

the Social Security Act (42 U.S.C. 1396b(u)) for data required for purposes of PERM requirements, but only if the State MEQC reviews are based on a broad, representative sample of Medicaid applicants or enrollees in the States.

“(f) IDENTIFICATION OF IMPROVED STATE-SPECIFIC SAMPLE SIZES.—The Secretary shall establish State-specific sample sizes for application of the PERM requirements with respect to State child health plans for fiscal years beginning with the first fiscal year that begins on or after the date on which the new final rule is in effect for all States, on the basis of such information as the Secretary determines appropriate. In establishing such sample sizes, the Secretary shall, to the greatest extent practicable—

“(1) minimize the administrative cost burden on States under Medicaid and CHIP; and

“(2) maintain State flexibility to manage such programs.

“(g) TIME FOR PROMULGATION OF FINAL RULE.—The final rule implementing the PERM requirements under subsection (b) shall be promulgated not later than 6 months after the date of enactment of this Act [Feb. 4, 2009].”

[For definitions of “CHIP”, “Medicaid”, and “Secretary”, see section 1(c) of Pub. L. 111-3, set out as a Definitions note under section 1396 of this title.]

### § 1397ff. Process for submission, approval, and amendment of State child health plans

#### (a) Initial plan

##### (1) In general

As a condition of receiving payment under section 1397ee of this title, a State shall submit to the Secretary a State child health plan that meets the applicable requirements of this subchapter.

##### (2) Approval

Except as the Secretary may provide under subsection (e), a State plan submitted under paragraph (1)—

(A) shall be approved for purposes of this subchapter, and

(B) shall be effective beginning with a calendar quarter that is specified in the plan, but in no case earlier than October 1, 1997.

#### (b) Plan amendments

##### (1) In general

A State may amend, in whole or in part, its State child health plan at any time through transmittal of a plan amendment.

##### (2) Approval

Except as the Secretary may provide under subsection (e), an amendment to a State plan submitted under paragraph (1)—

(A) shall be approved for purposes of this subchapter, and

(B) shall be effective as provided in paragraph (3).

##### (3) Effective dates for amendments

###### (A) In general

Subject to the succeeding provisions of this paragraph, an amendment to a State plan shall take effect on one or more effective dates specified in the amendment.

###### (B) Amendments relating to eligibility or benefits

###### (i) Notice requirement

Any plan amendment that eliminates or restricts eligibility or benefits under the

plan may not take effect unless the State certifies that it has provided prior public notice of the change, in a form and manner provided under applicable State law.

###### (ii) Timely transmittal

Any plan amendment that eliminates or restricts eligibility or benefits under the plan shall not be effective for longer than a 60-day period unless the amendment has been transmitted to the Secretary before the end of such period.

#### (C) Other amendments

Any plan amendment that is not described in subparagraph (B) and that becomes effective in a State fiscal year may not remain in effect after the end of such fiscal year (or, if later, the end of the 90-day period on which it becomes effective) unless the amendment has been transmitted to the Secretary.

#### (c) Disapproval of plans and plan amendments

##### (1) Prompt review of plan submittals

The Secretary shall promptly review State plans and plan amendments submitted under this section to determine if they substantially comply with the requirements of this subchapter.

##### (2) 90-day approval deadlines

A State plan or plan amendment is considered approved unless the Secretary notifies the State in writing, within 90 days after receipt of the plan or amendment, that the plan or amendment is disapproved (and the reasons for disapproval) or that specified additional information is needed.

##### (3) Correction

In the case of a disapproval of a plan or plan amendment, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such disapproval.

#### (d) Program operation

##### (1) In general

The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this subchapter.

##### (2) Violations

The Secretary shall establish a process for enforcing requirements under this subchapter. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

#### (e) Continued approval

An approved State child health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this subchapter.

(Aug. 14, 1935, ch. 531, title XXI, §2106, as added Pub. L. 105-33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 563.)

**§ 1397gg. Strategic objectives and performance goals; plan administration**

**(a) Strategic objectives and performance goals**

**(1) Description**

A State child health plan shall include a description of—

- (A) the strategic objectives,
- (B) the performance goals, and
- (C) the performance measures,

the State has established for providing child health assistance to targeted low-income children under the plan and otherwise for maximizing health benefits coverage for other low-income children and children generally in the State.

**(2) Strategic objectives**

Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among targeted low-income children and other low-income children.

**(3) Performance goals**

Such plan shall specify one or more performance goals for each such strategic objective so identified.

**(4) Performance measures**

Such plan shall describe how performance under the plan will be—

- (A) measured through objective, independently verifiable means, and
- (B) compared against performance goals, in order to determine the State's performance under this subchapter.

**(b) Records, reports, audits, and evaluation**

**(1) Data collection, records, and reports**

A State child health plan shall include an assurance that the State will collect the data, maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this subchapter.

**(2) State assessment and study**

A State child health plan shall include a description of the State's plan for the annual assessments and reports under section 1397hh(a) of this title and the evaluation required by section 1397hh(b) of this title.

**(3) Audits**

A State child health plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

**(c) Program development process**

A State child health plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

**(d) Program budget**

A State child health plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost-sharing by beneficiaries.

**(e) Application of certain general provisions**

The following sections of this chapter shall apply to States under this subchapter in the same manner as they apply to a State under subchapter XIX:

**(1) Subchapter XIX provisions**

(A) Section 1396a(a)(4)(C) of this title (relating to conflict of interest standards).

(B) Section 1396a(a)(25) of this title (relating to third party liability).

(C) Section 1396a(a)(39) of this title (relating to termination of participation of certain providers).

(D) Section 1396a(a)(78) of this title (relating to enrollment of providers participating in State plans providing medical assistance on a fee-for-service basis).

(E) Section 1396a(a)(72) of this title (relating to limiting FQHC contracting for provision of dental services).

(F) Section 1396a(a)(73) of this title (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).

(G) Subsections (a)(77) and (kk) of section 1396a of this title (relating to provider and supplier screening, oversight, and reporting requirements).

(H) Section 1396a(e)(13) of this title (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).

(I) Section 1396a(e)(14) of this title (relating to income determined using modified adjusted gross income and household income).

(J) Paragraphs (5) and (16) of section 1396a(e) of this title (relating to the State option to provide medical assistance consisting of full benefits during pregnancy and throughout the 12-month postpartum period under subchapter XIX),<sup>1</sup> if the State provides child health assistance for targeted low-income children who are pregnant or to targeted low-income pregnant women and the State has elected to apply such paragraph (16) with respect to pregnant women under subchapter XIX, the provision of assistance under the State child health plan or waiver for targeted low-income children or targeted low-income pregnant women during pregnancy and the 12-month postpartum period shall be required and not at the option of the State and shall include coverage of all items or services provided to a targeted low-income child or targeted low-income pregnant woman (as applicable) under the State child health plan or waiver.<sup>1</sup>

(K) Section 1396a(e)(12) of this title (relating to 1 year of continuous eligibility for chil-

<sup>1</sup>So in original. There are two closing parentheses for the opening parenthesis preceding "relating".