

(Aug. 14, 1935, ch. 531, title XXI, §2103, as added Pub. L. 105-33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 554; amended Pub. L. 111-3, title I, §111(b)(1), title IV, §403(a), title V, §§501(a)(1), 502, 504(a), 505(a), Feb. 4, 2009, 123 Stat. 28, 84, 89, 90.)

## REFERENCES IN TEXT

Section 2705 of the Public Health Service Act, referred to in subsec. (c)(6)(A), is section 2705 of act July 1, 1944, which was classified to section 300gg-5 of this title, was renumbered section 2726 and amended by Pub. L. 111-148, title I, §§1001(2), 1563(c)(4), formerly §1562(c)(4), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130, 265, 911, and was transferred to section 300gg-26 of this title. A new section 2705 of act July 1, 1944, related to prohibiting discrimination against individual participants and beneficiaries based on health status, was added, effective for plan years beginning on or after Jan. 1, 2014, and amended by Pub. L. 111-148, title I, §1201(3), (4), Mar. 23, 2010, 124 Stat. 154, 156, and is classified to section 300gg-4 of this title.

The Employee Retirement Income Security Act of 1974, referred to in subsec. (f)(1)(B), is Pub. L. 93-406, Sept. 2, 1974, 88 Stat. 832. Part 7 of subtitle B of title I of the Act is classified generally to part 7 (§1181 et seq.) of subtitle B of subchapter I of chapter 18 of Title 29, Labor. For complete classification of this Act to the Code, see Short Title note set out under section 1001 of Title 29 and Tables.

The Public Health Service Act, referred to in subsec. (f), is act July 1, 1944, ch. 373, 58 Stat. 682. Title XXVII of the Act is classified generally to subchapter XXV (§300gg et seq.) of chapter 6A of this title. Subpart 2 of part A of title XXVII of the Act may refer to subpart II of part A of subchapter XXV of chapter 6A of this title. Pub. L. 111-148, title I, §§1001(5), 1563(c)(2), (11), formerly §1562(c)(2), (11), title X, §10107(b)(1), Mar. 23, 2010, 124 Stat. 130, 265, 268, 911, amended part A by inserting "SUBPART II—IMPROVING COVERAGE" (preceding section 300gg-11 of this title), by striking out "SUBPART 2—OTHER REQUIREMENTS" (preceding section 300gg-4 of this title), and by redesignating subpart 4 as subpart 2 "EXCLUSION OF PLANS; ENFORCEMENT; PREEMPTION" (preceding section 300gg-21 of this title). For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

## AMENDMENTS

2009—Subsec. (a). Pub. L. 111-3, §502(b)(1), inserted ", (6)," after "(5)" in introductory provisions.

Pub. L. 111-3, §501(a)(1)(A)(i), substituted "paragraphs (5) and (7) of subsection (c)" for "subsection (c)(5)" in introductory provisions.

Subsec. (a)(1). Pub. L. 111-3, §501(a)(1)(A)(ii), inserted "at least" after "that is".

Subsec. (c)(2)(B) to (D). Pub. L. 111-3, §502(b)(2), redesignated subpars. (C) and (D) as (B) and (C), respectively, and struck out former subpar. (B) which read as follows: "Mental health services."

Subsec. (c)(5). Pub. L. 111-3, §501(a)(1)(B)(ii), added par. (5). Former par. (5) redesignated (7).

Subsec. (c)(6). Pub. L. 111-3, §502(a), added par. (6).

Subsec. (c)(7). Pub. L. 111-3, §501(a)(1)(B)(i), redesignated par. (5) as (7).

Subsec. (c)(8). Pub. L. 111-3, §505(a), added par. (8).

Subsec. (e)(2). Pub. L. 111-3, §111(b)(1), inserted "or pregnancy-related assistance" after "preventive services" in heading and "or for pregnancy-related assistance" before period at end.

Subsec. (e)(3)(C). Pub. L. 111-3, §504(a), added subpar. (C).

Subsec. (f)(3). Pub. L. 111-3, §403(a), added par. (3).

## EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by sections 111(b)(1), 502, and 505(a) of Pub. L. 111-3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided

on or after that date, with certain exceptions, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of this title.

Pub. L. 111-3, title IV, §403(b), Feb. 4, 2009, 123 Stat. 84, provided that: "The amendment made by subsection (a) [amending this section] shall apply to contract years for health plans beginning on or after July 1, 2009."

Amendment by section 501(a)(1) of Pub. L. 111-3 applicable to coverage of items and services furnished on or after Oct. 1, 2009, see section 501(a)(3) of Pub. L. 111-3, set out as a note under section 1397bb of this title.

Pub. L. 111-3, title V, §504(b), Feb. 4, 2009, 123 Stat. 90, provided that: "The amendment made by subsection (a) [amending this section] shall apply to new coverage periods beginning on or after the date of the enactment of this Act [Feb. 4, 2009]."

## § 1397dd. Allotments

## (a) Appropriation; total allotment

For the purpose of providing allotments to States under this section, subject to subsection (d), there is appropriated, out of any money in the Treasury not otherwise appropriated—

- (1) for fiscal year 1998, \$4,295,000,000;
- (2) for fiscal year 1999, \$4,275,000,000;
- (3) for fiscal year 2000, \$4,275,000,000;
- (4) for fiscal year 2001, \$4,275,000,000;
- (5) for fiscal year 2002, \$3,150,000,000;
- (6) for fiscal year 2003, \$3,150,000,000;
- (7) for fiscal year 2004, \$3,150,000,000;
- (8) for fiscal year 2005, \$4,050,000,000;
- (9) for fiscal year 2006, \$4,050,000,000;
- (10) for fiscal year 2007, \$5,000,000,000;
- (11) for fiscal year 2008, \$5,000,000,000.<sup>1</sup>
- (12) for fiscal year 2009, \$10,562,000,000;
- (13) for fiscal year 2010, \$12,520,000,000;
- (14) for fiscal year 2011, \$13,459,000,000;
- (15) for fiscal year 2012, \$14,982,000,000;
- (16) for fiscal year 2013, \$17,406,000,000;
- (17) for fiscal year 2014, \$19,147,000,000; and
- (18) for fiscal year 2015, for purposes of making 2 semi-annual allotments—

(A) \$2,850,000,000 for the period beginning on October 1, 2014, and ending on March 31, 2015, and

(B) \$2,850,000,000 for the period beginning on April 1, 2015, and ending on September 30, 2015.

## (b) Allotments to 50 States and District of Columbia

## (1) In general

Subject to paragraph (4) and subsections (d) and (m), of the amount available for allotment under subsection (a) of this section for a fiscal year, reduced by the amount of allotments made under subsection (c) of this section (determined without regard to paragraph (4) thereof) for the fiscal year, the Secretary shall allot to each State (other than a State described in such subsection) with a State child health plan approved under this subchapter the same proportion as the ratio of—

(A) the product of (i) the number of children described in paragraph (2) for the State for the fiscal year and (ii) the State cost factor for that State (established under paragraph (3)); to

(B) the sum of the products computed under subparagraph (A).

<sup>1</sup> So in original. The period probably should be a semicolon.

**(2) Number of children****(A) In general**

The number of children described in this paragraph for a State for—

(i) each of fiscal years 1998 and 1999 is equal to the number of low-income children in the State with no health insurance coverage for the fiscal year;

(ii) fiscal year 2000 is equal to—

(I) 75 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage, plus

(II) 25 percent of the number of low-income children in the State for the fiscal year; and

(iii) each succeeding fiscal year is equal to—

(I) 50 percent of the number of low-income children in the State for the fiscal year with no health insurance coverage, plus

(II) 50 percent of the number of low-income children in the State for the fiscal year.

**(B) Determination of number of children**

For purposes of subparagraph (A), a determination of the number of low-income children (and of such children who have no health insurance coverage) for a State for a fiscal year shall be made on the basis of the arithmetic average of the number of such children, as reported and defined in the 3 most recent March supplements to the Current Population Survey of the Bureau of the Census before the beginning of the calendar year in which such fiscal year begins.

**(3) Adjustment for geographic variations in health costs****(A) In general**

For purposes of paragraph (1)(A)(ii), the “State cost factor” for a State for a fiscal year equal to the sum of—

(i) 0.15, and

(ii) 0.85 multiplied by the ratio of—

(I) the annual average wages per employee for the State for such year (as determined under subparagraph (B)), to

(II) the annual average wages per employee for the 50 States and the District of Columbia.

**(B) Annual average wages per employee**

For purposes of subparagraph (A), the “annual average wages per employee” for a State, or for all the States, for a fiscal year is equal to the average of the annual wages per employee for the State or for the 50 States and the District of Columbia for employees in the health services industry (SIC code 8000), as reported by the Bureau of Labor Statistics of the Department of Labor for each of the most recent 3 years before the beginning of the calendar year in which such fiscal year begins.

**(4) Floors and ceilings in State allotments****(A) In general**

The proportion of the allotment under this subsection for a subsection (b) State (as de-

finied in subparagraph (D)) for fiscal year 2000 and each fiscal year thereafter shall be subject to the following floors and ceilings:

**(i) Floor of \$2,000,000**

A floor equal to \$2,000,000 divided by the total of the amount available under this subsection for all such allotments for the fiscal year.

**(ii) Annual floor of 10 percent below preceding fiscal year’s proportion**

A floor of 90 percent of the proportion for the State for the preceding fiscal year.

