

ing and evaluating data on health care disparities on the basis of race, ethnicity, and gender for the original Medicare fee-for-service program under parts A and B, the Medicare Advantage program under part C, and the Medicare prescription drug program under part D; and

(B) include recommendations on the most effective strategies and approaches to reporting HEDIS quality measures as required under section 1395w-22(e)(3) of this title and other nationally recognized quality performance measures, as appropriate, on the basis of race, ethnicity, and gender.

**(2) Reports on data analyses**

Not later than 4 years after July 15, 2008, and 4 years thereafter, the Secretary shall submit to Congress a report that includes recommendations for improving the identification of health care disparities for Medicare beneficiaries based on analyses of the data collected under subsection (c).

**(c) Implementing effective approaches**

Not later than 24 months after July 15, 2008, the Secretary shall implement the approaches identified in the report submitted under subsection (b)(1) for the ongoing, accurate, and timely collection and evaluation of data on health care disparities on the basis of race, ethnicity, and gender.

(Aug. 14, 1935, ch. 531, title XVIII, § 1809, as added Pub. L. 110-275, title I, § 185, July 15, 2008, 122 Stat. 2587.)

PART A—HOSPITAL INSURANCE BENEFITS FOR AGED AND DISABLED

**§ 1395c. Description of program**

The insurance program for which entitlement is established by sections 426 and 426-1 of this title provides basic protection against the costs of hospital, related post-hospital, home health services, and hospice care in accordance with this part for (1) individuals who are age 65 or over and are eligible for retirement benefits under subchapter II of this chapter (or would be eligible for such benefits if certain government employment were covered employment under such subchapter) or under the railroad retirement system, (2) individuals under age 65 who have been entitled for not less than 24 months to benefits under subchapter II of this chapter (or would have been so entitled to such benefits if certain government employment were covered employment under such subchapter) or under the railroad retirement system on the basis of a disability, and (3) certain individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease.

(Aug. 14, 1935, ch. 531, title XVIII, § 1811, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79 Stat. 291; amended Pub. L. 92-603, title II, § 201(a)(2), Oct. 30, 1972, 86 Stat. 1371; Pub. L. 95-292, § 4(a), June 13, 1978, 92 Stat. 315; Pub. L. 96-265, title I, § 103(a)(2), June 9, 1980, 94 Stat. 444; Pub. L. 96-473, § 2(b), Oct. 19, 1980, 94 Stat. 2263; Pub. L. 96-499, title IX, § 930(a), Dec. 5, 1980, 94 Stat. 2631; Pub. L. 97-248, title I, § 122(a)(1), title

II, § 278(b)(3), Sept. 3, 1982, 96 Stat. 356, 561; Pub. L. 99-272, title XIII, § 13205(b)(2)(C)(i), Apr. 7, 1986, 100 Stat. 317; Pub. L. 100-360, title I, § 104(d)(1), July 1, 1988, 102 Stat. 688; Pub. L. 101-234, title I, § 101(a), Dec. 13, 1989, 103 Stat. 1979.)

AMENDMENTS

1989—Pub. L. 101-234 repealed Pub. L. 100-360, § 104(d)(1), and provided that the provisions of law amended or repealed by such section are restored or revived as if such section had not been enacted, see 1988 Amendment note below.

1988—Pub. L. 100-360 substituted “inpatient hospital services, extended care services” for “hospital, related post-hospital”.

1986—Pub. L. 99-272 substituted “government employment” for “Federal employment” in cls. (1) and (2).

1982—Pub. L. 97-248, § 122(a)(1), substituted “home health services, and hospice care” for “and home health services”.

Pub. L. 97-248, § 278(b)(3), inserted “(or would be eligible for such benefits if certain Federal employment were covered employment under such subchapter)” after “subchapter II of this chapter” in cl. (1), and inserted “(or would have been so entitled to such benefits if certain Federal employment were covered employment under such subchapter)” after “subchapter II of this chapter” in cl. (2).

1980—Pub. L. 96-499 substituted “, related post-hospital, and home health services” for “and related post-hospital services”.

