficit not paid

Whenever a final determination is made that the amount of payment made under this part to a provider of services was in excess of or less than the amount of payment that is due, and payment of such excess or deficit is not made (or effected by offset) within 30 days of the date of the determination, interest shall accrue on the balance of such excess or deficit not paid or offset (to the extent that the balance is owed by or owing to the provider) at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments (or, in the case of such a determination made with respect to a payment made on or after March 27, 2020, and during the emergency period described in section 1320b-5(g)(1)(B) of this title under the program under subsection (e)(3), including such program as expanded pursuant to subsection (f), at a rate of 4 percent).

(e) Periodic interim payments

(1) The Secretary shall provide payment under this part for inpatient hospital services furnished by a subsection (d) hospital (as defined in section 1395ww(d)(1)(B) of this title, and including a distinct psychiatric or rehabilitation unit of such a hospital) and a subsection (d) Puerto Rico hospital (as defined in section 1395ww(d)(9)(A) of this title) on a periodic interim payment basis (rather than on the basis of bills actually submitted) in the following cases:

(A) Upon the request of a hospital which is paid through an agency or organization with an agreement with the Secretary under sec-

tion 1395h of this title, if the agency or organization, for three consecutive calendar months, fails to meet the requirements of subsection (c)(2) of such section and if the hospital meets the requirements (in effect as of October 1, 1986) applicable to payment on such a basis, until such time as the agency or organization meets such requirements for three consecutive calendar months.

(B) In the case of a hospital that—

(i) has a disproportionate share adjustment percentage (as established in clause (iv) of such section) of at least 5.1 percent (as computed for purposes of establishing the average standardized amounts for discharges occurring during fiscal year 1987), and

(ii) requests payment on such basis,

but only if the hospital was being paid for inpatient hospital services on such a periodic interim payment basis as of June 30, 1987, and continues to meet the requirements (in effect as of October 1, 1986) applicable to payment on such a basis.

(C) In the case of a hospital that—

(i) is located in a rural area,

(ii) has 100 or fewer beds, and

(iii) requests payment on such basis,

but only if the hospital was being paid for inpatient hospital services on such a periodic interim payment basis as of June 30, 1987, and continues to meet the requirements (in effect as of October 1, 1986) applicable to payment on such a basis.

(2) The Secretary shall provide (or continue to provide) for payment on a periodic interim payment basis (under the standards established under section 405.454(j) of title 42, Code of Federal Regulations, as in effect on October 1, 1986, in the cases described in subparagraphs (A) through (D)) with respect to—

(A) inpatient hospital services of a hospital that is not a subsection (d) hospital (as defined in section 1395ww(d)(1)(B) of this title);

(B) a hospital which is receiving payment under a State hospital reimbursement system under section 1395f(b)(3) or 1395ww(c) of this title, if payment on a periodic interim payment basis is an integral part of such reimbursement system;

(C) extended care services;

(D) hospice care; and

(E) inpatient critical access hospital services;

if the provider of such services elects to receive, and qualifies for, such payments.

(3) Subject to subsection (f), in the case of a subsection (d) hospital or a subsection (d) Puerto Rico hospital (as defined for purposes of section 1395ww of this title) which has significant cash flow problems resulting from operations of its intermediary or from unusual circumstances of the hospital's operation, the Secretary may make available appropriate accelerated payments.

(4) A hospital created by the merger or consolidation of 2 or more hospitals or hospital campuses shall be eligible to receive periodic interim payment on the basis described in paragraph (1)(B) if—

(A) at least one of the hospitals or campuses received periodic interim payment on such basis prior to the merger or consolidation; and

(B) the merging or consolidating hospitals or campuses would each meet the requirement of paragraph (1)(B)(i) if such hospitals or campuses were treated as independent hospitals for purposes of this subchapter.

(f) Expansion of accelerated payment program during COVID-19 public health emergency

(1) During the emergency period described in section 1320b-5(g)(1)(B) of this title, the Secretary shall expand the program under subsection (e)(3) pursuant to paragraph (2).

