

pice program not in compliance with the requirements specified in section 1395x(dd) of this title over a period of not longer than 6 months, if—

(A) the State or local survey agency finds that it is more appropriate to take alternative action to assure compliance of the program with such requirements than to terminate the certification of the program;

(B) the program has submitted a plan and timetable for corrective action to the Secretary for approval and the Secretary approves the plan of corrective action; and

(C) the program agrees to repay to the Federal Government payments received under this subchapter during such period if the corrective action is not taken in accordance with the approved plan and timetable.

The Secretary shall establish guidelines for approval of corrective actions requested by hospice programs under this paragraph.

(5) Remedies

(A) Development

(i) In general

Not later than October 1, 2022, the Secretary shall develop and implement—

(I) a range of remedies to apply to hospice programs under the conditions described in paragraphs (1) through (4); and

(II) appropriate procedures for appealing determinations relating to the imposition of such remedies.

Remedies developed pursuant to the preceding sentence shall include the remedies specified in subparagraph (B).

(ii) Conditions of imposition of remedies

Not later than October 1, 2022, the Secretary shall develop and implement specific procedures with respect to the conditions under which each of the remedies developed under clause (i) is to be applied, including the amount of any fines and the severity of each of these remedies. Such procedures shall be designed so as to minimize the time between identification of deficiencies and imposition of these remedies and shall provide for the imposition of incrementally more severe fines for repeated or uncorrected deficiencies.

(B) Specified remedies

The remedies specified in this subparagraph are the following:

(i) Civil money penalties in an amount not to exceed \$10,000 for each day of non-compliance by a hospice program with the requirements specified in section 1395x(dd) of this title.

(ii) Suspension of all or part of the payments to which a hospice program would otherwise be entitled under this subchapter with respect to items and services furnished by a hospice program on or after the date on which the Secretary determines that remedies should be imposed pursuant to paragraphs (1) and (2).

(iii) The appointment of temporary management to oversee the operation of the

hospice program and to protect and assure the health and safety of the individuals under the care of the program while improvements are made in order to bring the program into compliance with all such requirements.

(C) Procedures

(i) Civil money penalties

(I) In general

Subject to subclause (II), the provisions of section 1320a-7a of this title (other than subsections (a) and (b)) shall apply to a civil money penalty under this subsection in the same manner as such provisions apply to a penalty or proceeding under section 1320a-7a(a) of this title.

(II) Retention of amounts for hospice program improvements

The Secretary may provide that any portion of civil money penalties collected under this subsection may be used to support activities that benefit individuals receiving hospice care, including education and training programs to ensure hospice program compliance with the requirements of section 1395x(dd) of this title.

(ii) Suspension of payment

A finding to suspend payment under subparagraph (B)(ii) shall terminate when the Secretary finds that the program is in substantial compliance with all requirements of section 1395x(dd) of this title.

(iii) Temporary management

The temporary management under subparagraph (B)(iii) shall not be terminated until the Secretary has determined that the program has the management capability to ensure continued compliance with all the requirements referred to in such subparagraph.

(D) Relationship to other remedies

The remedies developed under subparagraph (A) are in addition to sanctions otherwise available under State or Federal law and shall not be construed as limiting other remedies, including any remedy available to an individual at common law.

(Aug. 14, 1935, ch. 531, title XVIII, § 1822, as added Pub. L. 116-260, div. CC, title IV, § 407(a)(1), Dec. 27, 2020, 134 Stat. 3003.)

Editorial Notes

REFERENCES IN TEXT

Section 3(a)(2) of the Improving Medicare Post-Acute Care Transformation Act of 2014, referred to in subsec. (a)(5), means section 3(a)(2) of Pub. L. 113-185, Oct. 6, 2014, 128 Stat. 1968, which is not classified to the Code.

PART B—SUPPLEMENTARY MEDICAL INSURANCE BENEFITS FOR AGED AND DISABLED

§ 1395j. Establishment of supplementary medical insurance program for aged and disabled

There is hereby established a voluntary insurance program to provide medical insurance ben-

efits in accordance with the provisions of this part for aged and disabled individuals who elect to enroll under such program, to be financed from premium payments by enrollees together with contributions from funds appropriated by the Federal Government.

(Aug. 14, 1935, ch. 531, title XVIII, § 1831, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79 Stat. 301; amended Pub. L. 92-603, title II, § 201(a)(3), Oct. 30, 1972, 86 Stat. 1371.)