**(iii) Cumulative floor of 30 percent below the FY 1999 proportion**

A floor of 70 percent of the proportion for the State for fiscal year 1999.

**(iv) Cumulative ceiling of 45 percent above FY 1999 proportion**

A ceiling of 145 percent of the proportion for the State for fiscal year 1999.

**(B) Reconciliation****(i) Elimination of any deficit by establishing a percentage increase ceiling for States with highest annual percentage increases**

To the extent that the application of subparagraph (A) would result in the sum of the proportions of the allotments for all subsection (b) States exceeding 1.0, the Secretary shall establish a maximum percentage increase in such proportions for all subsection (b) States for the fiscal year in a manner so that such sum equals 1.0.

**(ii) Allocation of surplus through pro rata increase**

To the extent that the application of subparagraph (A) would result in the sum of the proportions of the allotments for all subsection (b) States being less than 1.0, the proportions of such allotments (as computed before the application of floors under clauses (i), (ii), and (iii) of subparagraph (A)) for all subsection (b) States shall be increased in a pro rata manner (but not to exceed the ceiling established under subparagraph (A)(iv)) so that (after the application of such floors and ceiling) such sum equals 1.0.

**(C) Construction**

This paragraph shall not be construed as applying to (or taking into account) amounts of allotments redistributed under subsection (f) of this section.

**(D) Definitions**

In this paragraph:

**(i) Proportion of allotment**

The term “proportion” means, with respect to the allotment of a subsection (b) State for a fiscal year, the amount of the allotment of such State under this subsection for the fiscal year divided by the total of the amount available under this subsection for all such allotments for the fiscal year.

**(ii) Subsection (b) State**

The term “subsection (b) State” means one of the 50 States or the District of Columbia.

**(c) Allotments to territories****(1) In general**

Of the amount available for allotment under subsection (a) of this section for a fiscal year, subject to subsections (d) and (m)(4), the Secretary shall allot 0.25 percent among each of the commonwealths and territories described in paragraph (3) in the same proportion as the percentage specified in paragraph (2) for such commonwealth or territory bears to the sum of such percentages for all such commonwealths or territories so described.

**(2) Percentage**

The percentage specified in this paragraph for—

- (A) Puerto Rico is 91.6 percent,
- (B) Guam is 3.5 percent,
- (C) the Virgin Islands is 2.6 percent,
- (D) American Samoa is 1.2 percent, and
- (E) the Northern Mariana Islands is 1.1 percent.

**(3) Commonwealths and territories**

A commonwealth or territory described in this paragraph is any of the following if it has a State child health plan approved under this subchapter:

- (A) Puerto Rico.
- (B) Guam.
- (C) The Virgin Islands.
- (D) American Samoa.
- (E) The Northern Mariana Islands.

**(4) Additional allotment****(A) In general**

In addition to the allotment under paragraph (1), the Secretary shall allot each commonwealth and territory described in paragraph (3) the applicable percentage specified in paragraph (2) of the amount appropriated under subparagraph (B).

**(B) Appropriations**

For purposes of providing allotments pursuant to subparagraph (A), there is appropriated, out of any money in the Treasury not otherwise appropriated \$32,000,000 for fiscal year 1999, \$34,200,000 for each of fiscal years 2000 and 2001, \$25,200,000 for each of fiscal years 2002 through 2004, \$32,400,000 for each of fiscal years 2005 and 2006, and \$40,000,000 for each of fiscal years 2007 through 2009.

**(d) Additional allotments to eliminate funding shortfalls****(1) Appropriation; allotment authority**

For the purpose of providing additional allotments to shortfall States described in paragraph (2), there is appropriated, out of any money in the Treasury not otherwise appropriated, \$283,000,000 for fiscal year 2006.

**(2) Shortfall States described**

For purposes of paragraph (1), a shortfall State described in this paragraph is a State

with a State child health plan approved under this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of December 16, 2005, that the projected expenditures under such plan for such State for fiscal year 2006 will exceed the sum of—

(A) the amount of the State’s allotments for each of fiscal years 2004 and 2005 that will not be expended by the end of fiscal year 2005;

(B) the amount, if any, that is to be redistributed to the State during fiscal year 2006 in accordance with subsection (f); and

(C) the amount of the State’s allotment for fiscal year 2006.

**(3) Allotments**

In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2006, the Secretary shall allot—

(A) to each shortfall State described in paragraph (2) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

(B) to each commonwealth or territory described in subsection (c)(3), the same proportion as the proportion of the commonwealth’s or territory’s allotment under subsection (c) (determined without regard to subsection (f)) to 1.05 percent of the amount appropriated under paragraph (1).

**(4) Use of additional allotment**

Additional allotments provided under this subsection are only available for amounts expended under a State plan approved under this subchapter for child health assistance for targeted low-income children.

**(5) 1-year availability; no redistribution of unexpended additional allotments**

Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2006 shall only remain available for expenditure by the State through September 30, 2006. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f) and shall revert to the Treasury on October 1, 2006.

**(e) Availability of amounts allotted****(1) In general**

Except as provided in paragraph (2), amounts allotted to a State pursuant to this section—

(A) for each of fiscal years 1998 through 2008, shall remain available for expenditure by the State through the end of the second succeeding fiscal year; and

(B) for fiscal year 2009 and each fiscal year thereafter, shall remain available for expenditure by the State through the end of the succeeding fiscal year.

**(2) Availability of amounts redistributed**

Amounts redistributed to a State under subsection (f) shall be available for expenditure

by the State through the end of the fiscal year in which they are redistributed.

**(f) Procedure for redistribution of unused allotments**

**(1) In general**

The Secretary shall determine an appropriate procedure for redistribution of allotments from States that were provided allotments under this section for a fiscal year but that do not expend all of the amount of such allotments during the period in which such allotments are available for expenditure under subsection (e) of this section, to States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).

**(2) Shortfall States described**

**(A) In general**

For purposes of paragraph (1), with respect to a fiscal year, a shortfall State described in this subparagraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates on the basis of the most recent data available to the Secretary, that the projected expenditures under such plan for the State for the fiscal year will exceed the sum of—

- (i) the amount of the State's allotments for any preceding fiscal years that remains available for expenditure and that will not be expended by the end of the immediately preceding fiscal year;
- (ii) the amount (if any) of the child enrollment contingency fund<sup>2</sup> payment under subsection (n); and
- (iii) the amount of the State's allotment for the fiscal year.

**(B) Proration rule**

If the amounts available for redistribution under paragraph (1) for a fiscal year are less than the total amounts of the estimated shortfalls determined for the year under subparagraph (A), the amount to be redistributed under such paragraph for each shortfall State shall be reduced proportionally.

**(C) Retrospective adjustment**

The Secretary may adjust the estimates and determinations made under paragraph (1) and this paragraph with respect to a fiscal year as necessary on the basis of the amounts reported by States not later than November 30 of the succeeding fiscal year, as approved by the Secretary.

**(g) Rule for redistribution and extended availability of fiscal years 1998, 1999, 2000, and 2001 allotments**

**(1) Amount redistributed**

**(A) In general**

In the case of a State that expends all of its allotment under subsection (b) or (c) of

this section for fiscal year 1998 by the end of fiscal year 2000, or for fiscal year 1999 by the end of fiscal year 2001, or for fiscal year 2000 by the end of fiscal year 2002, or for fiscal year 2001 by the end of fiscal year 2003, the Secretary shall redistribute to the State under subsection (f) of this section (from the fiscal year 1998, 1999, 2000, or 2001 allotments of other States, respectively, as determined by the application of paragraphs (2) and (3) with respect to the respective fiscal year) the following amount:

**(i) State**

In the case of one of the 50 States or the District of Columbia, with respect to—

(I) the fiscal year 1998 allotment, the amount by which the State's expenditures under this subchapter in fiscal years 1998, 1999, and 2000 exceed the State's allotment for fiscal year 1998 under subsection (b) of this section;

(II) the fiscal year 1999 allotment, the amount by which the State's expenditures under this subchapter in fiscal years 1999, 2000, and 2001 exceed the State's allotment for fiscal year 1999 under subsection (b) of this section;

(III) the fiscal year 2000 allotment, the amount specified in subparagraph (C)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (C)(ii) for the State to the amount specified in subparagraph (C)(iii); or

(IV) the fiscal year 2001 allotment, the amount specified in subparagraph (D)(i) (less the total of the amounts under clause (ii) for such fiscal year), multiplied by the ratio of the amount specified in subparagraph (D)(ii) for the State to the amount specified in subparagraph (D)(iii).

**(ii) Territory**

In the case of a commonwealth or territory described in subsection (c)(3) of this section, an amount that bears the same ratio to 1.05 percent of the total amount described in paragraph (2)(B)(i)(I) as the ratio of the commonwealth's or territory's fiscal year 1998, 1999, 2000, or 2001 allotment under subsection (c) of this section (as the case may be) bears to the total of all such allotments for such fiscal year under such subsection.

**(B) Expenditure rules**

An amount redistributed to a State under this paragraph—

(i) shall not be included in the determination of the State's allotment for any fiscal year under this section;

(ii) notwithstanding subsection (e) of this section, with respect to fiscal year 1998, 1999, or 2000, shall remain available for expenditure by the State through the end of fiscal year 2004;

(iii) notwithstanding subsection (e) of this section, with respect to fiscal year 2001, shall remain available for expendi-

<sup>2</sup>So in original. Probably should be "Child Enrollment Contingency Fund".

ture by the State through the end of fiscal year 2005; and

(iv) shall be counted as being expended with respect to a fiscal year allotment in accordance with applicable regulations of the Secretary.

