

the Secretary \$250,000,000, to be available for expenditure for grants under paragraph (1) and subparagraph (B).

(B) Further availability for insurance reform and consumer protection

If the amounts appropriated under subparagraph (A) are not fully obligated under grants under paragraph (1) by the end of fiscal year 2014, any remaining funds shall remain available to the Secretary for grants to States for planning and implementing the insurance reforms and consumer protections under part A.

(C) Allocation

The Secretary shall establish a formula for determining the amount of any grant to a State under this subsection. Under such formula—

(i) the Secretary shall consider the number of plans of health insurance coverage offered in each State and the population of the State; and

(ii) no State qualifying for a grant under paragraph (1) shall receive less than \$1,000,000, or more than \$5,000,000 for a grant year.

(3) Parity implementation

(A) In general

Beginning during the first fiscal year that begins after December 29, 2022, the Secretary shall, out of funds made available pursuant to subparagraph (C), award grants to eligible States to enforce and ensure compliance with the mental health and substance use disorder parity provisions of section 300gg-26 of this title.

(B) Eligible State

A State shall be eligible for a grant awarded under this paragraph only if such State—

(i) submits to the Secretary an application for such grant at such time, in such manner, and containing such information as specified by the Secretary; and

(ii) agrees to request and review from health insurance issuers offering group or individual health insurance coverage the comparative analyses and other information required of such health insurance issuers under subsection (a)(8)(A) of section 300gg-26 of this title relating to the design and application of nonquantitative treatment limitations imposed on mental health or substance use disorder benefits.

(C) Authorization of appropriations

There are authorized to be appropriated \$10,000,000 for each of the first five fiscal years beginning after December 29, 2022, to remain available until expended, for purposes of awarding grants under subparagraph (A).

(d) Medical reimbursement data centers

(1) Functions

A center established under subsection (c)(1)(C) shall—

(A) develop fee schedules and other database tools that fairly and accurately reflect

market rates for medical services and the geographic differences in those rates;

(B) use the best available statistical methods and data processing technology to develop such fee schedules and other database tools;

(C) regularly update such fee schedules and other database tools to reflect changes in charges for medical services;

(D) make health care cost information readily available to the public through an Internet website that allows consumers to understand the amounts that health care providers in their area charge for particular medical services; and

(E) regularly publish information concerning the statistical methodologies used by the center to analyze health charge data and make such data available to researchers and policy makers.

(2) Conflicts of interest

A center established under subsection (c)(1)(C) shall adopt by-laws that ensures that the center (and all members of the governing board of the center) is independent and free from all conflicts of interest. Such by-laws shall ensure that the center is not controlled or influenced by, and does not have any corporate relation to, any individual or entity that may make or receive payments for health care services based on the center's analysis of health care costs.

(3) Rule of construction

Nothing in this subsection shall be construed to permit a center established under subsection (c)(1)(C) to compel health insurance issuers to provide data to the center.

(July 1, 1944, ch. 373, title XXVII, § 2794, as added and amended Pub. L. 111-148, title I, § 1003, title X, § 10101(i), Mar. 23, 2010, 124 Stat. 139, 891; Pub. L. 117-328, div. FF, title I, § 1331(a), Dec. 29, 2022, 136 Stat. 5698.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2794 of act July 1, 1944, was renumbered section 2795 and is classified to section 300gg-95 of this title.

AMENDMENTS

2022—Subsec. (c)(3). Pub. L. 117-328 added par. (3).

2010—Subsec. (c)(1)(C). Pub. L. 111-148, § 10101(i)(1), added subpar. (C).

Subsec. (d). Pub. L. 111-148, § 10101(i)(2), added subsec. (d).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE

Section effective for fiscal years beginning with fiscal year 2010, see section 1004(a) of Pub. L. 111-148, set out as a note under section 300gg-11 of this title.

Section effective Mar. 23, 2010, see section 1004(b) of Pub. L. 111-148, set out as a note under section 300gg-11 of this title.