(2) In expanding the program under subsection (e)(3), the following shall apply:

(A)(i) In addition to the hospitals described in subsection (e)(3), the following hospitals shall be eligible to participate in the program:

(I) Hospitals described in clause (iii) of section 1395ww(d)(1)(B) of this title.

(II) Hospitals described in clause (v) of such section.

(III) Critical access hospitals (as defined in section 1395x(mm)(1) of this title).

(ii) Subject to appropriate safeguards against fraud, waste, and abuse, upon a request of a hospital described in clause (i), the Secretary shall (or, with respect to requests submitted to the Secretary after April 26, 2020, may) provide accelerated payments under the program to such hospital.

(B) Upon the request of the hospital, the Secretary may do any of the following:

(i) Make accelerated payments on a periodic or lump sum basis.

(ii) Increase the amount of payment that would otherwise be made to hospitals under the program up to 100 percent (or, in the case of critical access hospitals, up to 125 percent).

(iii) Extend the period that accelerated payments cover so that it covers up to a 6-month period.

(C) In the case of a payment made under the terms of the program under subsection (e)(3), including such program as expanded pursuant to this subsection, on or after March 27, 2020, and so made during the emergency period described in section 1320b-5(g)(1)(B) of this title, upon request of a hospital, the Secretary shall—

(i) provide 1 year before payments for items and services furnished by the hospital are offset to recoup payments under such program;

(ii) provide that any such offset be an amount equal to—

(I) during the first 11 months in which any such offsets are made with respect to payment for items and services furnished by the hospital, 25 percent of the amount of such payment for such items and services; and

(II) during the succeeding 6 months, 50 percent of the amount of such payment for such items and services; and

(iii) allow 29 months from the date of the first payment under such program to such

provider before requiring that the outstanding balance be paid in full.

(3) Nothing in this subsection shall preclude the Secretary from carrying out the provisions described in clauses (i), (ii), and (iii) of paragraph (2)(B) and clauses (i) and (ii) of paragraph (2)(C) under the program under subsection (e)(3) after the period for which this subsection applies.

(4) Notwithstanding any other provision of law, the Secretary may implement the provisions of this subsection by program instruction or otherwise.

(Aug. 14, 1935, ch. 531, title XVIII, § 1815, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79 Stat. 297; amended Pub. L. 94-182, title I, § 112(a)(2), Dec. 31, 1975, 89 Stat. 1055; Pub. L. 95-142, § 2(a)(2), Oct. 25, 1977, 91 Stat. 1175; Pub. L. 96-473, § 6(i), Oct. 19, 1980, 94 Stat. 2266; Pub. L. 97-248, title I, §§ 117(a)(1), 148(b), Sept. 3, 1982, 96 Stat. 354, 394; Pub. L. 99-509, title IX, § 9311(a)(1), Oct. 21, 1986, 100 Stat. 1996; Pub. L. 101-239, title VI, § 6021(a), Dec. 19, 1989, 103 Stat. 2166; Pub. L. 105-33, title IV, § 4603(b), Aug. 5, 1997, 111 Stat. 470; Pub. L. 108-173, title IV, § 405(c)(1), title VII, § 736(a)(3), Dec. 8, 2003, 117 Stat. 2266, 2354; Pub. L. 108-271, § 8(b), July 7, 2004, 118 Stat. 814; Pub. L. 112-40, title II, § 261(a)(3)(B), Oct. 21, 2011, 125 Stat. 423; Pub. L. 116-136, div. A, title III, § 3719, Mar. 27, 2020, 134 Stat. 426; Pub. L. 116-159, div. C, title V, § 2501(a)(1)(A), (B), (b)(1)(A), Oct. 1, 2020, 134 Stat. 733-735.)