Pub. L. 96-473 substituted “are eligible for” for “are entitled to”.

Pub. L. 96-265 substituted “not less than 24 months” for “not less than 24 consecutive months”.

1978—Pub. L. 95-292 inserted references to section 426-1 of this title and to individuals who do not meet the conditions specified in either clause (1) or (2) but who are medically determined to have end stage renal disease.

1972—Pub. L. 92-603 designated existing provisions as cl. (1) and added cl. (2).

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-234, title I, § 101(d), Dec. 13, 1989, 103 Stat. 1980, provided that: “The provisions of this section [amending this section and sections 1395d, 1395e, 1395f, 1395k, 1395x, 1395cc, and 1395tt of this title, enacting provisions set out as notes under sections 1395e and 1395ww of this title, and amending provisions set out as notes under sections 1395e and 1395ww of this title] shall take effect January 1, 1990, except that the amendments made by subsection (c) [amending provisions set out as a note under section 1395ww of this title] shall be effective as if included in the enactment of MCCA [Pub. L. 100-360].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-360 effective Jan. 1, 1989, except as otherwise provided, and applicable to inpatient hospital deductible for 1989 and succeeding years, to care and services furnished on or after Jan. 1, 1989, to premiums for January 1989 and succeeding months, and to blood or blood cells furnished on or after Jan. 1, 1989, see section 104(a) of Pub. L. 100-360, set out as a note under section 1395d of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-272 effective after Mar. 31, 1986, with no individual to be considered under disability for any period beginning before Apr. 1, 1986, for purposes of hospital insurance benefits, see section 13205(d)(2) of Pub. L. 99-272, set out as a note under section 410 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Pub. L. 97-248, title I, § 122(h)(1), Sept. 3, 1982, 96 Stat. 362, as amended by Pub. L. 99-272, title IX, § 9123(a),

Apr. 7, 1986, 100 Stat. 168, provided that: "The amendments made by this section [amending this section and sections 1395d to 1395f, 1395h, and 1395x to 1395cc of this title and section 231f of Title 45, Railroads, and enacting provisions set out as notes under sections 1395b-1 and 1395f of this title] apply to hospice care provided on or after November 1, 1983."

Amendment by section 278(b)(3) of Pub. L. 97-248 effective on and after Jan. 1, 1983, and applicable to remuneration (for medicare qualified Federal employment) paid after Dec. 31, 1982, see section 278(c)(2)(A) of Pub. L. 97-248, set out as a note under section 426 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-499 effective with respect to services furnished on or after July 1, 1981, see section 930(s)(1) of Pub. L. 96-499, set out as a note under section 1395x of this title.

Amendment by Pub. L. 96-473 effective after second month beginning after Oct. 19, 1980, see section 2(d) of Pub. L. 96-473, set out as a note under section 426 of this title.

Amendment by Pub. L. 96-265 applicable with respect to hospital insurance or supplementary medical insurance benefits for services provided on or after first day of sixth month which begins after June 9, 1980, see section 103(c) of Pub. L. 96-265, set out as a note under section 426 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-292 effective with respect to services, supplies, and equipment furnished after the third calendar month beginning after June 13, 1978, except that provisions for the implementation of an incentive reimbursement system for dialysis services furnished in facilities and providers to become effective with respect to a facility's or provider's first accounting period beginning after the last day of the twelfth month following the month of June 1978, and except that provisions for reimbursement rates for home dialysis to become effective on Apr. 1, 1979, see section 6 of Pub. L. 95-292, set out as a note under section 426 of this title.

#### ADVISORY COUNCIL TO STUDY COVERAGE OF DISABLED UNDER THIS SUBCHAPTER

Pub. L. 90-248, title I, §140, Jan. 2, 1968, 81 Stat. 854, directed Secretary of Health, Education, and Welfare to appoint an Advisory Council to study need for coverage of disabled under the health insurance programs of this subchapter, directed Council to submit a report on such study to Secretary by Jan. 1, 1969, and directed Secretary in turn to transmit such report to Congress, resulting in termination of Council's existence.

