

§ 1396h. State false claims act requirements for increased State share of recoveries

(a) In general

Notwithstanding section 1396d(b) of this title, if a State has in effect a law relating to false or fraudulent claims that meets the requirements of subsection (b), the Federal medical assistance percentage with respect to any amounts recovered under a State action brought under such law, shall be decreased by 10 percentage points.

(b) Requirements

For purposes of subsection (a), the requirements of this subsection are that the Inspector General of the Department of Health and Human Services, in consultation with the Attorney General, determines that the State has in effect a law that meets the following requirements:

(1) The law establishes liability to the State for false or fraudulent claims described in section 3729 of title 31 with respect to any expenditure described in section 1396b(a) of this title.

(2) The law contains provisions that are at least as effective in rewarding and facilitating qui tam actions for false or fraudulent claims as those described in sections 3730 through 3732 of title 31.

(3) The law contains a requirement for filing an action under seal for 60 days with review by the State Attorney General.

(4) The law contains a civil penalty that is not less than the amount of the civil penalty authorized under section 3729 of title 31.

(c) Deemed compliance

A State that, as of January 1, 2007, has a law in effect that meets the requirements of subsection (b) shall be deemed to be in compliance with such requirements for so long as the law continues to meet such requirements.

(d) No preclusion of broader laws

Nothing in this section shall be construed as prohibiting a State that has in effect a law that establishes liability to the State for false or fraudulent claims described in section 3729 of title 31, with respect to programs in addition to the State program under this subchapter, or with respect to expenditures in addition to expenditures described in section 1396b(a) of this title, from being considered to be in compliance with the requirements of subsection (a) so long as the law meets such requirements.

(Aug. 14, 1935, ch. 531, title XIX, §1909, as added Pub. L. 109-171, title VI, §6031(a), Feb. 8, 2006, 120 Stat. 72.)

PRIOR PROVISIONS

A prior section 1396h, act Aug. 14, 1935, ch. 531, title XIX, §1909, as added and amended Oct. 30, 1972, Pub. L. 92-603, title II, §§242(c), 278(b)(9), 86 Stat. 1419, 1454; Oct. 25, 1977, Pub. L. 95-142, §4(b), 91 Stat. 1181; Dec. 5, 1980, Pub. L. 96-499, title IX, §917, 94 Stat. 2625; Aug. 18, 1987, Pub. L. 100-93, §4(a)-(c), 101 Stat. 688, 689, related to criminal penalties for acts involving Medicare and State health care programs, prior to being renumbered section 1128B of title XI of act Aug. 14, 1935, by section 4(d) of Pub. L. 100-93 and transferred to section 1320a-7b of this title.

EFFECTIVE DATE

Pub. L. 109-171, title VI, §6031(b), Feb. 8, 2006, 120 Stat. 73, as amended by Pub. L. 109-432, div. B, title IV,

§405(c)(2)(A)(iii), Dec. 20, 2006, 120 Stat. 3000, provided that: "Except as provided in section 6034(e) [set out as an Effective Date of 2006 Amendment note under section 1396a of this title], the amendments made by this section [enacting this section] take effect on January 1, 2007."

§ 1396i. Certification and approval of rural health clinics and intermediate care facilities for mentally retarded

(a)(1) Whenever the Secretary certifies a facility in a State to be qualified as a rural health clinic under subchapter XVIII of this chapter, such facility shall be deemed to meet the standards for certification as a rural health clinic for purposes of providing rural health clinic services under this title.

(2) The Secretary shall notify the State agency administering the medical assistance plan of his approval or disapproval of any facility in that State which has applied for certification by him as a qualified rural health clinic.

(b)(1) The Secretary may cancel approval of any intermediate care facility for the mentally retarded at any time if he finds on the basis of a determination made by him as provided in section 1396a(a)(33)(B) of this title that a facility fails to meet the requirements contained in section 1396a(a)(31) of this title or section 1396d(d) of this title, or if he finds grounds for termination of his agreement with the facility pursuant to section 1395cc(b) of this title. In that event the Secretary shall notify the State agency and the intermediate care facility for the mentally retarded that approval of eligibility of the facility to participate in the programs established by this subchapter and subchapter XVIII of this chapter shall be terminated at a time specified by the Secretary. The approval of eligibility of any such facility to participate in such programs may not be reinstated unless the Secretary finds that the reason for termination has been removed and there is reasonable assurance that it will not recur.

(2) Any intermediate care facility for the mentally retarded which is dissatisfied with a determination by the Secretary that it no longer qualifies as a¹ intermediate care facility for the mentally retarded for purposes of this subchapter, shall be entitled to a hearing by the Secretary to the same extent as is provided in section 405(b) of this title and to judicial review of the Secretary's final decision after such hearing as is provided in section 405(g) of this title, except that, in so applying such sections and in applying section 405(l) of this title thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively. Any agreement between such facility and the State agency shall remain in effect until the period for filing a request for a hearing has expired or, if a request has been filed, until a decision has been made by the Secretary; except that the agreement shall not be extended if the Secretary makes a written determination, specifying the reasons therefor, that the continuation of provider status constitutes

¹ So in original. Probably should be "an".

an immediate and serious threat to the health and safety of patients, and the Secretary certifies that the facility has been notified of its deficiencies and has failed to correct them.