Editorial Notes

AMENDMENTS

2020—Subsec. (d). Pub. L. 116-159, § 2501(b)(1)(A), inserted before period at end “(or, in the case of such a determination made with respect to a payment made on or after March 27, 2020, and during the emergency period described in section 1320b-5(g)(1)(B) of this title under the program under subsection (e)(3), including such program as expanded pursuant to subsection (f), at a rate of 4 percent)”.

Subsec. (e)(3). Pub. L. 116-136, § 3719(1), substituted “Subject to subsection (f), in the case” for “In the case”.

Subsec. (f). Pub. L. 116-136, § 3719(2), added subsec. (f).

Subsec. (f)(2)(A)(ii). Pub. L. 116-159, § 2501(a)(1)(B), which directed insertion of “(or, with respect to requests submitted to the Secretary after April 26, 2020, may)” after “shall.”, was executed by making the insertion after “shall” to reflect the probable intent of Congress.

Subsec. (f)(2)(C). Pub. L. 116-159, § 2501(a)(1)(A), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “Upon the request of the hospital, the Secretary shall do the following:

“(i) Provide up to 120 days before claims are offset to recoup the accelerated payment.

“(ii) Allow not less than 12 months from the date of the first accelerated payment before requiring that the outstanding balance be paid in full.”

2011—Subsec. (b). Pub. L. 112-40 substituted “quality improvement” for “quality control and peer review” in two places.

2004—Subsec. (a). Pub. L. 108-271 substituted “Government Accountability Office” for “General Accounting Office”.

2003—Subsec. (e)(1)(B). Pub. L. 108-173, § 736(a)(3), substituted “of a hospital” for “of hospital” in introductory provisions.

Subsec. (e)(2). Pub. L. 108-173, § 405(c)(1)(A), inserted “, in the cases described in subparagraphs (A) through (D)” after “1986” in introductory provisions.

Subsec. (e)(2)(E). Pub. L. 108-173, § 405(c)(1)(B)-(D), added subpar. (E).

1997—Subsec. (e)(2)(C) to (E). Pub. L. 105-33 inserted “and” at end of subpar. (C), redesignated subpar. (E) as (D), and struck out former subpar. (D) which read as follows: “home health services; and”.

1989—Subsec. (e)(4). Pub. L. 101-239 added par. (4).

1986—Subsec. (e). Pub. L. 99-509 added subsec. (e).

1982—Subsec. (b). Pub. L. 97-248, § 148(b), substituted “quality control and peer review organization” for “Professional Standards Review Organization” wherever appearing.

Subsec. (d). Pub. L. 97-248, § 117(a)(1), added subsec. (d).

1980—Subsec. (c). Pub. L. 96-473 substituted “for or in connection with” for “for or in connection with”.

1977—Subsec. (c). Pub. L. 95-142 added subsec. (c).

1975—Pub. L. 94-182 designated existing provisions as subsec. (a) and added subsec. (b).

Statutory Notes and Related Subsidiaries

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 2003 AMENDMENT

Pub. L. 108-173, title IV, § 405(c)(3), Dec. 8, 2003, 117 Stat. 2267, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to payments made on or after July 1, 2004.”

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to cost reporting periods beginning on or after Oct. 1, 1999, except as otherwise provided, see section 4603(d) of Pub. L. 105-33, set out as an Effective Date note under section 1395ff of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VI, § 6021(b), Dec. 19, 1989, 103 Stat. 2167, provided that: “The amendment made by subsection (a) [amending this section] shall apply to payments made for discharges occurring on or after the expiration of the 30-day period that begins on the date of the enactment of this Act [Dec. 19, 1989], regardless of the date of the merger or consolidation involved.”

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-509, title IX, § 9311(a)(2), Oct. 21, 1986, 100 Stat. 1997, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to claims received on or after July 1, 1987.”

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title I, § 117(b), Sept. 3, 1982, 96 Stat. 355, provided that: “The amendments made by subsection (a) [amending this section and section 1395l of this title] apply to final determinations made on or after the date of the enactment of this Act [Sept. 3, 1982].”