#### REIMBURSEMENT OF CHARGES UNDER PART A FOR SERVICES TO PATIENTS ADMITTED PRIOR TO 1968 TO CERTAIN HOSPITALS

Pub. L. 90-248, title I, §142, Jan. 2, 1968, 81 Stat. 855, provided that:

"(a) Notwithstanding any provision of title XVIII of the Social Security Act [this subchapter] an individual who is entitled to hospital insurance benefits under section 226 of such Act [section 426 of this title] may, subject to subsections (b) and (c), receive, on the basis of an itemized bill, reimbursement for charges to him for inpatient hospital services (as defined in section 1861 of such Act [section 1395x of this title], but without regard to subsection (e) of such section) furnished by, or under arrangements (as defined in section 1861(w) of such Act [section 1395x(w) of this title] with, a hospital if—

"(1) the hospital did not have an agreement in effect under section 1866 of such Act [section 1395cc of this title] but would have been eligible for payment under part A of title XVIII of such Act [this part] with respect to such services if at the time such services were furnished the hospital had such an agreement in effect;

"(2) the hospital (A) meets the requirements of paragraphs (5) and (7) of section 1861(e) of such Act [section 1395x(e) of this title], (B) is not primarily engaged in providing the services described in section 1961(j)(1)(A) of such Act [section 1395x(j)(1)(A) of this title], and (C) is primarily engaged in providing, by or under the supervision of individuals referred to in paragraph (1) of section 1861(r) of such Act [section 1395x(r) of this title], to inpatients (i) diagnostic services and therapeutic services for medical diagnosis, treatment, and care of injured, disabled, or sick persons, or (ii) rehabilitation services for the rehabilitation of injured, disabled, or sick persons;

"(3) the hospital did not meet the requirements that must be met to permit payment to the hospital under part A of title XVIII of such Act [this part]; and

"(4) an application is filed (submitted in such form and manner and by such person, and containing and supported by such information, as the Secretary shall by regulations prescribe) for reimbursement before January 1, 1969.

"(b) Payments under this section may not be made for inpatient hospital services (as described in subsection (a)) furnished to an individual—

"(1) prior to July 1, 1966,

"(2) after December 31, 1967, unless furnished with respect to an admission to the hospital prior to January 1, 1968, and

"(3) for more than—

"(A) 90 days in any spell of illness, but only if (i) prior to January 1, 1969, the hospital furnishing such services entered into an agreement under section 1866 of the Social Security Act [section 1395cc of this title] and (ii) the hospital's plan for utilization review, as provided for in section 1861(k) of such Act [section 1395x(k) of this title], has, in accordance with section 1814 of such Act [section 1395f of this title], been applied to the services furnished such individual, or

"(B) 20 days in any spell of illness, if the hospital did not meet the conditions of clauses (i) and (ii) of subparagraph (A).

"(c)(1) The amounts payable in accordance with subsection (a) with respect to inpatient hospital services shall, subject to paragraph (2) of this subsection, be paid from the Federal Hospital Insurance Trust Fund in amounts equal to 60 percent of the hospital's reasonable charges for routine services furnished in the accommodations occupied by the individual or in semi-private accommodations (as defined in section 1861(v)(4) of the Social Security Act [section 1395x(v)(4) of this title]) whichever is less, plus 80 percent of the hospital's reasonable charges for ancillary services. If separate charges for routine and ancillary services are not made by the hospital, reimbursement may be based on two-thirds of the hospital's reasonable charges for the services received but not to exceed the charges which would have been made if the patient had occupied semi-private accommodations (as so defined). For purposes of the preceding provisions of this paragraph, the term 'routine services' shall mean the regular room, dietary, and nursing services, minor medical and surgical supplies and the use of equipment and facilities for which a separate charge is not customarily made; the term 'ancillary services' shall mean those special services for which charges are customarily made in addition to routine services.

"(2) Before applying paragraph (1), payments made under this section shall be reduced to the extent provided for under section 1813 of the Social Security Act [section 1395e of this title] in the case of benefits payable to providers of services under part A of title XVIII of such Act [this part].

