

## PRIOR PROVISIONS

A prior section 1932 of act Aug. 14, 1935, was renumbered section 1939 and is classified to section 1396v of this title.

## AMENDMENTS

2010—Subsec. (f). Pub. L. 111-152 inserted “; adequacy of payment for primary care services” after “payment” in heading and “and, in the case of primary care services described in section 1396a(a)(13)(C) of this title, consistent with the minimum payment rates specified in such section (regardless of the manner in which such payments are made, including in the form of capitation or partial capitation)” before period at end of text.

2009—Subsec. (h). Pub. L. 111-5 added subsec. (h).

2006—Subsec. (b)(2)(D). Pub. L. 109-171 added subpar. (D).

2000—Subsec. (g). Pub. L. 106-554 added subsec. (g).

1999—Subsec. (c)(2)(C). Pub. L. 106-113, § 1000(a)(6) [title VI, § 608(w)(1)], inserted “part” before “C of subchapter XVIII”.

Subsec. (d)(1)(C)(ii). Pub. L. 106-113, § 1000(a)(6) [title VI, § 608(w)(2)(A)], substituted “Regulation” for “Act”.  
Subsec. (d)(2)(B). Pub. L. 106-113, § 1000(a)(6) [title VI, § 608(w)(2)(B)], substituted “1396d(t)(3) of this title” for “1396b(t)(3) of this title”.

1997—Subsec. (b). Pub. L. 105-33, § 4704(a), added subsec. (b).

Subsec. (c). Pub. L. 105-33, § 4705(a), added subsec. (c).

Subsecs. (d), (e). Pub. L. 105-33, § 4707(a), added subsecs. (d) and (e).

Subsec. (f). Pub. L. 105-33, § 4708(c), added subsec. (f).

## CHANGE OF NAME

References to Medicare+Choice deemed to refer to Medicare Advantage or MA, subject to an appropriate transition provided by the Secretary of Health and Human Services in the use of those terms, see section 201 of Pub. L. 108-173, set out as a note under section 1395w-21 of this title.

## EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 effective July 1, 2009, see section 5006(f) of Pub. L. 111-5, set out as a note under section 1396a of this title.

## EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title VI, § 6085(b), Feb. 8, 2006, 120 Stat. 121, provided that: “The amendment made by subsection (a) [amending this section] shall take effect on January 1, 2007.”

## EFFECTIVE DATE OF 2000 AMENDMENT

Pub. L. 106-554, § 1(a)(6) [title VII, § 701(b)(3)(A)], Dec. 21, 2000, 114 Stat. 2763, 2763A-570, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to contracts as of January 1, 2001.”

## EFFECTIVE DATE

Section effective Aug. 5, 1997, and applicable to contracts entered into or renewed on or after Oct. 1, 1997, except that, subject to provisions relating to extension of effective date for State law amendments, and to non-application to waivers, subsec. (c)(1) effective Jan. 1, 1999, and subsec. (e) applicable to contracts entered into or renewed on or after Apr. 1, 1998, see section 4710(a), (b)(3), (5) of Pub. L. 105-33, set out as an Effective Date of 1997 Amendment note under section 1396b of this title.

## STUDIES AND REPORTS

Pub. L. 105-33, title IV, § 4705(c), Aug. 5, 1997, 111 Stat. 500, provided that:

“(1) GAO STUDY AND REPORT ON QUALITY ASSURANCE AND ACCREDITATION STANDARDS.—

“(A) STUDY.—The Comptroller General of the United States shall conduct a study and analysis of the quality assurance programs and accreditation

standards applicable to managed care entities operating in the private sector, or to such entities that operate under contracts under the medicare program under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.). Such study shall determine—

“(i) if such programs and standards include consideration of the accessibility and quality of the health care items and services delivered under such contracts to low-income individuals; and

“(ii) the appropriateness of applying such programs and standards to medicare managed care organizations under section 1932(c) of such Act [subsec. (c) of this section].

“(B) REPORT.—The Comptroller General shall submit a report to the Committee on Commerce [now Committee on Energy and Commerce] of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subparagraph (A).

“(2) STUDY AND REPORT ON SERVICES PROVIDED TO INDIVIDUALS WITH SPECIAL HEALTH CARE NEEDS.—

“(A) STUDY.—The Secretary of Health and Human Services, in consultation with States, managed care organizations, the National Academy of State Health Policy, representatives of beneficiaries with special health care needs, experts in specialized health care, and others, shall conduct a study concerning safeguards (if any) that may be needed to ensure that the health care needs of individuals with special health care needs and chronic conditions who are enrolled with medicare managed care organizations are adequately met.