§ 300gg-95. Uniform fraud and abuse referral format

The Secretary shall request the National Association of Insurance Commissioners to develop

a model uniform report form for private health insurance issuer¹ seeking to refer suspected fraud and abuse to State insurance departments or other responsible State agencies for investigation. The Secretary shall request that the National Association of Insurance Commissioners develop recommendations for uniform reporting standards for such referrals.

(July 1, 1944, ch. 373, title XXVII, § 2795, formerly § 2794, as added Pub. L. 111-148, title VI, § 6603, Mar. 23, 2010, 124 Stat. 780; renumbered § 2795, Pub. L. 117-328, div. FF, title I, § 1331(b), Dec. 29, 2022, 136 Stat. 5698.)

PART D—ADDITIONAL COVERAGE PROVISIONS

§ 300gg-111. Preventing surprise medical bills

(a) Coverage of emergency services

(1) In general

If a group health plan, or a health insurance issuer offering group or individual health insurance coverage, provides or covers any benefits with respect to services in an emergency department of a hospital or with respect to emergency services in an independent free-standing emergency department (as defined in paragraph (3)(D)), the plan or issuer shall cover emergency services (as defined in paragraph (3)(C))—

(A) without the need for any prior authorization determination;

(B) whether the health care provider furnishing such services is a participating provider or a participating emergency facility, as applicable, with respect to such services;

(C) in a manner so that, if such services are provided to a participant, beneficiary, or enrollee by a nonparticipating provider or a nonparticipating emergency facility—

(i) such services will be provided without imposing any requirement under the plan or coverage for prior authorization of services or any limitation on coverage that is more restrictive than the requirements or limitations that apply to emergency services received from participating providers and participating emergency facilities with respect to such plan or coverage, respectively;

(ii) the cost-sharing requirement is not greater than the requirement that would apply if such services were provided by a participating provider or a participating emergency facility;

(iii) such cost-sharing requirement is calculated as if the total amount that would have been charged for such services by such participating provider or participating emergency facility were equal to the recognized amount (as defined in paragraph (3)(H)) for such services, plan or coverage, and year;

(iv) the group health plan or health insurance issuer, respectively—

(I) not later than 30 calendar days after the bill for such services is transmitted by such provider or facility, sends to the provider or facility, as applicable, an ini-

tial payment or notice of denial of payment; and

(II) pays a total plan or coverage payment directly to such provider or facility, respectively (in accordance, if applicable, with the timing requirement described in subsection (c)(6)) that is, with application of any initial payment under subclause (I), equal to the amount by which the out-of-network rate (as defined in paragraph (3)(K)) for such services exceeds the cost-sharing amount for such services (as determined in accordance with clauses (ii) and (iii)) and year; and

(v) any cost-sharing payments made by the participant, beneficiary, or enrollee with respect to such emergency services so furnished shall be counted toward any in-network deductible or out-of-pocket maximums applied under the plan or coverage, respectively (and such in-network deductible and out-of-pocket maximums shall be applied) in the same manner as if such cost-sharing payments were made with respect to emergency services furnished by a participating provider or a participating emergency facility; and

(D) without regard to any other term or condition of such coverage (other than exclusion or coordination of benefits, or an affiliation or waiting period, permitted under section 300gg-3 of this title, including as incorporated pursuant to section 1185d of title 29 and section 9815 of title 26, and other than applicable cost-sharing).

(2) Audit process and regulations for qualifying payment amounts

(A) Audit process

(i) In general

Not later than October 1, 2021, the Secretary, in consultation with the Secretary of Labor and the Secretary of the Treasury, shall establish through rulemaking a process, in accordance with clause (ii), under which group health plans and health insurance issuers offering group or individual health insurance coverage are audited by the Secretary or applicable State authority to ensure that—

(I) such plans and coverage are in compliance with the requirement of applying a qualifying payment amount under this section; and

(II) such qualifying payment amount so applied satisfies the definition under paragraph (3)(E) with respect to the year involved, including with respect to a group health plan or health insurance issuer described in clause (ii) of such paragraph (3)(E).

(ii) Audit samples

Under the process established pursuant to clause (i), the Secretary—

(I) shall conduct audits described in such clause, with respect to a year (beginning with 2022), of a sample with respect to such year of claims data from

¹ So in original. Probably should be “issuers”.