**(C) Amounts used in computing redistributions for fiscal year 2000**

For purposes of subparagraph (A)(i)(III)—

(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2000, less the total amount remaining available pursuant to paragraph (2)(A)(iii);

(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this subchapter in fiscal years 2000, 2001, and 2002 exceed the State's allotment for fiscal year 2000 under subsection (b) of this section; and

(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2000, of the amounts specified in clause (ii).

**(D) Amounts used in computing redistributions for fiscal year 2001**

For purposes of subparagraph (A)(i)(IV)—

(i) the amount specified in this clause is the amount specified in paragraph (2)(B)(i)(I) for fiscal year 2001, less the total amount remaining available pursuant to paragraph (2)(A)(iv);

(ii) the amount specified in this clause for a State is the amount by which the State's expenditures under this subchapter in fiscal years 2001, 2002, and 2003 exceed the State's allotment for fiscal year 2001 under subsection (b) of this section; and

(iii) the amount specified in this clause is the sum, for all States entitled to a redistribution under subparagraph (A) from the allotments for fiscal year 2001, of the amounts specified in clause (ii).

**(2) Extension of availability of portion of unexpended fiscal years 1998 through 2001 allotments**

**(A) In general**

Notwithstanding subsection (e) of this section:

**(i) Fiscal year 1998 allotment**

Of the amounts allotted to a State pursuant to this section for fiscal year 1998 that were not expended by the State by the end of fiscal year 2000, the amount specified in subparagraph (B) for fiscal year 1998 for such State shall remain available for expenditure by the State through the end of fiscal year 2004.

**(ii) Fiscal year 1999 allotment**

Of the amounts allotted to a State pursuant to this subsection for fiscal year 1999 that were not expended by the State by the end of fiscal year 2001, the amount specified in subparagraph (B) for fiscal year 1999 for such State shall remain available for expenditure by the State through the end of fiscal year 2004.

**(iii) Fiscal year 2000 allotment**

Of the amounts allotted to a State pursuant to this section for fiscal year 2000 that were not expended by the State by the end of fiscal year 2002, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2004.

**(iv) Fiscal year 2001 allotment**

Of the amounts allotted to a State pursuant to this section for fiscal year 2001 that were not expended by the State by the end of fiscal year 2003, 50 percent of that amount shall remain available for expenditure by the State through the end of fiscal year 2005.

**(B) Amount remaining available for expenditure**

The amount specified in this subparagraph for a State for a fiscal year is equal to—

(i) the amount by which (I) the total amount available for redistribution under subsection (f) of this section from the allotments for that fiscal year, exceeds (II) the total amounts redistributed under paragraph (1) for that fiscal year; multiplied by

(ii) the ratio of the amount of such State's unexpended allotment for that fiscal year to the total amount described in clause (i)(I) for that fiscal year.

**(C) Use of up to 10 percent of retained 1998 allotments for outreach activities**

Notwithstanding section 1397ee(c)(2)(A) of this title, with respect to any State described in subparagraph (A)(i), the State may use up to 10 percent of the amount specified in subparagraph (B) for fiscal year 1998 for expenditures for outreach activities approved by the Secretary.

**(3) Determination of amounts**

For purposes of calculating the amounts described in paragraphs (1) and (2) relating to the allotment for fiscal year 1998, fiscal year 1999, fiscal year 2000, or fiscal year 2001, the Secretary shall use the amounts reported by the States not later than December 15, 2000, November 30, 2001, November 30, 2002, or November 30, 2003, respectively, on HCFA Form 64 or HCFA Form 21 or CMS Form 64 or CMS Form 21, as the case may be,<sup>3</sup> as approved by the Secretary.

**(h) Special rules to address fiscal year 2007 shortfalls**

**(1) Redistribution of unused fiscal year 2004 allotments**

**(A) In general**

Notwithstanding subsection (f) and subject to subparagraphs (C) and (D), with respect to months beginning during fiscal year 2007, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2004 under subsection (b) that are not expended by the end of fiscal year 2006, to a shortfall State described in sub-

<sup>3</sup> So in original.

paragraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for such State for the month.

**(B) Shortfall State described**

For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that was not expended by the end of fiscal year 2006; and

(ii) the amount of the State's allotment for fiscal year 2007.

**(C) Funds redistributed in the order in which States realize funding shortfalls**

The Secretary shall redistribute the amounts available for redistribution under subparagraph (A) to shortfall States described in subparagraph (B) in the order in which such States realize monthly funding shortfalls under this subchapter for fiscal year 2007. The Secretary shall only make redistributions under this paragraph to the extent that there are unexpended fiscal year 2004 allotments under subsection (b) available for such redistributions.

**(D) Proration rule**

If the amounts available for redistribution under subparagraph (A) for a month are less than the total amounts of the estimated shortfalls determined for the month under that subparagraph, the amount computed under such subparagraph for each shortfall State shall be reduced proportionally.

**(2) Funding part of shortfall for fiscal year 2007 through redistribution of certain unused fiscal year 2005 allotments**

**(A) In general**

Subject to subparagraphs (C) and (D) and paragraph (5)(B), with respect to months beginning during fiscal year 2007 after March 31, 2007, the Secretary shall provide for a redistribution under subsection (f) from amounts made available for redistribution under paragraph (3) to each shortfall State described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for such State for the month.

**(B) Shortfall State described**

For purposes of this paragraph, a shortfall State described in this subparagraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of March 31, 2007, that the projected expenditures under such plan for such State for fiscal year 2007 will exceed the sum of—

(i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that was not expended by the end of fiscal year 2006;

(ii) the amount, if any, that is to be redistributed to the State in accordance with paragraph (1); and

(iii) the amount of the State's allotment for fiscal year 2007.

**(C) Funds redistributed in the order in which States realize funding shortfalls**

The Secretary shall redistribute the amounts available for redistribution under subparagraph (A) to shortfall States described in subparagraph (B) in the order in which such States realize monthly funding shortfalls under this subchapter for fiscal year 2007. The Secretary shall only make redistributions under this paragraph to the extent that such amounts are available for such redistributions.

**(D) Proration rule**

If the amounts available for redistribution under paragraph (3) for a month are less than the total amounts of the estimated shortfalls determined for the month under subparagraph (A), the amount computed under such subparagraph for each shortfall State shall be reduced proportionally.

**(3) Treatment of certain States with fiscal year 2005 allotments unexpended at the end of the first half of fiscal year 2007**

**(A) Identification of States**

The Secretary, on the basis of the most recent data available to the Secretary as of March 31, 2007—

(i) shall identify those States that received an allotment for fiscal year 2005 under subsection (b) which have not expended all of such allotment by March 31, 2007; and

(ii) for each such State shall estimate—

(I) the portion of such allotment that was not so expended by such date; and

(II) whether the State is described in subparagraph (B).

**(B) States with funds in excess of 200 percent of need**

A State described in this subparagraph is a State for which the Secretary determines, on the basis of the most recent data available to the Secretary as of March 31, 2007, that the total of all available allotments under this subchapter to the State as of such date,<sup>4</sup> is at least equal to 200 percent of the total projected expenditures under this subchapter for the State for fiscal year 2007.

**(C) Redistribution and limitation on availability of portion of unused allotments for certain States**

**(i) In general**

In the case of a State identified under subparagraph (A)(i) that is also described in subparagraph (B), notwithstanding subsection (e), the applicable amount de-

<sup>4</sup>So in original. The comma probably should not appear.

scribed in clause (ii) shall not be available for expenditure by the State on or after April 1, 2007, and shall be redistributed in accordance with paragraph (2).

**(ii) Applicable amount**

For purposes of clause (i), the applicable amount described in this clause is the lesser of—

- (I) 50 percent of the amount described in subparagraph (A)(ii)(I); or
- (II) \$20,000,000.

**(4) Additional amounts to eliminate remainder of fiscal year 2007 funding shortfalls**

**(A) In general**

From the amounts provided in advance in appropriations Acts, the Secretary shall allot to each remaining shortfall State described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such subparagraph for the State for fiscal year 2007.

**(B) Remaining shortfall State described**

For purposes of subparagraph (A), a remaining shortfall State is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of May 25, 2007, that the projected Federal expenditures under such plan for the State for fiscal year 2007 will exceed the sum of—

- (i) the amount of the State's allotments for each of fiscal years 2005 and 2006 that will not be expended by the end of fiscal year 2006;
- (ii) the amount of the State's allotment for fiscal year 2007; and
- (iii) the amounts, if any, that are to be redistributed to the State during fiscal year 2007 in accordance with paragraphs (1) and (2).

**(5) Retrospective adjustment**

**(A) In general**

The Secretary may adjust the estimates and determinations made under paragraphs (1), (2), (3), and (4) as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be and as approved by the Secretary, but in no case may the applicable amount described in paragraph (3)(C)(ii) exceed the amount determined by the Secretary on the basis of the most recent data available to the Secretary as of March 31, 2007.