“(B) REPORT.—Not later than 2 years after the date of the enactment of this Act [Aug. 5, 1997], the Secretary shall submit to Committees described in paragraph (1)(B) a report on such study.”

### § 1396u-3. State coverage of medicare cost-sharing for additional low-income medicare beneficiaries

#### (a) In general

A State plan under this subchapter shall provide, under section 1396a(a)(10)(E)(iv) of this title and subject to the succeeding provisions of this section and through a plan amendment, for medical assistance for payment of the cost of medicare cost-sharing described in such section on behalf of all individuals described in such section (in this section referred to as “qualifying individuals”) who are selected to receive such assistance under subsection (b) of this section.

#### (b) Selection of qualifying individuals

A State shall select qualifying individuals, and provide such individuals with assistance, under this section consistent with the following:

##### (1) All qualifying individuals may apply

The State shall permit all qualifying individuals to apply for assistance during a calendar year.

##### (2) Selection on first-come, first-served basis

###### (A) In general

For each calendar year (beginning with 1998), from (and to the extent of) the amount of the allocation under subsection (c) of this section for the State for the fiscal year ending in such calendar year, the State shall select qualifying individuals who apply for the assistance in the order in which they apply.

###### (B) Carryover

For calendar years after 1998, the State shall give preference to individuals who were

provided such assistance (or other assistance described in section 1396a(a)(10)(E) of this title) in the last month of the previous year and who continue to be (or become) qualifying individuals.

**(3) Limit on number of individuals based on allocation**

The State shall limit the number of qualifying individuals selected with respect to assistance in a calendar year so that the aggregate amount of such assistance provided to such individuals in such year is estimated to be equal to (but not exceed) the State's allocation under subsection (c) of this section for the fiscal year ending in such calendar year.

**(4) Receipt of assistance during duration of year**

If a qualifying individual is selected to receive assistance under this section for a month in a year, the individual is entitled to receive such assistance for the remainder of the year if the individual continues to be a qualifying individual. The fact that an individual is selected to receive assistance under this section at any time during a year does not entitle the individual to continued assistance for any succeeding year.

**(c) Allocation**

**(1) Total allocation**

The total amount available for allocation under this section for—

- (A) fiscal year 1998 is \$200,000,000;
- (B) fiscal year 1999 is \$250,000,000;
- (C) fiscal year 2000 is \$300,000,000;
- (D) fiscal year 2001 is \$350,000,000; and
- (E) each of fiscal years 2002 and 2003 is \$400,000,000.

**(2) Allocation to States**

The Secretary shall provide for the allocation of the total amount described in paragraph (1) for a fiscal year, among the States that executed a plan amendment in accordance with subsection (a) of this section, based upon the Secretary's estimate of the ratio of—

- (A) an amount equal to the total number of individuals described in section 1396a(a)(10)(E)(iv) of this title in the State; to
- (B) the sum of the amounts computed under subparagraph (A) for all eligible States.

**(d) Applicable FMAP**

With respect to assistance described in section 1396a(a)(10)(E)(iv) of this title furnished in a State for calendar quarters in a calendar year—

- (1) to the extent that such assistance does not exceed the State's allocation under subsection (c) of this section for the fiscal year ending in the calendar year, the Federal medical assistance percentage shall be equal to 100 percent; and
- (2) to the extent that such assistance exceeds such allocation, the Federal medical assistance percentage is 0 percent.

**(e) Limitation on entitlement**

Except as specifically provided under this section, nothing in this subchapter shall be con-

strued as establishing any entitlement of individuals described in section 1396a(a)(10)(E)(iv) of this title to assistance described in such section.

**(f) Coverage of costs through part B of medicare program**

For each fiscal year, the Secretary shall provide for the transfer from the Federal Supplementary Medical Insurance Trust Fund under section 1395t of this title to the appropriate account in the Treasury that provides for payments under section 1396b(a) of this title with respect to medical assistance provided under this section, of an amount equivalent to the total of the amount of payments made under such section that is attributable to this section and such transfer shall be treated as an expenditure from such Trust Fund for purposes of section 1395r of this title.

**(g) Special rules**

**(1) In general**

With respect to each period described in paragraph (2), a State shall select qualifying individuals, subject to paragraph (3), and provide such individuals with assistance, in accordance with the provisions of this section as in effect with respect to calendar year 2003, except that for such purpose—

- (A) references in the preceding subsections of this section to a year, whether fiscal or calendar, shall be deemed to be references to such period; and
- (B) the total allocation amount under subsection (c) of this section for such period shall be the amount described in paragraph (2) for that period.