Editorial Notes

AMENDMENTS

1972—Pub. L. 92-603 substituted “aged and disabled individuals” for “individuals 65 years of age or over”.

Statutory Notes and Related Subsidiaries

STUDY REGARDING COVERAGE UNDER PART B OF MEDICARE FOR NONREIMBURSABLE SERVICES PROVIDED BY OPTOMETRISTS FOR PROSTHETIC LENSES FOR PATIENTS WITH APHAKIA

Pub. L. 94-182, title I, § 109, Dec. 31, 1975, 89 Stat. 1053, provided that the Secretary of Health, Education, and Welfare conduct a study on the appropriateness of reimbursement under the insurance program established by this part for services performed by optometrists with respect to the provision of prosthetic lenses for patients with aphakia and submit such study to Congress not later than 4 months after Dec. 31, 1975.

STUDY TO DETERMINE FEASIBILITY OF INCLUSION OF CERTAIN ADDITIONAL SERVICES UNDER PART B

Pub. L. 90-248, title I, § 141, Jan. 2, 1968, 81 Stat. 855, directed Secretary to conduct a study relating to inclusion under the supplementary medical insurance program under this part of services of additional types of licensed practitioners performing health services in independent practice and submit such study to Congress prior to Jan. 1, 1969.

§ 1395k. Scope of benefits; definitions

(a) Scope of benefits

The benefits provided to an individual by the insurance program established by this part shall consist of—

(1) entitlement to have payment made to him or on his behalf (subject to the provisions of this part) for medical and other health services, except those described in subparagraphs (B) and (D) of paragraph (2) and subparagraphs (E) and (F) of section 1395u(b)(6) of this title; and

(2) entitlement to have payment made on his behalf (subject to the provisions of this part) for—

(A) home health services (other than items described in subparagraph (G) or subparagraph (I));

(B) medical and other health services (other than items described in subparagraph (G) or subparagraph (I)) furnished by a provider of services or by others under arrangement with them made by a provider of services, excluding—

(i) physician services except where furnished by—

(I) a resident or intern of a hospital, or

(II) a physician to a patient in a hospital which has a teaching program approved as specified in paragraph (6) of

section 1395x(b) of this title (including services in conjunction with the teaching programs of such hospital whether or not such patient is an inpatient of such hospital) where the conditions specified in paragraph (7) of such section are met,

(ii) services for which payment may be made pursuant to section 1395n(b)(2) of this title,

(iii) services described by section 1395x(s)(2)(K)(i) of this title, certified nurse-midwife services, qualified psychologist services, and services of a certified registered nurse anesthetist;¹

(iv) services of a nurse practitioner or clinical nurse specialist but only if no facility or other provider charges or is paid any amounts with respect to the furnishing of such services; and²

(C) outpatient physical therapy services (other than services to which the second sentence of section 1395x(p) of this title applies), outpatient occupational therapy services (other than services to which such sentence applies through the operation of section 1395x(g) of this title), and outpatient speech-language pathology services (other than services to which the second sentence of section 1395x(p) of this title applies through the application of section 1395x(l)(2) of this title);

(D)(i) rural health clinic services and (ii) Federally qualified health center services;

(E) comprehensive outpatient rehabilitation facility services;

(F) facility services furnished in connection with surgical procedures specified by the Secretary—

(i) pursuant to section 1395l(i)(1)(A) of this title and performed in an ambulatory surgical center (which meets health, safety, and other standards specified by the Secretary in regulations) if the center has an agreement in effect with the Secretary by which the center agrees to accept the standard overhead amount determined under section 1395l(i)(2)(A) of this title as full payment for such services (including intraocular lens in cases described in section 1395l(i)(2)(A)(iii) of this title) and to accept an assignment described in section 1395u(b)(3)(B)(ii) of this title with respect to payment for all such services (including intraocular lens in cases described in section 1395l(i)(2)(A)(iii) of this title) furnished by the center to individuals enrolled under this part, or

(ii) pursuant to section 1395l(i)(1)(B) of this title and performed by a physician, described in paragraph (1), (2), or (3) of section 1395x(r) of this title, in his office, if the Secretary has determined that—

(I) a quality improvement organization (having a contract with the Secretary under part B of subchapter XI of this chapter) is willing, able, and has agreed to carry out a review (on a sample or

¹ So in original. The semicolon probably should be a comma.

² So in original. The word “and” probably should not appear.