Amendment by section 148(b) 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 1977 AMENDMENT

Pub. L. 95-142, § 2(a)(4), Oct. 25, 1977, 91 Stat. 1176, provided that: “The amendments made by this subsection [amending this section and sections 1395u and 1396a of this title] shall apply with respect to care and services furnished on or after the date of the enactment of this Act [Oct. 25, 1977].”

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-182 effective with respect to utilization review activities conducted on and after

the first day of the first month which begins more than 30 days after Dec. 31, 1975, see section 112(d) of Pub. L. 94-182, set out as a note under section 1395x of this title.

APPLICATION TO OTHER PART A PROVIDERS

Pub. L. 116-159, div. C, title V, §2501(a)(1)(C), Oct. 1, 2020, 134 Stat. 734, provided that:

“(i) IN GENERAL.—In the case of a payment made under the terms of an applicable program (as defined in clause (ii)), on or after the date of the enactment of the CARES Act (Public Law 116-136) [Mar. 27, 2020] and so made during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b-5(g)(1)(B)), upon request of an applicable provider (as defined in clause (iii)), the provisions of section 1815(f)(2)(C) of such Act (42 U.S.C. 1395g(f)(2)(C)), as amended by subparagraph (A), shall apply with respect to such payment in the same manner as such provisions apply with respect to a payment made under the terms of the program under subsection (e)(3) of section 1815 of such Act (42 U.S.C. 1395g), including such program as expanded pursuant to subsection (f) of such section, on or after the date of the enactment of the CARES Act (Public Law 116-136) and so made during such emergency period.

“(ii) APPLICABLE PROGRAM DEFINED.—In this clause, the term ‘applicable program’ means—

“(I) the programs under sections 413.64(g), 412.541(f), 412.632(e), 412.116(f), 413.350(d), or 418.307 of title 42, Code of Federal Regulations (or any successor regulations); and

“(II) any other comparable program under part A of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq.], as determined by the Secretary.

“(iii) APPLICABLE PROVIDER.—In this clause, the term ‘applicable provider’ means a provider of services that is eligible for payment under an applicable program.”

Pub. L. 116-159, div. C, title V, §2501(b)(1)(B), Oct. 1, 2020, 134 Stat. 736, provided that: “In the case of a determination under section 1815(d) of the Social Security Act (42 U.S.C. 1395g(d)) with respect to a payment made on or after the date of the enactment of the CARES Act (Public Law 116-136) [Mar. 27, 2020] and during the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b-5(g)(1)(B)) under an applicable program (as defined in subsection (a)(1)(C)(ii)), the amendment made by subparagraph (A) [amending this section] shall apply with respect to such determination in the same manner as such amendment applies with respect to a payment made on or after the date of the enactment of the CARES Act (Public Law 116-136) and during such emergency period under the program under subsection (e)(3) of section 1815 of such Act (42 U.S.C. 1395g), including such program as expanded pursuant to subsection (f) of such section.”

PUBLICATION OF DATA

Pub. L. 116-159, div. C, title V, §2501(c), Oct. 1, 2020, 134 Stat. 736, provided that:

“(1) DATA DURING COVID-19 EMERGENCY.—

“(A) INITIAL PUBLICATION.—Not later than 2 weeks after the date of the enactment of this section [Oct. 1, 2020], the Secretary shall post on the public website of the Centers for Medicare & Medicaid Services data that includes the following information with respect to specified payments (as defined in paragraph (3)(E)) made as of such date and for which data is available:

“(i) The total amount of such payments made under each applicable payment program (as defined in paragraph (3)(A)), including a specification of the percentage of such payments so made from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the percentage of such payments so made from the Federal Supplementary Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t) under each such program.

“(ii) The amount of specified payments made under each such program by type of provider of services or supplier receiving such payments.

“(iii) The Centers for Medicare & Medicaid Services certification number or other appropriate number of, and the amount of such payments received by, each provider of services and supplier receiving such payments.