**(2) Periods and total allocation amounts described**

For purposes of this subsection—

- (A) for the period that begins on January 1, 2004, and ends on September 30, 2004, the total allocation amount is \$300,000,000;
- (B) for the period that begins on October 1, 2004, and ends on December 31, 2004, the total allocation amount is \$100,000,000;
- (C) for the period that begins on January 1, 2005, and ends on September 30, 2005, the total allocation amount is \$300,000,000;
- (D) for the period that begins on October 1, 2005, and ends on December 31, 2005, the total allocation amount is \$100,000,000;
- (E) for the period that begins on January 1, 2006, and ends on September 30, 2006, the total allocation amount is \$300,000,000;
- (F) for the period that begins on October 1, 2006, and ends on December 31, 2006, the total allocation amount is \$100,000,000;
- (G) for the period that begins on January 1, 2007, and ends on September 30, 2007, the total allocation amount is \$300,000,000;
- (H) for the period that begins on October 1, 2007, and ends on December 31, 2007, the total allocation amount is \$100,000,000;
- (I) for the period that begins on January 1, 2008, and ends on September 30, 2008, the total allocation amount is \$315,000,000;
- (J) for the period that begins on October 1, 2008, and ends on December 31, 2008, the total allocation amount is \$130,000,000;
- (K) for the period that begins on January 1, 2009, and ends on September 30, 2009, the total allocation amount is \$350,000,000;

(L) for the period that begins on October 1, 2009, and ends on December 31, 2009, the total allocation amount is \$150,000,000;

(M) for the period that begins on January 1, 2010, and ends on September 30, 2010, the total allocation amount is \$462,500,000;

(N) for the period that begins on October 1, 2010, and ends on December 31, 2010, the total allocation amount is \$165,000,000;

(O) for the period that begins on January 1, 2011, and ends on September 30, 2011, the total allocation amount is \$720,000,000;

(P) for the period that begins on October 1, 2011, and ends on December 31, 2011, the total allocation amount is \$280,000,000;

(Q) for the period that begins on January 1, 2012, and ends on September 30, 2012, the total allocation amount is \$450,000,000;

(R) for the period that begins on October 1, 2012, and ends on December 31, 2012, the total allocation amount is \$280,000,000;

(S) for the period that begins on January 1, 2013, and ends on September 30, 2013, the total allocation amount is \$485,000,000; and

(T) for the period that begins on October 1, 2013, and ends on December 31, 2013, the total allocation amount is \$300,000,000.

### (3) Rules for periods that begin after January 1

For any specific period described in subparagraph (B), (D), (F), (H), (J), (L), (N), (P), (R), or (T) of paragraph (2), the following applies:

(A) The specific period shall be treated as a continuation of the immediately preceding period in that calendar year for purposes of applying subsection (b)(2) of this section and qualifying individuals who received assistance in the last month of such immediately preceding period shall be deemed to be selected for the specific period (without the need to complete an application for assistance for such period).

(B) The limit to be applied under subsection (b)(3) of this section for the specific period shall be the same as the limit applied under such subsection for the immediately preceding period.

(C) The ratio to be applied under subsection (c)(2) of this section for the specific period shall be the same as the ratio applied under such subsection for the immediately preceding period.

(Aug. 14, 1935, ch. 531, title XIX, §1933, as added Pub. L. 105-33, title IV, §4732(c), Aug. 5, 1997, 111 Stat. 520; amended Pub. L. 106-113, div. B, §1000(a)(6) [title VI, §608(x)], Nov. 29, 1999, 113 Stat. 1536, 1501A-398; Pub. L. 108-89, title IV, §401(b), (c), Oct. 1, 2003, 117 Stat. 1134; Pub. L. 108-173, title I, §103(f)(2), Dec. 8, 2003, 117 Stat. 2160; Pub. L. 108-448, §1(b), Dec. 8, 2004, 118 Stat. 3467; Pub. L. 109-91, title I, §101(b), Oct. 20, 2005, 119 Stat. 2091; Pub. L. 110-90, §3(b), Sept. 29, 2007, 121 Stat. 984; Pub. L. 110-173, title II, §203(b), Dec. 29, 2007, 121 Stat. 2513; Pub. L. 110-275, title I, §111(b), July 15, 2008, 122 Stat. 2503; Pub. L. 110-379, §2, Oct. 8, 2008, 122 Stat. 4075; Pub. L. 111-5, div. B, title V, §5005(b), Feb. 17, 2009, 123 Stat. 505; Pub. L. 111-127, §3, Jan. 27, 2010, 124 Stat. 4; Pub. L. 111-309, title I, §110(b), Dec. 15, 2010, 124 Stat. 3288; Pub. L. 112-78, title III,

§310(b), Dec. 23, 2011, 125 Stat. 1286; Pub. L. 112-96, title III, §3101(b), Feb. 22, 2012, 126 Stat. 191; Pub. L. 112-240, title VI, §621(b), Jan. 2, 2013, 126 Stat. 2352.)