**(B) Funding of any retrospective adjustments only from unexpended 2005 allotments**

Notwithstanding subsections (e) and (f), to the extent the Secretary determines it necessary to adjust the estimates and determinations made for purposes of paragraphs (1), (2), and (3), the Secretary may use only the allotments for fiscal year 2005 under subsection (b) that remain unexpended through the end of fiscal year 2007 for providing any additional amounts to States described in paragraph (2)(B) (without regard to whether

such unexpended allotments are from States described in paragraph (3)(B)).

**(C) Rules of construction**

Nothing in this subsection shall be construed as—

(i) authorizing the Secretary to use the allotments for fiscal year 2006 or 2007 under subsection (b) of States described in paragraph (3)(B) to provide additional amounts to States described in paragraph (2)(B) for purposes of eliminating the funding shortfall for such States for fiscal year 2007; or

(ii) limiting the authority of the Secretary to redistribute the allotments for fiscal year 2005 under subsection (b) that remain unexpended through the end of fiscal year 2007 and are available for redistribution under subsection (f) after the application of subparagraph (B).

**(6) 1-year availability; no further redistribution**

Notwithstanding subsections (e) and (f), amounts redistributed or allotted to a State pursuant to this subsection for fiscal year 2007 shall only remain available for expenditure by the State through September 30, 2007, and any amounts of such redistributions or allotments that remain unexpended as of such date,<sup>4</sup> shall not be subject to redistribution under subsection (f). Nothing in the preceding sentence shall be construed as limiting the ability of the Secretary to adjust the determinations made under paragraphs (1), (2), (3), and (4) in accordance with paragraph (5).

**(7) Definition of State**

For purposes of this subsection, the term "State" means a State that receives an allotment for fiscal year 2007 under subsection (b).

**(i) Redistribution of unused fiscal year 2005 allotments to States with estimated funding shortfalls for fiscal year 2008**

**(1) In general**

Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2008, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2005 under subsection (b) that are not expended by the end of fiscal year 2007, to a fiscal year 2008 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

**(2) Fiscal year 2008 shortfall State described**

A fiscal year 2008 shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

- (A) the amount of the State's allotments for each of fiscal years 2006 and 2007 that was

not expended by the end of fiscal year 2007; and

(B) the amount of the State's allotment for fiscal year 2008.

**(3) Funds redistributed in the order in which States realize funding shortfalls**

The Secretary shall redistribute the amounts available for redistribution under paragraph (1) to fiscal year 2008 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this subchapter for fiscal year 2008. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2005 allotments under subsection (b) available for such redistributions.

**(4) Proration rule**

If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2008 shortfall State for the month shall be reduced proportionally.

**(5) Retrospective adjustment**

The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2007, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

**(6) 1-year availability; no further redistribution**

Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2008 shall only remain available for expenditure by the State through September 30, 2008, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).

**(j) Additional allotments to eliminate funding shortfalls for fiscal year 2008**

**(1) Appropriation; allotment authority**

For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed \$1,600,000,000 for fiscal year 2008.

**(2) Shortfall States described**

For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary as of November 30, 2007, that the Federal share amount of the projected expenditures under such plan for such State for fiscal year 2008 will exceed the sum of—

(A) the amount of the State's allotments for each of fiscal years 2006 and 2007 that will not be expended by the end of fiscal year 2007;

(B) the amount, if any, that is to be redistributed to the State during fiscal year 2008 in accordance with subsection (i); and

(C) the amount of the State's allotment for fiscal year 2008.

**(3) Allotments**

In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for fiscal year 2008, the Secretary shall allot—

(A) to each shortfall State described in paragraph (2) not described in subparagraph (B), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

**(4) Proration rule**

If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

**(5) Retrospective adjustment**

The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than November 30, 2008, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

**(6) One-year availability; no redistribution of unexpended additional allotments**

Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2008, subject to paragraph (5), shall only remain available for expenditure by the State through September 30, 2008. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

**(k) Redistribution of unused fiscal year 2006 allotments to States with estimated funding shortfalls during fiscal year 2009**

**(1) In general**

Notwithstanding subsection (f) and subject to paragraphs (3) and (4), with respect to months beginning during fiscal year 2009, the Secretary shall provide for a redistribution under such subsection from the allotments for fiscal year 2006 under subsection (b) that are not expended by the end of fiscal year 2008, to a fiscal year 2009 shortfall State described in paragraph (2), such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for such State for the month.

**(2) Fiscal year 2009 shortfall State described**

A fiscal year 2009 shortfall State described in this paragraph is a State with a State child



health plan approved under this subchapter for which the Secretary estimates, on a monthly basis using the most recent data available to the Secretary as of such month, that the Federal share amount of the projected expenditures under such plan for such State for the first 2 quarters of fiscal year 2009 will exceed the sum of—

(A) the amount of the State's allotments for each of fiscal years 2007 and 2008 that was not expended by the end of fiscal year 2008; and

(B) the amount of the State's allotment for fiscal year 2009.

**(3) Funds redistributed in the order in which States realize funding shortfalls**

The Secretary shall redistribute the amounts available for redistribution under paragraph (1) to fiscal year 2009 shortfall States described in paragraph (2) in the order in which such States realize monthly funding shortfalls under this subchapter for fiscal year 2009. The Secretary shall only make redistributions under this subsection to the extent that there are unexpended fiscal year 2006 allotments under subsection (b) available for such redistributions.

**(4) Proration rule**

If the amounts available for redistribution under paragraph (1) are less than the total amounts of the estimated shortfalls determined for the month under that paragraph, the amount computed under such paragraph for each fiscal year 2009 shortfall State for the month shall be reduced proportionally.

**(5) Retrospective adjustment**

The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than May 31, 2009, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

**(6) Availability; no further redistribution**

Notwithstanding subsections (e) and (f), amounts redistributed to a State pursuant to this subsection for fiscal year 2009 shall only remain available for expenditure by the State through September 30, 2009, and any amounts of such redistributions that remain unexpended as of such date, shall not be subject to redistribution under subsection (f).

**(l) Additional allotments to eliminate funding shortfalls for the first 2 quarters of fiscal year 2009**

**(1) Appropriation; allotment authority**

For the purpose of providing additional allotments described in subparagraphs (A) and (B) of paragraph (3), there is appropriated, out of any money in the Treasury not otherwise appropriated, such sums as may be necessary, not to exceed \$275,000,000 for the first 2 quarters of fiscal year 2009.

**(2) Shortfall States described**

For purposes of paragraph (3), a shortfall State described in this paragraph is a State with a State child health plan approved under

this subchapter for which the Secretary estimates, on the basis of the most recent data available to the Secretary, that the Federal share amount of the projected expenditures under such plan for such State for the first 2 quarters of fiscal year 2009 will exceed the sum of—

(A) the amount of the State's allotments for each of fiscal years 2007 and 2008 that will not be expended by the end of fiscal year 2008;

(B) the amount, if any, that is to be redistributed to the State during fiscal year 2009 in accordance with subsection (k); and

(C) the amount of the State's allotment for fiscal year 2009.

**(3) Allotments**

In addition to the allotments provided under subsections (b) and (c), subject to paragraph (4), of the amount available for the additional allotments under paragraph (1) for the first 2 quarters of fiscal year 2009, the Secretary shall allot—

(A) to each shortfall State described in paragraph (2) not described in subparagraph (B) such amount as the Secretary determines will eliminate the estimated shortfall described in such paragraph for the State; and

(B) to each commonwealth or territory described in subsection (c)(3), an amount equal to the percentage specified in subsection (c)(2) for the commonwealth or territory multiplied by 1.05 percent of the sum of the amounts determined for each shortfall State under subparagraph (A).

**(4) Proration rule**

If the amounts available for additional allotments under paragraph (1) are less than the total of the amounts determined under subparagraphs (A) and (B) of paragraph (3), the amounts computed under such subparagraphs shall be reduced proportionally.

**(5) Retrospective adjustment**

The Secretary may adjust the estimates and determinations made to carry out this subsection as necessary on the basis of the amounts reported by States not later than May 31, 2009, on CMS Form 64 or CMS Form 21, as the case may be, and as approved by the Secretary.

**(6) Availability; no redistribution of unexpended additional allotments**

Notwithstanding subsections (e) and (f), amounts allotted to a State pursuant to this subsection for fiscal year 2009, subject to paragraph (5), shall only remain available for expenditure by the State through March 31, 2009. Any amounts of such allotments that remain unexpended as of such date shall not be subject to redistribution under subsection (f).

**(m) Allotments for fiscal years 2009 through 2015**

**(1) For fiscal year 2009**

**(A) For the 50 States and the District of Columbia**

Subject to the succeeding provisions of this paragraph and paragraph (4), the Sec-

retary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12), to each of the 50 States and the District of Columbia 110 percent of the highest of the following amounts for such State or District:

(i) The total Federal payments to the State under this subchapter for fiscal year 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

(ii) The amount allotted to the State for fiscal year 2008 under subsection (b), multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009.

(iii) The projected total Federal payments to the State under this subchapter for fiscal year 2009, as determined on the basis of the February 2009 projections certified by the State to the Secretary by not later than March 31, 2009.

**(B) For the commonwealths and territories**

Subject to the succeeding provisions of this paragraph and paragraph (4), the Secretary shall allot for fiscal year 2009 from the amount made available under subsection (a)(12) to each of the commonwealths and territories described in subsection (c)(3) an amount equal to the highest amount of Federal payments to the commonwealth or territory under this subchapter for any fiscal year occurring during the period of fiscal years 1999 through 2008, multiplied by the allotment increase factor determined under paragraph (5) for fiscal year 2009, except that subparagraph (B) thereof shall be applied by substituting “the United States” for “the State”.

