

the extent of its actual compliance with such conditions and requirements, during the first twelve months after the month in which such plan is submitted.

**(c) Agreement to reimburse State agency for providing care and services**

The Secretary is authorized to enter into agreements with the State agency for the purpose of reimbursing such agency for health care and services provided in Indian Health Service facilities to Indians who are eligible for medical assistance under the State plan.

**(d) Cross reference**

For provisions relating to the authority of certain Indian tribes, tribal organizations, and Alaska Native health organizations to elect to directly bill for, and receive payment for, health care services provided by a hospital or clinic of such tribes or organizations and for which payment may be made under this subchapter, see section 1645 of title 25.<sup>1</sup>

(Aug. 14, 1935, ch. 531, title XIX, §1911, as added Pub. L. 94-437, title IV, §402(a), Sept. 30, 1976, 90 Stat. 1409; amended Pub. L. 100-203, title IV, §§4118(f)(1), 4211(h)(8), Dec. 22, 1987, 101 Stat. 1330-155, 1330-206; Pub. L. 100-360, title IV, §411(k)(10)(E), July 1, 1988, 102 Stat. 796; Pub. L. 106-417, §3(b)(2), Nov. 1, 2000, 114 Stat. 1815.)

REFERENCES IN TEXT

Section 1645 of title 25, referred to in subsec. (d), was amended generally by Pub. L. 111-148, title X, §10221(a), Mar. 23, 2010, 124 Stat. 935, and, as so amended, no longer contains provisions relating to direct billing of medicare, medicaid, and other third party payors.

AMENDMENTS

2000—Subsec. (d), Pub. L. 106-417 added subsec. (d).  
1988—Subsecs. (a), (b), Pub. L. 100-360, §411(k)(10)(E), made technical correction to directory language of Pub. L. 100-203, §4118(f)(1)(A), see 1987 Amendment note below.

1987—Subsecs. (a), (b), Pub. L. 100-203, §4118(f)(1)(A), as amended by Pub. L. 100-360, §411(k)(10)(E), substituted “, nursing facility, or any other type of facility which provides services of a type otherwise covered under the State plan” for “or nursing facility”.

Pub. L. 100-203, §4211(h)(8), substituted “or nursing facility” for “, intermediate care facility, or skilled nursing facility” wherever appearing.

Subsec. (c), Pub. L. 100-203, §4118(f)(1)(B), added subsec. (c).

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by Pub. L. 106-417 effective Oct. 1, 2000, see section 3(c) of Pub. L. 106-417, set out as a note under section 1645 of Title 25, Indians.

EFFECTIVE DATE OF 1988 AMENDMENT

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

Section 4118(f)(2) of Pub. L. 100-203 provided that: “The amendments made by paragraph (1) [amending

this section] shall apply to health care services performed on or after the date of the enactment of this Act [Dec. 22, 1987].”

Amendment by section 4211(h)(8) of 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.

AGREEMENTS TO REIMBURSE STATE AGENCY FOR HEALTH CARE AND SERVICES PROVIDED BY AGENCY TO INDIANS

Pub. L. 94-437, title IV, §402(b), Sept. 30, 1976, 90 Stat. 1409, which authorized Secretary to enter into agreements to reimburse State agencies for health care and services provided in Service facilities to Indians eligible for medical assistance under this subchapter, was repealed by Pub. L. 100-713, title IV, §401(b), Nov. 23, 1988, 102 Stat. 4818, applicable to services performed on or after the Nov. 23, 1988.

PAYMENTS INTO SPECIAL FUND TO IMPROVE INDIAN HEALTH SERVICE FACILITIES TO ACHIEVE COMPLIANCE WITH CONDITIONS AND REQUIREMENTS

Pub. L. 94-437, title IV, §402(c), Sept. 30, 1976, 90 Stat. 1409, as amended by Pub. L. 100-713, title IV, §401(a), Nov. 23, 1988, 102 Stat. 4818, provided that payments to which any Indian Health Service facility was entitled by reason of this section were to be placed in a special fund of the Secretary for improvements of facilities of the Service to comply with requirements of this subchapter, required minimum funding for each service unit making collections for such facilities, and provided for section 402(c) of Pub. L. 94-437 to cease to apply when Secretary determined that substantially all such facilities complied with requirements of this subchapter, prior to the general amendment of section 402 of Pub. L. 94-437 by Pub. L. 102-573, title IV, §401(b)(1), Oct. 29, 1992, 106 Stat. 4565. Similar provisions are contained in section 401(c) of Pub. L. 94-437, which is classified to section 1641(c) of Title 25, Indians.

MEDICAID PAYMENTS NOT CONSIDERED IN DETERMINING APPROPRIATIONS FOR INDIAN HEALTH CARE

Pub. L. 94-437, title IV, §402(d), Sept. 30, 1976, 90 Stat. 1410, provided that any payments received for services provided recipients under this section were not to be considered in determining appropriations for the provision of health care and services to Indians, prior to the general amendment of section 402 of Pub. L. 94-437 by Pub. L. 102-573, title IV, §401(b)(1), Oct. 29, 1992, 106 Stat. 4565. Similar provisions are contained in section 401(a) of Pub. L. 94-437, which is classified to section 1641(a) of Title 25, Indians.

