

Subsec. (b)(3). Pub. L. 98-369, §2369(a)(2), added par. (3).

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to nursing facility services furnished on or after Oct. 1, 1990, with-out regard to whether regulations implementing such amendment are promulgated by such date, except as otherwise specifically provided in section 1396r of this title, with transitional rule, see section 4214(a), (b)(2) of Pub. L. 100-203, as amended, set out as an Effective Date note under section 1396r of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title III, §2369(b), July 18, 1984, 98 Stat. 1110, provided that: "The amendments made by this section [amending this section] shall apply to pay-ments for services furnished after the date of the enact-ment of this Act [July 18, 1984]."

EFFECTIVE DATE

Section effective on date on which final regulations to implement the section are first issued, see section 904(d) of Pub. L. 96-499, set out as an Effective Date note under section 1395tt of this title.

**§ 1396m. Withholding of Federal share of pay-ments for certain medicare providers**

**(a) Adjustment of Federal matching payments**

The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1395cc of this title; and (B)(i) from which the Secretary has been unable to recover overpayments made under subchapter XVIII of this chapter, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under subchapter XVIII of this chapter; and

(2) any person (A) who (i) has previously ac-cepted payment on the basis of an assignment under section 1395u(b)(3)(B)(ii) of this title, and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under subchapter XVIII of this chapter, or submitted claims for payment under subchapter XVIII of this chapter which aggregated less than the amount of overpay-ments made to him, and (B)(i) from whom the Secretary has been unable to recover overpay-ments received in violation of the terms of such assignment, or (ii) from whom the Sec-retary has been unable to collect the informa-tion necessary to enable him to determine the amount (if any) of the overpayments made to such person under subchapter XVIII of this chapter.

**(b) Reductions in payments to and by States**

The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this subchapter for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a) of this section, or the total overpayments to such institu-tion or person under subchapter XVIII of this

chapter, and may require the State to reduce its payment to such institution or person by such amount.

**(c) Notice**

The Secretary shall not make any adjustment in the payment to a State, nor require any ad-justment in the payment to an institution or person, pursuant to subsection (b) of this section until after he has provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

**(d) Regulations**

The Secretary shall by regulation provide pro-cedures for implementation of this section, which procedures shall (1) determine the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under subchapter XVIII of this chapter, and (2) assure the restoration to the in-stitution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under subchapter XVIII of this chapter and to which the institu-tion or person would otherwise be entitled under this subchapter.

**(e) Restoration to trust funds of recovered amounts**

The Secretary shall restore to the trust funds established under sections 1395i and 1395t of this title, as appropriate, amounts recovered under this section as setoffs against overpayments under subchapter XVIII of this chapter.

**(f) Liability of States for withheld payments**

Notwithstanding any other provision of this subchapter, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this subchapter which is withheld by the State agency pursuant to an order by the Secretary under subsection (b) of this section.

(Aug. 14, 1935, ch. 531, title XIX, §1914, as added Pub. L. 96-499, title IX, §905(d), Dec. 5, 1980, 94 Stat. 2618.)

**§ 1396n. Compliance with State plan and pay-ment provisions**

**(a) Activities deemed as compliance**

A State shall not be deemed to be out of com-pliance with the requirements of paragraphs (1), (10), or (23) of section 1396a(a) of this title solely by reason of the fact that the State (or any po-litical subdivision thereof)—

(1) has entered into—

(A) a contract with an organization which has agreed to provide care and services in addition to those offered under the State plan to individuals eligible for medical as-sistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such or-ganization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are pro-vided by a rural health clinic; or

(B) arrangements through a competitive bidding process or otherwise for the pur-