**(C) Adjustment for qualifying States**

In the case of a qualifying State described in paragraph (2) of section 1397ee(g) of this title, the Secretary shall permit the State to submit a revised projection described in subparagraph (A)(iii) in order to take into account changes in such projections attributable to the application of paragraph (4) of such section.

**(2) For fiscal years 2010 through 2014**

**(A) In general**

Subject to paragraphs (4) and (6), from the amount made available under paragraphs (13) through (15) of subsection (a) for each of fiscal years 2010 through 2012, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

**(i) Growth factor update for fiscal year 2010**

For fiscal year 2010, the allotment of the State is equal to the sum of—

(I) the amount of the State allotment under paragraph (1) for fiscal year 2009; and

(II) the amount of any payments made to the State under subsection (k), (l), or (n) for fiscal year 2009,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2010.

**(ii) Rebasing in fiscal year 2011**

For fiscal year 2011, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2010 (including payments made to the State under subsection (n) for fiscal year 2010 as well as amounts redistributed to the State in fiscal year 2010), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2011.

**(iii) Growth factor update for fiscal year 2012**

For fiscal year 2012, the allotment of the State is equal to the sum of—

(I) the amount of the State allotment under clause (ii) for fiscal year 2011; and

(II) the amount of any payments made to the State under subsection (n) for fiscal year 2011,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2012.

**(B) Fiscal years 2013 and 2014**

Subject to paragraphs (4) and (6), from the amount made available under paragraphs (16) and (17) of subsection (a) for fiscal years 2013 and 2014, respectively, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for each such fiscal year as follows:

**(i) Rebasing in fiscal year 2013**

For fiscal year 2013, the allotment of the State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2012 (including payments made to the State under subsection (n) for fiscal year 2012 as well as amounts redistributed to the State in fiscal year 2012), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2013.

**(ii) Growth factor update for fiscal year 2014**

For fiscal year 2014, the allotment of the State is equal to the sum of—

(I) the amount of the State allotment under clause (i) for fiscal year 2013; and

(II) the amount of any payments made to the State under subsection (n) for fiscal year 2013,

multiplied by the allotment increase factor under paragraph (5) for fiscal year 2014.

**(3) For fiscal year 2015**

**(A) First half**

Subject to paragraphs (4) and (6), from the amount made available under subparagraph (A) of paragraph (18) of subsection (a) for the semi-annual period described in such paragraph, increased by the amount of the appro-

priation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the first half ratio (described in subparagraph (D)) of the amount described in subparagraph (C).

**(B) Second half**

Subject to paragraphs (4) and (6), from the amount made available under subparagraph (B) of paragraph (18) of subsection (a) for the semi-annual period described in such paragraph, the Secretary shall compute a State allotment for each State (including the District of Columbia and each commonwealth and territory) for such semi-annual period in an amount equal to the amount made available under such subparagraph, multiplied by the ratio of—

- (i) the amount of the allotment to such State under subparagraph (A); to
- (ii) the total of the amount of all of the allotments made available under such subparagraph.

**(C) Full year amount based on rebased amount**

The amount described in this subparagraph for a State is equal to the Federal payments to the State that are attributable to (and countable towards) the total amount of allotments available under this section to the State in fiscal year 2014 (including payments made to the State under subsection (n) for fiscal year 2014 as well as amounts redistributed to the State in fiscal year 2014), multiplied by the allotment increase factor under paragraph (5) for fiscal year 2015.

**(D) First half ratio**

The first half ratio described in this subparagraph is the ratio of—

- (i) the sum of—
  - (I) the amount made available under subsection (a)(18)(A); and
  - (II) the amount of the appropriation for such period under section 108 of the Children's Health Insurance Program Reauthorization Act of 2009; to
- (ii) the sum of the—
  - (I) amount described in clause (i); and
  - (II) the amount made available under subsection (a)(18)(B).

**(4) Proration rule**

If, after the application of this subsection without regard to this paragraph, the sum of the allotments determined under paragraph (1), (2), or (3) for a fiscal year (or, in the case of fiscal year 2015, for a semi-annual period in such fiscal year) exceeds the amount available under subsection (a) for such fiscal year or period, the Secretary shall reduce each allotment for any State under such paragraph for such fiscal year or period on a proportional basis.

**(5) Allotment increase factor**

The allotment increase factor under this paragraph for a fiscal year is equal to the product of the following:

**(A) Per capita health care growth factor**

1 plus the percentage increase in the projected per capita amount of National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by the Secretary before the beginning of the fiscal year.

**(B) Child population growth factor**

1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by the Secretary based on the most recent published estimates of the Bureau of the Census before the beginning of the fiscal year involved, plus 1 percentage point.

**(6) Increase in allotment to account for approved program expansions**

In the case of one of the 50 States or the District of Columbia that—

(A) has submitted to the Secretary, and has approved by the Secretary, a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under this subchapter that becomes effective for a fiscal year (beginning with fiscal year 2010 and ending with fiscal year 2015); and

(B) has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies—

- (i) the additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in subparagraph (A), as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year; and
- (ii) the extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year,

subject to paragraph (4), the amount of the allotment of the State or District under this subsection for such fiscal year shall be increased by the excess amount described in subparagraph (B)(i). A State or District may only obtain an increase under this paragraph for an allotment for fiscal year 2010, fiscal year 2012, or fiscal year 2014.

**(7) Adjustment of fiscal year 2010 allotments to account for changes in projected spending for certain previously approved expansion programs**

For purposes of recalculating the fiscal year 2010 allotment, in the case of one of the 50 States or the District of Columbia that has an approved State plan amendment effective January 1, 2006, to provide child health assistance through the provision of benefits under the

State plan under subchapter XIX for children from birth through age 5 whose family income does not exceed 200 percent of the poverty line, the Secretary shall increase the allotment by an amount that would be equal to the Federal share of expenditures that would have been claimed at the enhanced FMAP rate rather than the Federal medical assistance percentage matching rate for such population.

**(8) Availability of amounts for semi-annual periods in fiscal year 2015**

Each semi-annual allotment made under paragraph (3) for a period in fiscal year 2015 shall remain available for expenditure under this subchapter for periods after the end of such fiscal year in the same manner as if the allotment had been made available for the entire fiscal year.

**(n) Child Enrollment Contingency Fund**

**(1) Establishment**

There is hereby established in the Treasury of the United States a fund which shall be known as the “Child Enrollment Contingency Fund” (in this subsection referred to as the “Fund”). Amounts in the Fund shall be available without further appropriations for payments under this subsection.

**(2) Deposits into Fund**

**(A) Initial and subsequent appropriations**

Subject to subparagraphs (B) and (D), out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated to the Fund—

(i) for fiscal year 2009, an amount equal to 20 percent of the amount made available under paragraph (12) of subsection (a) for the fiscal year; and

(ii) for each of fiscal years 2010 through 2014 (and for each of the semi-annual allotment periods for fiscal year 2015), such sums as are necessary for making payments to eligible States for such fiscal year or period, but not in excess of the aggregate cap described in subparagraph (B).

**(B) Aggregate cap**

The total amount available for payment from the Fund for each of fiscal years 2010 through 2014 (and for each of the semi-annual allotment periods for fiscal year 2015), taking into account deposits made under subparagraph (C), shall not exceed 20 percent of the amount made available under subsection (a) for the fiscal year or period.

**(C) Investment of Fund**

The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

**(D) Availability of excess funds for performance bonuses**

Any amounts in excess of the aggregate cap described in subparagraph (B) for a fiscal year or period shall be made available for

purposes of carrying out section 1397ee(a)(3) of this title for any succeeding fiscal year and the Secretary of the Treasury shall reduce the amount in the Fund by the amount so made available.

**(3) Child Enrollment Contingency Fund payments**

**(A) In general**

If a State’s expenditures under this subchapter in fiscal year 2009, fiscal year 2010, fiscal year 2011, fiscal year 2012, fiscal year 2013, fiscal year 2014, or a semi-annual allotment period for fiscal year 2015, exceed the total amount of allotments available under this section to the State in the fiscal year or period (determined without regard to any redistribution it receives under subsection (f) that is available for expenditure during such fiscal year or period, but including any carryover from a previous fiscal year) and if the average monthly unduplicated number of children enrolled under the State plan under this subchapter (including children receiving health care coverage through funds under this subchapter pursuant to a waiver under section 1315 of this title) during such fiscal year or period exceeds its target average number of such enrollees (as determined under subparagraph (B)) for that fiscal year or period, subject to subparagraph (D), the Secretary shall pay to the State from the Fund an amount equal to the product of—

(i) the amount by which such average monthly caseload exceeds such target number of enrollees; and

(ii) the projected per capita expenditures under the State child health plan (as determined under subparagraph (C) for the fiscal year), multiplied by the enhanced FMAP (as defined in section 1397ee(b) of this title) for the State and fiscal year involved (or in which the period occurs).

**(B) Target average number of child enrollees**

In this paragraph, the target average number of child enrollees for a State—

(i) for fiscal year 2009 is equal to the monthly average unduplicated number of children enrolled in the State child health plan under this subchapter (including such children receiving health care coverage through funds under this subchapter pursuant to a waiver under section 1315 of this title) during fiscal year 2008 increased by the population growth for children in that State for the year ending on June 30, 2007 (as estimated by the Bureau of the Census) plus 1 percentage point; or

(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the target average number of child enrollees for the State for the previous fiscal year increased by the child population growth factor described in subsection (m)(5)(B) for the State for the prior fiscal year.