#### PRIOR PROVISIONS

A prior section 1933 of act Aug. 14, 1935, was renumbered section 1939 and is classified to section 1396v of this title.

#### AMENDMENTS

2013—Subsec. (g)(2)(S), (T). Pub. L. 112-240, §621(b)(1), added subpars. (S) and (T).

Subsec. (g)(3). Pub. L. 112-240, §621(b)(2), substituted “(R), or (T)” for “or (R)” in introductory provisions.

2012—Subsec. (g)(2)(Q), (R). Pub. L. 112-96, §3101(b)(1), substituted “September 30, 2012, the total allocation amount is \$450,000,000; and” for “February 29, 2012, the total allocation amount is \$150,000,000.” in subpar. (Q) and added subpar. (R).

Subsec. (g)(3). Pub. L. 112-96, §3101(b)(2), substituted “(P), or (R)” for “or (P)” in introductory provisions.

2011—Subsec. (g)(2)(Q). Pub. L. 112-78 added subpar. (Q).

2010—Subsec. (g)(2)(M). Pub. L. 111-127, §3(1), substituted “\$462,500,000” for “\$412,500,000”.

Subsec. (g)(2)(N). Pub. L. 111-127, §3(2), substituted “\$165,000,000” for “\$150,000,000”.

Subsec. (g)(2)(O), (P). Pub. L. 111-309, §110(b)(1), added subpars. (O) and (P).

Subsec. (g)(3). Pub. L. 111-309, §110(b)(2), substituted “(N), or (P)” for “or (N)” in introductory provisions.

2009—Subsec. (g)(2)(M), (N). Pub. L. 111-5, §5005(b)(1), added subpars. (M) and (N).

Subsec. (g)(3). Pub. L. 111-5, §5005(b)(2), substituted “(L), or (N)” for “or (L)” in introductory provisions.

2008—Subsec. (g)(2)(I). Pub. L. 110-379, §2(1), substituted “\$315,000,000” for “\$300,000,000”.

Pub. L. 110-275, §111(b)(1)(B)(i), (ii), substituted “September 30” for “June 30” and “\$300,000,000” for “\$200,000,000”.

Subsec. (g)(2)(J). Pub. L. 110-379, §2(2), substituted “\$130,000,000” for “\$100,000,000”.

Pub. L. 110-275, §111(b)(1)(A), (B)(iii), (C), added subpar. (J).

Subsec. (g)(2)(K), (L). Pub. L. 110-275, §111(b)(1)(C), added subpars. (K) and (L).

Subsec. (g)(3). Pub. L. 110-275, §111(b)(2), substituted “(H), (J), or (L)” for “or (H)” in introductory provisions.

2007—Subsec. (g)(2)(H). Pub. L. 110-90, §3(b)(1), added subpar. (H).

Subsec. (g)(2)(I). Pub. L. 110-173 added subpar. (I).

Subsec. (g)(3). Pub. L. 110-90, §3(b)(2), substituted “(F), or (H)” for “or (F)” in introductory provisions.

2005—Subsec. (g)(2)(D) to (G). Pub. L. 109-91, §101(b)(1), added subpars. (D) to (G).

Subsec. (g)(3). Pub. L. 109-91, §101(b)(2), inserted “, (D), or (F)” after “subparagraph (B)” in introductory provisions.

2004—Subsec. (g). Pub. L. 108-448 amended heading and text of subsec. (g) generally. Prior to amendment, text read as follows: “With respect to the period that begins on January 1, 2004, and ends on September 30, 2004, a State shall select qualifying individuals, and provide such individuals with assistance, in accordance with the provisions of this section as in effect with respect to calendar year 2003, except that for such purpose—

“(1) references in the preceding subsections of this section to ‘fiscal year’ and ‘calendar year’ shall be deemed to be references to such period; and

“(2) the total allocation amount under subsection (c) of this section for such period shall be \$300,000,000.”

2003—Subsec. (c)(1)(E). Pub. L. 108-89, §401(b)(1), substituted “each of fiscal years 2002 and 2003” for “fiscal year 2002”.