“(B) INTERIM PUBLICATION.—Every 2 weeks thereafter during the emergency period, if any specified payments are made that were not included in a preceding publication of data under this paragraph, the Secretary shall post on the website described in subparagraph (A) data containing the information described in clauses (i), (ii), and (iii) of such subparagraph with respect to such specified payments.

“(2) ADDITIONAL PUBLICATIONS.—Not later than 15 months after the date of the enactment of the CARES Act (Public Law 116-136) [Mar. 27, 2020], and every 6 months thereafter until all specified payments have been recouped or repaid, the Secretary shall post on the website described in paragraph (1)(A) data that includes the following:

“(A) The total amount of all specified payments not recouped or repaid under each applicable payment program.

“(B) The amount of payments made under each such program and not recouped or repaid by type of provider of services or supplier.

“(C) The total amount of specified payments that have been recouped or repaid under each such program, including a specification of the percentage of such payments so recouped or repaid that have been deposited into the Federal Hospital Insurance Trust Fund and the percentage of such payments so recouped or repaid that have been deposited into the Federal Supplementary Insurance Trust Fund under each such program.

“(D) The dollar amount of interest that has been collected with respect to all specified payments under each such program.

“(3) DEFINITIONS.—In this subsection:

“(A) APPLICABLE PAYMENT PROGRAM.—The term ‘applicable payment program’ means—

“(i) the program under subsection (e)(3) of section 1815 of the Social Security Act (42 U.S.C. 1395g), including such program as expanded under subsection (f) of such section;

“(ii) an applicable program (as defined in subsection (a)(1)(C)(ii) of this section [set out as a note above]); and

“(iii) the program described in section 421.214 of title 42, Code of Federal Regulations (or any successor regulation).

“(B) EMERGENCY PERIOD.—The term ‘emergency period’ means the emergency period described in section 1135(g)(1)(B) of the Social Security Act (42 U.S.C. 1320b-5(g)(1)(B)).

“(C) PROVIDER OF SERVICES AND SUPPLIER.—The terms ‘provider of services’ and ‘supplier’ have the meaning given such terms in subsections (u) and (d), respectively, of section 1861 of such Act (42 U.S.C. 1395x).

“(D) SECRETARY.—The term ‘Secretary’ means the Secretary of Health and Human Services.

“(E) SPECIFIED PAYMENTS.—The term ‘specified payments’ means payments made under an applicable payment program on or after the date of the enactment of the CARES Act (Public Law 116-136) during the emergency period.”

DEVELOPMENT OF ALTERNATIVE TIMING METHODS OF PERIODIC INTERIM PAYMENTS

Pub. L. 108-173, title IV, §405(c)(2), Dec. 8, 2003, 117 Stat. 2267, provided that: “With respect to periodic interim payments to critical access hospitals for inpatient critical access hospital services under section 1815(e)(2)(E) of the Social Security Act [42 U.S.C. 1395g(e)(2)(E)], as added by paragraph (1), the Secretary [of Health and Human Services] shall develop alternative methods for the timing of such payments.”

TRANSITION

Pub. L. 99-509, title IX, §9311(a)(3), Oct. 21, 1986, 100 Stat. 1997, provided that: "Upon the request of a hospital which—

"(A) as of June 30, 1987, is receiving payments under part A of title XVIII of such Act [42 U.S.C. 1395c et seq.] for inpatient hospital services on a periodic interim payment basis,

"(B) requests continuation of payment on such basis, and

"(C) is paid through an agency or organization with an agreement under section 1816 of such Act [42 U.S.C. 1395h],

the Secretary of Health and Human Services shall continue payment on such a basis until not earlier than the end of the first period of three consecutive calendar months (beginning no earlier than April 1987) during all of which the agency or organization has met the requirements of section 1816(c)(2) of such Act (relating to prompt payment of claims)."