(Aug. 14, 1935, ch. 531, title XIX, §1910, as added and amended Pub. L. 92-603, title II, §§249A(a), 278(b)(12), Oct. 30, 1972, 86 Stat. 1426, 1454; Pub. L. 95-210, §2(d), Dec. 13, 1977, 91 Stat. 1489; Pub. L. 96-499, title IX, §916(b)(2), Dec. 5, 1980, 94 Stat. 2624; Pub. L. 100-203, title IV, §4212(e)(3), Dec. 22, 1987, 101 Stat. 1330-213; Pub. L. 100-360, title IV, §411(l)(6)(F), July 1, 1988, as added Pub. L. 100-485, title VI, §608(d)(27)(J), Oct. 13, 1988, 102 Stat. 2423; Pub. L. 101-239, title VI, §6901(d)(5), Dec. 19, 1989, 103 Stat. 2301; Pub. L. 103-296, title I, §108(d)(4), Aug. 15, 1994, 108 Stat. 1486; Pub. L. 106-113, div. B, §1000(a)(6) [title VI, §608(n)], Nov. 29, 1999, 113 Stat. 1536, 1501A-397.)

AMENDMENTS

1999—Pub. L. 106-113 struck out “of” after “approval of” in section catchline.

1994—Subsec. (b)(2). Pub. L. 103-296 inserted before period at end of first sentence “, except that, in so applying such sections and in applying section 405(l) of this title thereto, any reference therein to the Commissioner of Social Security or the Social Security Administration shall be considered a reference to the Secretary or the Department of Health and Human Services, respectively”.

1989—Pub. L. 101-239, §6901(d)(5)(A), substituted “rural health clinics and intermediate care facilities for the mentally retarded” for “rural health clinics” in section catchline.

Subsec. (b)(1). Pub. L. 101-239, §6901(d)(5)(B)-(D), substituted “any intermediate care facility for the mentally retarded” for “any skilled nursing or intermediate care facility”, “section 1396a(a)(31) of this title or section 1396d(d) of this title” for “section 1396a(a)(28) of this title or section 1396r of this title or section 1396d(c) of this title”, and “the intermediate care facility for the mentally retarded” for “the skilled nursing facility or intermediate care facility”.

Subsec. (b)(2). Pub. L. 101-239, §6901(d)(5)(D), substituted “intermediate care facility for the mentally retarded” for “skilled nursing facility or intermediate care facility” in two places.

1988—Subsec. (b)(1). Pub. L. 100-360, §411(l)(6)(F), as added by Pub. L. 100-485, §608(d)(27)(J), inserted “or section 1396r of this title” after “1396a(a)(28) of this title”.

1987—Pub. L. 100-203 struck out “skilled nursing facilities and” before “of rural” in section catchline, redesignated subssecs. (b) and (c) as (a) and (b), respectively, and struck out former subsec. (a) which related to certification and approval of skilled nursing facilities.

1980—Subsec. (c). Pub. L. 96-499 added subsec. (c).

1977—Pub. L. 95-210 substituted “facilities and of rural health clinics” for “facilities” in section catchline, redesignated existing subssecs. (a) and (b) as (a)(1) and (2), respectively, and added subsec. (b).

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103-296, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, see section 6901(d)(6) of Pub. L. 101-239, set out as a note under section 1395i-3 of this title.

EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Cov-

erage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to nursing facility services furnished on or after Oct. 1, 1990, without regard to whether regulations implementing such amendment are promulgated by such date, except as otherwise specifically provided in section 1396r of this title, with transitional rule, see section 4214(a), (b)(2) of Pub. L. 100-203, as amended, set out as an Effective Date note under section 1396r of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-210 applicable to medical assistance provided, under a State plan approved under subchapter XIX of this chapter, on and after first day of first calendar quarter that begins more than six months after Dec. 13, 1977, with exception for plans requiring State legislation, see section 2(f) of Pub. L. 95-210, set out as a note under section 1395cc of this title.

EFFECTIVE DATE

Section effective with respect to agreements filed with Secretary under section 1395cc of this title by skilled nursing facilities before, on, or after Oct. 30, 1972, but accepted by him on or after such date, see section 249A(e) of Pub. L. 92-603, set out as an Effective Date of 1972 Amendment note under section 1395cc of this title.

§ 1396j. Indian Health Service facilities

(a) Eligibility for reimbursement for medical assistance

A facility of the Indian Health Service (including a hospital, nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan), whether operated by such Service or by an Indian tribe or tribal organization (as those terms are defined in section 1603 of title 25), shall be eligible for reimbursement for medical assistance provided under a State plan if and for so long as it meets all of the conditions and requirements which are applicable generally to such facilities under this subchapter.

(b) Facilities deemed to meet requirements upon submission of acceptable plan for achieving compliance

Notwithstanding subsection (a) of this section, a facility of the Indian Health Service (including a hospital, nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan) which does not meet all of the conditions and requirements of this title which are applicable generally to such facility, but which submits to the Secretary within six months after September 30, 1976, an acceptable plan for achieving compliance with such conditions and requirements, shall be deemed to meet such conditions and requirements (and to be eligible for reimbursement under this subchapter), without regard to