Subsec. (c)(2)(A). Pub. L. 108-89, §401(b)(2), substituted “the total number of individuals described in section

1396a(a)(10)(E)(iv) of this title in the State; to” for “the sum of—

“(i) twice the total number of individuals described in section 1396a(a)(10)(E)(iv)(I) of this title in the State, and

“(ii) the total number of individuals described in section 1396a(a)(10)(E)(iv)(II) of this title in the State; to”.

Subsec. (g). Pub. L. 108-173, §103(f)(2)(A), substituted “September 30, 2004” for “March 31, 2004” in introductory provisions.

Pub. L. 108-89, §401(c), added subsec. (g).

Subsec. (g)(2). Pub. L. 108-173, §103(f)(2)(B), substituted “\$300,000,000” for “\$100,000,000”.

1999—Subsec. (b)(4). Pub. L. 106-113 inserted “a” after “for a month in”.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-90 effective as of Sept. 30, 2007, see section 3(c) of Pub. L. 110-90, set out as a note under section 1396a of this title.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-91 effective Sept. 30, 2005, see section 101(c) of Pub. L. 109-91, set out as a note under section 1396a of this title.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-173 applicable to calendar quarters beginning on or after Apr. 1, 2004, see section 103(f)(3) of Pub. L. 108-173, set out as a note under section 1396a of this title.

### § 1396u-4. Program of all-inclusive care for elderly (PACE)

#### (a) State option

##### (1) In general

A State may elect to provide medical assistance under this section with respect to PACE program services to PACE program eligible individuals who are eligible for medical assistance under the State plan and who are enrolled in a PACE program under a PACE program agreement. Such individuals need not be eligible for benefits under part A, or enrolled under part B, of subchapter XVIII of this chapter to be eligible to enroll under this section. In the case of an individual enrolled with a PACE program pursuant to such an election—

(A) the individual shall receive benefits under the plan solely through such program, and

(B) the PACE provider shall receive payment in accordance with the PACE program agreement for provision of such benefits.

A State may establish a numerical limit on the number of individuals who may be enrolled in a PACE program under a PACE program agreement.

##### (2) “PACE program” defined

For purposes of this section, the term “PACE program” means a program of all-inclusive care for the elderly that meets the following requirements:

##### (A) Operation

The entity operating the program is a PACE provider (as defined in paragraph (3)).

##### (B) Comprehensive benefits

The program provides comprehensive health care services to PACE program eligi-

ble individuals in accordance with the PACE program agreement and regulations under this section.

##### (C) Transition

In the case of an individual who is enrolled under the program under this section and whose enrollment ceases for any reason (including that the individual no longer qualifies as a PACE program eligible individual, the termination of a PACE program agreement, or otherwise), the program provides assistance to the individual in obtaining necessary transitional care through appropriate referrals and making the individual’s medical records available to new providers.

#### (3) “PACE provider” defined

##### (A) In general

For purposes of this section, the term “PACE provider” means an entity that—

(i) subject to subparagraph (B), is (or is a distinct part of) a public entity or a private, nonprofit entity organized for charitable purposes under section 501(c)(3) of the Internal Revenue Code of 1986, and

(ii) has entered into a PACE program agreement with respect to its operation of a PACE program.

##### (B) Treatment of private, for-profit providers

Clause (i) of subparagraph (A) shall not apply—

(i) to entities subject to a demonstration project waiver under subsection (h) of this section; and

(ii) after the date the report under section 4804(b) of the Balanced Budget Act of 1997 is submitted, unless the Secretary determines that any of the findings described in subparagraph (A), (B), (C), or (D) of paragraph (2) of such section are true.

#### (4) “PACE program agreement” defined

For purposes of this section, the term “PACE program agreement” means, with respect to a PACE provider, an agreement, consistent with this section, section 1395eee of this title (if applicable), and regulations promulgated to carry out such sections, among the PACE provider, the Secretary, and a State administering agency for the operation of a PACE program by the provider under such sections.

#### (5) “PACE program eligible individual” defined

For purposes of this section, the term “PACE program eligible individual” means, with respect to a PACE program, an individual who—

(A) is 55 years of age or older;

(B) subject to subsection (c)(4) of this section, is determined under subsection (c) of this section to require the level of care required under the State medicaid plan for coverage of nursing facility services;

(C) resides in the service area of the PACE program; and

(D) meets such other eligibility conditions as may be imposed under the PACE program agreement for the program under subsection (e)(2)(A)(ii) of this section.