**(C) Projected per capita expenditures**

For purposes of subparagraph (A)(ii), the projected per capita expenditures under a State child health plan—

(i) for fiscal year 2009 is equal to the average per capita expenditures (including both State and Federal financial participation) under such plan for the targeted low-income children counted in the average monthly caseload for purposes of this paragraph during fiscal year 2008, increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for 2009; or

(ii) for a subsequent fiscal year (or semi-annual period occurring in a fiscal year) is equal to the projected per capita expenditures under such plan for the previous fiscal year (as determined under clause (i) or this clause) increased by the annual percentage increase in the projected per capita amount of National Health Expenditures (as estimated by the Secretary) for the year in which such subsequent fiscal year ends.

#### **(D) Proration rule**

If the amounts available for payment from the Fund for a fiscal year or period are less than the total amount of payments determined under subparagraph (A) for the fiscal year or period, the amount to be paid under such subparagraph to each eligible State shall be reduced proportionally.

#### **(E) Timely payment; reconciliation**

Payment under this paragraph for a fiscal year or period shall be made before the end of the fiscal year or period based upon the most recent data for expenditures and enrollment and the provisions of subsection (e) of section 1397ee of this title shall apply to payments under this subsection in the same manner as they apply to payments under such section.

#### **(F) Continued reporting**

For purposes of this paragraph and subsection (f), the State shall submit to the Secretary the State's projected Federal expenditures, even if the amount of such expenditures exceeds the total amount of allotments available to the State in such fiscal year or period.

#### **(G) Application to commonwealths and territories**

No payment shall be made under this paragraph to a commonwealth or territory described in subsection (c)(3) until such time as the Secretary determines that there are in effect methods, satisfactory to the Secretary, for the collection and reporting of reliable data regarding the enrollment of children described in subparagraphs (A) and (B) in order to accurately determine the commonwealth's or territory's eligibility for, and amount of payment, under this paragraph.

(Aug. 14, 1935, ch. 531, title XXI, §2104, as added Pub. L. 105-33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 558; amended Pub. L. 105-100, title I, §162(6), (8), Nov. 19, 1997, 111 Stat. 2189, 2190; Pub. L. 105-277, div. A, §101(f) [title VII, §706], Oct. 21, 1998, 112 Stat. 2681-337, 2681-389; Pub. L. 106-113,

div. B, §1000(a)(6) [title VII, §§701(a), 702, 705(a)], Nov. 29, 1999, 113 Stat. 1536, 1501A-399, 1501A-400, 1501A-402; Pub. L. 106-554, §1(a)(6) [title VIII, §§801(a), 802(b), (d)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-578, 2763A-581; Pub. L. 108-74, §1(a)(1)-(3), Aug. 15, 2003, 117 Stat. 892, 893; Pub. L. 108-173, title IX, §900(e)(1)(M), Dec. 8, 2003, 117 Stat. 2372; Pub. L. 109-171, title VI, §6101(a), (b), Feb. 8, 2006, 120 Stat. 130, 131; Pub. L. 109-482, title II, §201(a), Jan. 15, 2007, 120 Stat. 3698; Pub. L. 110-28, title VII, §7001, May 25, 2007, 121 Stat. 186; Pub. L. 110-92, §136(c), Sept. 29, 2007, 121 Stat. 994; Pub. L. 110-173, title II, §201(a)(1), (c)(1), Dec. 29, 2007, 121 Stat. 2509, 2510; Pub. L. 111-3, title I, §§101-103, 105, 106(a)(1), (b), Feb. 4, 2009, 123 Stat. 11, 15, 23, 24; Pub. L. 111-148, title II, §2102(a)(1), title X, §10203(d)(1)-(2)(B), Mar. 23, 2010, 124 Stat. 288, 928-930.)

#### REFERENCES IN TEXT

Section 108 of the Children's Health Insurance Program Reauthorization Act of 2009, referred to in subsec. (m)(3)(A), (D)(i)(II), is section 108 of title I of Pub. L. 111-3, Feb. 4, 2009, 123 Stat. 25, which is not classified to the Code.

#### AMENDMENTS

2010—Subsec. (a)(16) to (18). Pub. L. 111-148, §10203(d)(1), added pars. (16) to (18) and struck out former par. (16) which read as follows: "for fiscal year 2013, for purposes of making 2 semi-annual allotments—

"(A) \$2,850,000,000 for the period beginning on October 1, 2012, and ending on March 31, 2013, and

"(B) \$2,850,000,000 for the period beginning on April 1, 2013, and ending on September 30, 2013."

Subsec. (m). Pub. L. 111-148, §10203(d)(2)(A)(i), substituted "2015" for "2013" in heading.

Subsec. (m)(2). Pub. L. 111-148, §10203(d)(2)(A)(ii), substituted "2014" for "2012" in heading and added subpar. (B).

Subsec. (m)(3). Pub. L. 111-148, §10203(d)(2)(A)(iii)(I), substituted "2015" for "2013" in heading.

Subsec. (m)(3)(A), (B). Pub. L. 111-148, §10203(d)(2)(A)(iii)(II), substituted "paragraph (18)" for "paragraph (16)".

Subsec. (m)(3)(C). Pub. L. 111-148, §10203(d)(2)(A)(iii)(III), substituted "2014" for "2012" wherever appearing and "2015" for "2013".

Subsec. (m)(3)(D)(i)(I). Pub. L. 111-148, §10203(d)(2)(A)(iii)(IV)(aa), substituted "subsection (a)(18)(A)" for "subsection (a)(16)(A)".

Subsec. (m)(3)(D)(ii)(II). Pub. L. 111-148, §10203(d)(2)(A)(iii)(IV)(bb), substituted "subsection (a)(18)(B)" for "subsection (a)(16)(B)".

Subsec. (m)(4). Pub. L. 111-148, §10203(d)(2)(A)(iv), substituted "2015" for "2013".

Subsec. (m)(6). Pub. L. 111-148, §10203(d)(2)(A)(v)(II), substituted "fiscal year 2012, or fiscal year 2014" for "or fiscal year 2012" in concluding provisions.

Subsec. (m)(6)(A). Pub. L. 111-148, §10203(d)(2)(A)(v)(I), substituted "2015" for "2013".

Subsec. (m)(7). Pub. L. 111-148, §2102(a)(1)(B), added par. (7). Former par. (7) redesignated (8).

Subsec. (m)(8). Pub. L. 111-148, §10203(d)(2)(A)(vi), substituted "2015" for "2013" in heading and text.

Pub. L. 111-148, §2102(a)(1)(A), redesignated par. (7) as (8).

Subsec. (n)(2)(A)(ii), (B). Pub. L. 111-148, §10203(d)(2)(B)(i), substituted "2014" for "2012" and "2015" for "2013".

Subsec. (n)(3)(A). Pub. L. 111-148, §10203(d)(2)(B)(ii), substituted "fiscal year 2013, fiscal year 2014, or a semi-annual allotment period for fiscal year 2015" for "or a semi-annual allotment period for fiscal year 2013".

2009—Subsec. (a)(11). Pub. L. 111-3, §101(2), substituted "fiscal year 2008" for "each of fiscal years 2008 and 2009".

Subsec. (a)(12) to (16). Pub. L. 111-3, §101(1), (3), added pars. (12) to (16).

Subsec. (b)(1). Pub. L. 111-3, §102(1), substituted “subsections (d) and (m)” for “subsection (d)” in introductory provisions.

Subsec. (c)(1). Pub. L. 111-3, §102(2), substituted “subsections (d) and (m)(4)” for “subsection (d)”.

Subsec. (e). Pub. L. 111-3, §105, amended subsec. (e) generally. Prior to amendment, text read as follows: “Amounts allotted to a State pursuant to this section for a fiscal year shall remain available for expenditure by the State through the end of the second succeeding fiscal year; except that amounts reallocated to a State under subsection (f) of this section shall be available for expenditure by the State through the end of the fiscal year in which they are reallocated.”

Subsec. (f). Pub. L. 111-3, §106(a)(1), designated existing provisions as par. (1), inserted heading, substituted “States that the Secretary determines with respect to the fiscal year for which unused allotments are available for redistribution under this subsection, are shortfall States described in paragraph (2) for such fiscal year, but not to exceed the amount of the shortfall described in paragraph (2)(A) for each such State (as may be adjusted under paragraph (2)(C)).” for “States that have fully expended the amount of their allotments under this section.”, and added par. (2).

Subsec. (k). Pub. L. 111-3, §106(b)(1), struck out “the first 2 quarters of” before “fiscal year 2009” in heading.

Subsec. (k)(1). Pub. L. 111-3, §106(b)(2), struck out “the first 2 quarters of” before “fiscal year 2009.”

Subsec. (k)(6). Pub. L. 111-3, §106(b)(3), struck out “the first 2 quarters of” before “fiscal year 2009” and substituted “September 30” for “March 31”.

Subsecs. (m), (n). Pub. L. 111-3, §§102(3), 103, added subsecs. (m) and (n).

2007—Subsec. (a)(11). Pub. L. 110-173, §201(a)(1)(A), added par. (11).

