

“(i) requiring State legislation (other than legislation appropriating funds) to conform its regulatory program to the changes made in this section, but

“(ii) having a legislature which is not scheduled to meet in 1996 in a legislative session in which such legislation may be considered, the date specified in this paragraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1996. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.”

#### EVALUATION OF 1990 AMENDMENTS

Pub. L. 101-508, title IV, §4358(d), Nov. 5, 1990, 104 Stat. 1388-137, provided that: “The Secretary of Health and Human Services shall conduct an evaluation of the amendments made by this section [amending this section and section 1320c-3 of this title] and shall report to Congress on such evaluation by not later than January 1, 1995.”

#### § 1395ss-1. Clarification

Any health insurance policy that provides reimbursement for expenses incurred for items and services for which payment may be made under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] but which are not reimbursable by reason of the applicability of deductibles, coinsurance, copayments or other limitations imposed by a Medicare Advantage plan (including a Medicare Advantage private fee-for-service plan) under part C of such title [42 U.S.C. 1395w-21 et seq.] shall comply with the requirements of section 1882(o) of the such<sup>1</sup> Act (42 U.S.C. 1395ss(o)).

(Pub. L. 110-275, title I, §104(c), July 15, 2008, 122 Stat. 2502.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Social Security Act, referred to in text, is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Title XVIII of the Act is classified generally to this subchapter. Part C of title XVIII of the Act is classified to section 1395w-21 et seq. of this title. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

##### CODIFICATION

Section was enacted as part of the Medicare Improvements for Patients and Providers Act of 2008, and not as part of the Social Security Act which comprises this chapter.

#### § 1395tt. Hospital providers of extended care services

##### (a) Hospital facility agreements; reasonable costs of services

(1) Any hospital which has an agreement under section 1395cc of this title may (subject to subsection (b)) enter into an agreement with the Secretary under which its inpatient hospital facilities may be used for the furnishing of services of the type which, if furnished by a skilled nursing facility, would constitute extended care services.

(2)(A) Notwithstanding any other provision of this subchapter, payment to any hospital (other

than a critical access hospital) for services furnished under an agreement entered into under this section shall be based upon the reasonable cost of the services as determined under subparagraph (B).

(B)(i) The reasonable cost of the services consists of the reasonable cost of routine services (determined under clause (ii)) and the reasonable cost of ancillary services (determined under clause (iii)).

(ii) The reasonable cost of routine services furnished during any calendar year by a hospital under an agreement under this section is equal to the product of—

(I) the number of patient-days during the year for which the services were furnished, and

(II) the average reasonable cost per patient-day, such average reasonable cost per patient-day being the average rate per patient-day paid for routine services during the most recent year for which cost reporting data are available with respect to such services (increased in a compounded manner by the applicable increase for payments for routine service costs of skilled nursing facilities under subsections (a) through (d) of section 1395yy of this title for subsequent cost reporting periods and up to and including such calendar year) under this subchapter to freestanding skilled nursing facilities in the region (as defined in section 1395ww(d)(2)(D) of this title) in which the facility is located.

(iii) The reasonable cost of ancillary services shall be determined in the same manner as the reasonable cost of ancillary services provided for inpatient hospital services.

(3) Notwithstanding any other provision of this subchapter, a critical access hospital shall be paid for covered skilled nursing facility services furnished under an agreement entered into under this section on the basis of equal to 101 percent of the reasonable costs of such services (as determined under section 1395x(v) of this title).

##### (b) Eligible facilities

The Secretary may not enter into an agreement under this section with any hospital unless, except as provided under subsection (g), the hospital is located in a rural area and has less than 100 beds.

##### (c) Terms and conditions of facility agreements

An agreement with a hospital under this section shall, except as otherwise provided under regulations of the Secretary, be of the same duration and subject to termination on the same conditions as are agreements with skilled nursing facilities under section 1395cc of this title and shall, where not inconsistent with any provision of this section, impose the same duties, responsibilities, conditions, and limitations, as those imposed under such agreements entered into under section 1395cc of this title; except that no such agreement with any hospital shall be in effect for any period during which the hospital does not have in effect an agreement under section 1395cc of this title. A hospital with respect to which an agreement under this section has been terminated shall not be eligible to enter into a new agreement until a two-year period has elapsed from the termination date.

<sup>1</sup> So in original.