DELAY IN PERIODIC INTERIM PAYMENTS

Pub. L. 97-248, title I, §120, Sept. 3, 1982, 96 Stat. 355, provided that: "Notwithstanding section 1815(a) of the Social Security Act [42 U.S.C. 1395g(a)], in the case of a hospital which is paid periodic interim payments under such section, the Secretary of Health and Human Services shall provide that—

"(1) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1983, such payments shall be deferred until fiscal year 1984; and

"(2) with respect to the last 21 days for which such payments would otherwise be made during fiscal year 1984, such payments shall be deferred until fiscal year 1985."

Pub. L. 96-499, title IX, §959, Dec. 5, 1980, 94 Stat. 2650, provided for deferral of interim payments to be made during last twenty-one days of fiscal year 1981 until fiscal year 1982, prior to repeal by Pub. L. 97-35, title XXI, §2155, Aug. 13, 1981, 95 Stat. 802.

§ 1395h. Provisions relating to the administration of part A

(a) In general

The administration of this part shall be conducted through contracts with medicare administrative contractors under section 1395kk-1 of this title.

(b) Repealed. Pub. L. 108-173, title IX, §911(b)(3), Dec. 8, 2003, 117 Stat. 2383

(c) Prompt payment of claims

(1) Repealed. Pub. L. 108-173, title IX, §911(b)(4)(A), Dec. 8, 2003, 117 Stat. 2383.

(2)(A) Each contract under section 1395kk-1 of this title that provides for making payments under this part shall provide that payment shall be issued, mailed, or otherwise transmitted with respect to not less than 95 percent of all claims submitted under this subchapter—

(i) which are clean claims, and

(ii) for which payment is not made on a periodic interim payment basis,

within the applicable number of calendar days after the date on which the claim is received.

(B) In this paragraph:

(i) The term "clean claim" means a claim that has no defect or impropriety (including any lack of any required substantiating documentation) or particular circumstance requiring special treatment that prevents timely payment from being made on the claim under this subchapter.

(ii) The term "applicable number of calendar days" means—

(I) with respect to claims received in the 12-month period beginning October 1, 1986, 30 calendar days,

(II) with respect to claims received in the 12-month period beginning October 1, 1987, 26 calendar days,

(III) with respect to claims received in the 12-month period beginning October 1, 1988, 25 calendar days,

(IV) with respect to claims received in the 12-month period beginning October 1, 1989, and claims received in any succeeding 12-month period ending on or before September 30, 1993, 24 calendar days, and

(V) with respect to claims received in the 12-month period beginning October 1, 1993, and claims received in any succeeding 12-month period, 30 calendar days.

(C) If payment is not issued, mailed, or otherwise transmitted within the applicable number of calendar days (as defined in clause (ii) of subparagraph (B)) after a clean claim (as defined in clause (i) of such subparagraph) is received from a hospital, critical access hospital, skilled nursing facility, home health agency, hospice program, comprehensive outpatient rehabilitation facility, or rehabilitation agency that is not receiving payments on a periodic interim payment basis with respect to such services, interest shall be paid at the rate used for purposes of section 3902(a) of title 31 (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after the required payment date and ending on the date on which payment is made.

(3)(A) Each contract under section 1395kk-1 of this title that provides for making payments under this part shall provide that no payment shall be issued, mailed, or otherwise transmitted with respect to any claim submitted under this subchapter within the applicable number of calendar days after the date on which the claim is received.

(B) In this paragraph, the term "applicable number of calendar days" means—

(i) with respect to claims submitted electronically as prescribed by the Secretary, 13 days, and

(ii) with respect to claims submitted otherwise, 28 days.

(d) to (i). Repealed. Pub. L. 108-173, title IX, §911(b)(5), Dec. 8, 2003, 117 Stat. 2383

(j) Denial of claim; notification and reconsideration

A contract with a medicare administrative contractor under section 1395kk-1 of this title with respect to the administration of this part shall require that, with respect to a claim for home health services, extended care services, or post-hospital extended care services submitted by a provider to such medicare administrative contractor that is denied, such medicare administrative contractor—

(1) furnish the provider and the individual with respect to whom the claim is made with a written explanation of the denial and of the statutory or regulatory basis for the denial; and