Subsec. (c)(4)(B). Pub. L. 110-173, §201(a)(1)(B), substituted “for each of fiscal years 2007 through 2009” for “for fiscal year 2007”.

Subsec. (h). Pub. L. 109-482 added subsec. (h).

Subsec. (h)(1)(B). Pub. L. 110-28, §7001(b)(1), struck out “subject to paragraph (4)(B) and” after “estimates,” in introductory provisions.

Subsec. (h)(2). Pub. L. 110-28, §7001(a)(1), (b)(2), substituted “part” for “remainder of reduction” in heading and struck out “subject to paragraph (4)(B) and” after “estimates,” in introductory provisions of subpar. (B).

Subsec. (h)(4). Pub. L. 110-28, §7001(a)(2), added par. (4) and struck out former par. (4). Former text read as follows:

“(A) EXPENDITURES LIMITED TO COVERAGE FOR POPULATIONS ELIGIBLE ON OCTOBER 1, 2006.—A State shall use amounts redistributed under this subsection only for expenditures for providing child health assistance or other health benefits coverage for populations eligible for such assistance or benefits under the State child health plan (including under a waiver of such plan) on October 1, 2006.

“(B) REGULAR FMAP FOR EXPENDITURES FOR COVERAGE OF NONCHILD POPULATIONS.—To the extent a State uses amounts redistributed under this subsection for expenditures for providing child health assistance or other health benefits coverage to an individual who is not a child or a pregnant woman, the Federal medical assistance percentage (as defined in the first sentence of section 1396d(b) of this title) applicable to the State for the fiscal year shall apply to such expenditures for purposes of making payments to the State under subsection (a) of section 1397ee of this title from such amounts.”

Subsec. (h)(5)(A). Pub. L. 110-28, §7001(b)(3), substituted “(3), and (4)” for “and (3)”.

Subsec. (h)(6). Pub. L. 110-28, §7001(b)(4), inserted “or allotted” after “redistributed” and “or allotments” after “redistributions” in first sentence and substituted “(3), and (4)” for “and (3)” in second sentence.

Subsec. (i). Pub. L. 110-92 added subsec. (i).

Subsec. (j) to (l). Pub. L. 110-173, §201(c)(1), added subsecs. (j) to (l).

2006—Subsec. (a). Pub. L. 109-171, §6101(b)(1), inserted “subject to subsection (d),” after “under this section,” in introductory provisions.

Subsec. (b)(1). Pub. L. 109-171, §6101(b)(2), inserted “and subsection (d)” after “Subject to paragraph (4)” in introductory provisions.

Subsec. (c)(1). Pub. L. 109-171, §6101(b)(3), inserted “subject to subsection (d),” after “for a fiscal year,”.

Subsec. (d). Pub. L. 109-171, §6101(a), added subsec. (d).

2003—Subsec. (g). Pub. L. 108-74, §1(a)(2)(C)(i), (3)(C)(i), substituted “, 1999, 2000, and 2001” for “and 1999” in heading.

Subsec. (g)(1)(A). Pub. L. 108-74, §1(a)(3)(B)(i), (ii), inserted “or for fiscal year 2001 by the end of fiscal year 2003,” after “fiscal year 2002,” and substituted “1999, 2000, or 2001” for “1999, or 2000”.

Pub. L. 108-74, §1(a)(2)(B)(i), (ii), inserted “or for fiscal year 2000 by the end of fiscal year 2002,” after “fiscal year 2001,” and substituted “1998, 1999, or 2000” for “1998 or 1999”.

Subsec. (g)(1)(A)(i)(III). Pub. L. 108-74, §1(a)(2)(B)(iii), added subclause (III).

Subsec. (g)(1)(A)(i)(IV). Pub. L. 108-74, §1(a)(3)(B)(iii), added subcl. (IV).

Subsec. (g)(1)(A)(ii). Pub. L. 108-74, §1(a)(3)(B)(iv), substituted “2000, or 2001” for “or 2000”.

Pub. L. 108-74, §1(a)(2)(B)(iv), substituted “, 1999, or 2000” for “or 1999”.

Subsec. (g)(1)(B). Pub. L. 108-74, §1(a)(2)(B)(v), struck out “with respect to fiscal year 1998 or 1999” after “paragraph” in introductory provisions.

Subsec. (g)(1)(B)(ii). Pub. L. 108-74, §1(a)(2)(B)(vi), inserted “with respect to fiscal year 1998, 1999, or 2000” after “subsection (e) of this section,” and substituted “2004” for “2002”.

Subsec. (g)(1)(B)(iii), (iv). Pub. L. 108-74, §1(a)(3)(B)(v), added clause (iii) and redesignated former cl. (iii) as (iv).

Subsec. (g)(1)(C). Pub. L. 108-74, §1(a)(2)(B)(vii), added subpar. (C).

Subsec. (g)(1)(D). Pub. L. 108-74, §1(a)(3)(B)(vi), added subpar. (D).

Subsec. (g)(2). Pub. L. 108-74, §1(a)(2)(A)(i), (3)(A)(i), substituted “through 2001” for “and 1999” in heading.

Subsec. (g)(2)(A)(i), (ii). Pub. L. 108-74, §1(a)(1), substituted “fiscal year 2004” for “fiscal year 2002”.

Subsec. (g)(2)(A)(iii). Pub. L. 108-74, §1(a)(2)(A)(ii), added cl. (iii).

Subsec. (g)(2)(A)(iv). Pub. L. 108-74, §1(a)(3)(A)(ii), added cl. (iv).

Subsec. (g)(3). Pub. L. 108-173 inserted “or CMS Form 64 or CMS Form 21, as the case may be,” after “HCFA Form 64 or HCFA Form 21”.

Pub. L. 108-74, §1(a)(3)(C)(ii), substituted “fiscal year 2000, or fiscal year 2001” for “or fiscal year 2000” and “November 30, 2002, or November 30, 2003,” for “or November 30, 2002,”.

Pub. L. 108-74, §1(a)(2)(C)(ii), substituted “, fiscal year 1999, or fiscal year 2000” for “or fiscal year 1999” and “November 30, 2001, or November 30, 2002” for “or November 30, 2001”.

2000—Subsec. (b)(1). Pub. L. 106-554, §1(a)(6) [title VIII, §802(d)(3)(A)], in introductory provisions, struck out “and subsection (d) of this section” after “Subject to paragraph (4)”.

Subsec. (c)(1). Pub. L. 106-554, §1(a)(6) [title VIII, §802(d)(3)(B)], struck out “subject to subsection (d) of this section,” after “for a fiscal year,”.

Subsec. (d). Pub. L. 106-554, §1(a)(6) [title VIII, §802(b)], struck out heading and text of subsec. (d). Text read as follows: “The amount of the allotment otherwise provided to a State under subsection (b) or (c) of this section for a fiscal year shall be reduced by the sum of—

“(1) the amount (if any) of the payments made to that State under section 1396b(a) of this title for expenditures claimed by the State during such fiscal year that is attributable to the provision of medical

assistance to a child during a presumptive eligibility period under section 1396r-1a of this title, and

“(2) the amount (if any) of the payments made to that State under section 1396b(a) of this title for expenditures claimed by the State during such fiscal year that is attributable to the provision of medical assistance to a child for which payment is made under section 1396b(a)(1) of this title on the basis of an enhanced FMAP under the fourth sentence of section 1396d(b) of this title.”

Subsec. (g). Pub. L. 106-554, §1(a)(6) [title VIII, §801(a)], added subsec. (g).

1999—Subsec. (b)(2)(A)(i). Pub. L. 106-113, §1000(a)(6) [title VII, §701(a)(1)(A)], substituted “and 1999” for “through 2000”.

Subsec. (b)(2)(A)(ii). Pub. L. 106-113, §1000(a)(6) [title VII, §701(a)(1)(B)], substituted “2000” for “2001” in introductory provisions.

Subsec. (b)(2)(B). Pub. L. 106-113, §1000(a)(6) [title VII, §701(a)(3)], substituted “the calendar year in which such fiscal year begins” for “the fiscal year”.

Subsec. (b)(3)(B). Pub. L. 106-113, §1000(a)(6) [title VII, §705(a)], substituted “all the States,” for “all the States.”

Pub. L. 106-113, §1000(a)(6) [title VII, §701(a)(4)], substituted “the calendar year in which such fiscal year begins” for “the fiscal year involved”.

Subsec. (b)(4). Pub. L. 106-113, §1000(a)(6) [title VII, §701(a)(2)], amended heading and text of par. (4) generally. Prior to amendment, text read as follows: “In no case shall the amount of the allotment under this subsection for one of the 50 States or the District of Columbia for a year be less than \$2,000,000. To the extent that the application of the previous sentence results in an increase in the allotment to a State above the amount otherwise provided, the allotments for the other States and the District of Columbia under this subsection shall be reduced in a pro rata manner (but not below \$2,000,000) so that the total of such allotments in a fiscal year does not exceed the amount otherwise provided for allotment under paragraph (1) for that fiscal year.”

Subsec. (c)(4)(B). Pub. L. 106-113, §1000(a)(6) [title VII, §702], inserted before period at end “, \$34,200,000 for each of fiscal years 2000 and 2001, \$25,200,000 for each of fiscal years 2002 through 2004, \$32,400,000 for each of fiscal years 2005 and 2006, and \$40,000,000 for fiscal year 2007”.