**§ 1396k. Assignment, enforcement, and collection of rights of payments for medical care; establishment of procedures pursuant to State plan; amounts retained by State**

(a) For the purpose of assisting in the collection of medical support payments and other payments for medical care owed to recipients of medical assistance under the State plan approved under this subchapter, a State plan for medical assistance shall—

(1) provide that, as a condition of eligibility for medical assistance under the State plan to an individual who has the legal capacity to execute an assignment for himself, the individual is required—

(A) to assign the State any rights, of the individual or of any other person who is eli-

<sup>1</sup> See References in Text note below.

gible for medical assistance under this subchapter and on whose behalf the individual has the legal authority to execute an assignment of such rights, to support (specified as support for the purpose of medical care by a court or administrative order) and to payment for medical care from any third party;

(B) to cooperate with the State (i) in establishing the paternity of such person (referred to in subparagraph (A)) if the person is a child born out of wedlock, and (ii) in obtaining support and payments (described in subparagraph (A)) for himself and for such person, unless (in either case) the individual is described in section 1396a(l)(1)(A) of this title or the individual is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and

(C) to cooperate with the State in identifying, and providing information to assist the State in pursuing, any third party who may be liable to pay for care and services available under the plan, unless such individual has good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the individuals involved; and

(2) provide for entering into cooperative arrangements (including financial arrangements), with any appropriate agency of any State (including, with respect to the enforcement and collection of rights of payment for medical care by or through a parent, with a State's agency established or designated under section 654(3) of this title) and with appropriate courts and law enforcement officials, to assist the agency or agencies administering the State plan with respect to (A) the enforcement and collection of rights to support or payment assigned under this section and (B) any other matters of common concern.

(b) Such part of any amount collected by the State under an assignment made under the provisions of this section shall be retained by the State as is necessary to reimburse it for medical assistance payments made on behalf of an individual with respect to whom such assignment was executed (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing of such medical assistance), and the remainder of such amount collected shall be paid to such individual.

(Aug. 14, 1935, ch. 531, title XIX, §1912, as added Pub. L. 95-142, §11(b), Oct. 25, 1977, 91 Stat. 1196; amended Pub. L. 98-369, div. B, title III, §2367(b), July 18, 1984, 98 Stat. 1109; Pub. L. 99-272, title IX, §9503(e), Apr. 7, 1986, 100 Stat. 207; Pub. L. 101-508, title IV, §4606(a), Nov. 5, 1990, 104 Stat. 1388-170.)

#### AMENDMENTS

1990—Subsec. (a)(1)(B). Pub. L. 101-508 inserted “the individual is described in section 1396a(l)(1)(A) of this title or” after “unless (in either case)”.

1986—Subsec. (a)(1)(C). Pub. L. 99-272 added subpar. (C).

1984—Subsec. (a). Pub. L. 98-369 substituted “State plan for medical assistance shall” for “State plan for medical assistance may”.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Section 4606(b) of Pub. L. 101-508 provided that: “The amendment made by subsection (a) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990].”

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 applicable to calendar quarters beginning on or after Apr. 7, 1986, except as otherwise provided, see section 9503(g)(1), (2) of Pub. L. 99-272, set out as a note under section 1396a of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective Oct. 1, 1984, except as otherwise provided, see section 2367(c) of Pub. L. 98-369, set out as a note under section 1396a of this title.

### § 1396l. Hospital providers of nursing facility services

(a) Notwithstanding any other provision of this subchapter, payment may be made, in accordance with this section, under a State plan approved under this subchapter for nursing facility services furnished by a hospital which has in effect an agreement under section 1395tt of this title and which, with respect to the provision of such services, meets the requirements of subsections (b) through (d) of section 1396r of this title.

(b)(1) Except as provided in paragraph (3), payment to any such hospital, for any nursing facility services furnished pursuant to subsection (a) of this section, shall be at a rate equal to the average rate per patient-day paid for routine services during the previous calendar year under the State plan to nursing facilities, respectively,<sup>1</sup> located in the State in which the hospital is located. 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.

(2) With respect to any period for which a hospital has an agreement under section 1395tt of this title, in order to allocate routine costs between hospital and long-term care services, the total reimbursement for routine services due from all classes of long-term care patients (including subchapter XVIII of this chapter, this subchapter, and private pay patients) shall be subtracted from the hospital total routine costs before calculations are made to determine reimbursement for routine hospital services under the State plan.

(3) Payment to all such hospitals, for any nursing facility services furnished pursuant to subsection (a) of this section, may be made at a payment rate established by the State in accordance with the requirements of section 1396a(a)(13)(A) of this title.

(Aug. 14, 1935, ch. 531, title XIX, §1913, as added Pub. L. 96-499, title IX, §904(b), Dec. 5, 1980, 94 Stat. 2617; amended Pub. L. 98-369, div. B, title III, §2369(a), July 18, 1984, 98 Stat. 1110; Pub. L.

<sup>1</sup> So in original, “, respectively,” probably should not appear.