1998—Subsec. (b)(1). Pub. L. 105-277, §101(f) [title VII, §706(b)], inserted “(determined without regard to paragraph (4) thereof)” after “subsection (c) of this section”.

Subsec. (c)(4). Pub. L. 105-277, §101(f) [title VII, §706(a)], added par. (4).

1997—Subsec. (a)(1). Pub. L. 105-100, §162(8)(A), substituted “\$4,295,000,000” for “\$4,275,000,000”.

Subsec. (b)(4). Pub. L. 105-100, §162(8)(B), substituted “In” for “Subject to paragraph (5), in”.

Subsec. (c)(2)(C). Pub. L. 105-100, §162(8)(C), inserted “the” before “Virgin Islands”.

Subsec. (c)(3)(C), (E). Pub. L. 105-100, §162(8)(C), substituted “The” for “the”.

Subsec. (d)(1). Pub. L. 105-100, §162(6)(A), substituted “for expenditures claimed by the State” for “for calendar quarters”.

Subsec. (d)(2). Pub. L. 105-100, §162(6)(B), added par. (2) and struck out former par. (2) which read as follows: “the amount of payments under such section during such period that is attributable to the provision of medical assistance to a child for which payment is made under section 1396b(a)(1) of this title on the basis of an enhanced FMAP under section 1396d(b) of this title.”

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title II, §2102(a), Mar. 23, 2010, 124 Stat. 288, provided that the amendment made by section 2102(a)(1) of Pub. L. 111-148 is effective as if included in the enactment of the Children’s Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111-3).

#### EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by sections 101-103, 105, and 106(b) of Pub. L. 111-3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, with certain exceptions, see section 3 of Pub. L. 111-3, set out as an Effective Date note under section 1396 of this title.

Pub. L. 111-3, title I, §106(a)(2), Feb. 4, 2009, 123 Stat. 24, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to redistribution of allotments made for fiscal year 2007 and subsequent fiscal years.”

#### TERMINATION DATE OF 2007 AMENDMENT

Pub. L. 110-92, §136(e), Sept. 29, 2007, 121 Stat. 995, which provided that the amendments made by subsecs. (c) and (d) of section 136, amending this section and section 1397ee of this title, were effective through Dec. 31, 2007, or, if earlier, the date of the enactment of an Act that provides funding for fiscal year 2008 and for one or more subsequent fiscal years for the Children’s Health Insurance Program under this subchapter, was repealed by Pub. L. 110-173, title II, §201(b)(3), Dec. 29, 2007, 121 Stat. 2510.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title VI, §6101(c), Feb. 8, 2006, 120 Stat. 131, provided that: “The amendments made by this section [amending this section] apply to items and services furnished on or after October 1, 2005, without regard to whether or not regulations implementing such amendments have been issued.”

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-74, §1(a)(4), Aug. 15, 2003, 117 Stat. 895, provided that: “This subsection [amending this section], and the amendments made by this subsection, shall be effective as if this subsection had been enacted on September 30, 2002, and amounts under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) from allotments for fiscal years 1998 through 2000 are available for expenditure on and after October 1, 2002, under the amendments made by this subsection as if this subsection had been enacted on September 30, 2002.”

#### EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, §1(a)(6) [title VIII, §801(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-580, provided that: “The amendments made by this section [amending this section] shall take effect as if included in the enactment of section 4901 of BBA [Pub. L. 105-33] (111 Stat. 552).”

Amendment by section 802(b), (d)(3) of Pub. L. 106-554 effective as if included in the enactment of section 4901 of Pub. L. 105-33, see section 1(a)(6) [title VIII, §802(f)] of Pub. L. 106-554, set out as a note under section 1396d of this title.

#### EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-113, div. B, §1000(a)(6) [title VII, §701(b)], Nov. 29, 1999, 113 Stat. 1536, 1501A-400, provided that: “The amendments made by this section [amending this section] apply to allotments determined under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) for fiscal year 2000 and each fiscal year thereafter.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 162 of Pub. L. 105-100 provided that the amendment made by that section is effective as if included in the enactment of subtitle J (§§4901-4923) of title IV of the Balanced Budget Act of 1997, Pub. L. 105-33.

AUTHORITY TO TRANSFER SUBCHAPTER XXI APPROPRIATIONS TO SUBCHAPTER XIX APPROPRIATION ACCOUNT AS REIMBURSEMENT FOR MEDICAID EXPENDITURES FOR MEDICAID EXPANSION SCHIP SERVICES

Pub. L. 106-554, §1(a)(6) [title VIII, §802(c)], Dec. 21, 2000, 114 Stat. 2763, 2763A-581, provided that: “Notwith-

standing any other provision of law, all amounts appropriated under title XXI [of the Social Security Act, this subchapter] and allotted to a State pursuant to subsection (b) or (c) of section 2104 of the Social Security Act (42 U.S.C. 1397dd) for fiscal years 1998 through 2000 (including any amounts that, but for this provision, would be considered to have expired) and not expended in providing child health assistance or related services for which payment may be made pursuant to subparagraph (C) or (D) of section 2105(a)(1) of such Act (42 U.S.C. 1397ee(a)(1)) (as amended by subsection (a)), shall be available to reimburse the Grants to States for Medicaid account in an amount equal to the total payments made to such State under section 1903(a) of such Act (42 U.S.C. 1396b(a)) for expenditures in such years for medical assistance described in subparagraphs (A) and (B) of section 2105(a)(1) of such Act (42 U.S.C. 1397ee(a)(1)) (as so amended)."

DETERMINATION OF NUMBER OF CHILDREN AND STATE COST FACTORS FOR FISCAL YEARS 1998 AND 1999

Pub. L. 105-277, div. A, § 101(f) [title VII, § 707], Oct. 21, 1998, 112 Stat. 2681-337, 2681-389, provided that: "Notwithstanding any other provision of law, for purposes of determining the product under section 2104(b)(1)(A) of the Social Security Act (42 U.S.C. 1397dd(b)(1)(A)) for a State for each of fiscal years 1998 and 1999—

"(1) the number of children under clause (i) of such section shall be the number of low-income children specified for the State in Column B of the table on pages 48101-48102 of the Federal Register published on September 12, 1997, adjusted by the Census Bureau as necessary to treat children as being without health insurance if they have access to health care funded by the Indian Health Service but do not have health insurance; and

"(2) the State cost factor under clause (ii) of such section shall be the State cost factor specified for the State in Column C of such table."

**§ 1397ee. Payments to States**

**(a) Payments**

**(1) In general**

Subject to the succeeding provisions of this section, the Secretary shall pay to each State with a plan approved under this subchapter, from its allotment under section 1397dd of this title, an amount for each quarter equal to the enhanced FMAP (or, in the case of expenditures described in subparagraph (D)(iv), the higher of 75 percent or the sum of the enhanced FMAP plus 5 percentage points) of expenditures in the quarter—

(A) for child health assistance under the plan for targeted low-income children in the form of providing medical assistance for which payment is made on the basis of an enhanced FMAP under the fourth sentence of section 1396d(b) of this title;

(B) [reserved]

(C) for child health assistance under the plan for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 1397cc of this title; and

(D) only to the extent permitted consistent with subsection (c) of this section—

(i) for payment for other child health assistance for targeted low-income children;

(ii) for expenditures for health services initiatives under the plan for improving the health of children (including targeted low-income children and other low-income children);

(iii) for expenditures for outreach activities as provided in section 1397bb(c)(1) of this title under the plan;

(iv) for translation or interpretation services in connection with the enrollment of, retention of, and use of services under this subchapter by, individuals for whom English is not their primary language (as found necessary by the Secretary for the proper and efficient administration of the State plan); and

(v) for other reasonable costs incurred by the State to administer the plan.

**(2) Order of payments**

Payments under paragraph (1) from a State's allotment shall be made in the following order:

(A) First, for expenditures for items described in paragraph (1)(A).

(B) Second, for expenditures for items described in paragraph (1)(B).

(C) Third, for expenditures for items described in paragraph (1)(C).

(D) Fourth, for expenditures for items described in paragraph (1)(D).

**(3) Performance bonus payment to offset additional Medicaid and CHIP child enrollment costs resulting from enrollment and retention efforts**

**(A) In general**

In addition to the payments made under paragraph (1), for each fiscal year (beginning with fiscal year 2009 and ending with fiscal year 2013), the Secretary shall pay from amounts made available under subparagraph (E), to each State that meets the condition under paragraph (4) for the fiscal year, an amount equal to the amount described in subparagraph (B) for the State and fiscal year. The payment under this paragraph shall be made, to a State for a fiscal year, as a single payment not later than the last day of the first calendar quarter of the following fiscal year.

**(B) Amount for above baseline Medicaid child enrollment costs**

Subject to subparagraph (E), the amount described in this subparagraph for a State for a fiscal year is equal to the sum of the following amounts:

**(i) First tier above baseline Medicaid enrollees**

An amount equal to the number of first tier above baseline child enrollees (as determined under subparagraph (C)(i)) under subchapter XIX for the State and fiscal year, multiplied by 15 percent of the projected per capita State Medicaid expenditures (as determined under subparagraph (D)) for the State and fiscal year under subchapter XIX.

**(ii) Second tier above baseline Medicaid enrollees**

An amount equal to the number of second tier above baseline child enrollees (as determined under subparagraph (C)(ii)) under subchapter XIX for the State and