"(d) For the purposes of this section—

"(1) the 90-day period, referred to in subsection (b)(3)(A), shall be reduced by the number of days of inpatient hospital services furnished to such individual during the spell of illness, referred to therein, and with respect to which he was entitled to have pay-

ment made under part A of title XVIII of the Social Security Act [this part];

“(2) the 20-day period, referred to in subsection (b)(3)(B) shall be reduced by the number of days in excess of 70 days of inpatient hospital services furnished during the spell of illness, referred to therein, and with respect to which such individual was entitled to have payment made under such part A [this part];

“(3) the term ‘spell of illness’ shall have the meaning assigned to it by subsection (a) of section 1861 of such Act [section 1395x(a) of this title] except that the term ‘inpatient hospital services’ as it appears in such subsection shall have the meaning assigned to it by subsection (a) of this section.”

#### § 1395d. Scope of benefits

##### (a) Entitlement to payment for inpatient hospital services, post-hospital extended care services, home health services, and hospice care

The benefits provided to an individual by the insurance program under this part shall consist of entitlement to have payment made on his behalf or, in the case of payments referred to in section 1395f(d)(2) of this title to him (subject to the provisions of this part) for—

(1) inpatient hospital services or inpatient critical access hospital services for up to 150 days during any spell of illness minus 1 day for each day of such services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2)(A) post-hospital extended care services for up to 100 days during any spell of illness, and (B) to the extent provided in subsection (f) of this section, extended care services that are not post-hospital extended care services;

(3) in the case of individuals not enrolled in part B of this subchapter, home health services, and in the case of individuals so enrolled, post-institutional home health services furnished during a home health spell of illness for up to 100 visits during such spell of illness;

(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each and an unlimited number of subsequent periods of 60 days each with respect to which the individual makes an election under subsection (d)(1) of this section; and

(5) for individuals who are terminally ill, have not made an election under subsection (d)(1) of this section, and have not previously received services under this paragraph, services that are furnished by a physician (as defined in section 1395x(r)(1) of this title) who is either the medical director or an employee of a hospice program and that—

(A) consist of—

(i) an evaluation of the individual’s need for pain and symptom management, including the individual’s need for hospice care; and

(ii) counseling the individual with respect to hospice care and other care options; and

(B) may include advising the individual regarding advanced care planning.

##### (b) Services not covered

Payment under this part for services furnished an individual during a spell of illness may not (subject to subsection (c) of this section) be made for—

(1) inpatient hospital services furnished to him during such spell after such services have been furnished to him for 150 days during such spell minus 1 day for each day of inpatient hospital services in excess of 90 received during any preceding spell of illness (if such individual was entitled to have payment for such services made under this part unless he specifies in accordance with regulations of the Secretary that he does not desire to have such payment made);

(2) post-hospital extended care services furnished to him during such spell after such services have been furnished to him for 100 days during such spell; or

(3) inpatient psychiatric hospital services furnished to him after such services have been furnished to him for a total of 190 days during his lifetime.

Payment under this part for post-institutional home health services furnished an individual during a home health spell of illness may not be made for such services beginning after such services have been furnished for a total of 100 visits during such spell.

##### (c) Inpatients of psychiatric hospitals

If an individual is an inpatient of a psychiatric hospital on the first day of the first month for which he is entitled to benefits under this part, the days on which he was an inpatient of such a hospital in the 150-day period immediately before such first day shall be included in determining the number of days limit under subsection (b)(1) of this section insofar as such limit applies to (1) inpatient psychiatric hospital services, or (2) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness (but shall not be included in determining such number of days limit insofar as it applies to other inpatient hospital services or in determining the 190-day limit under subsection (b)(3) of this section).

##### (d) Hospice care; election; waiver of rights; revocation; change of election

(1) Payment under this part may be made for hospice care provided with respect to an individual only during two periods of 90 days each and an unlimited number of subsequent periods of 60 days each during the individual’s lifetime and only, with respect to each such period, if the individual makes an election under this paragraph to receive hospice care under this part provided by, or under arrangements made by, a particular hospice program instead of certain other benefits under this subchapter.

(2)(A) Except as provided in subparagraphs (B) and (C) and except in such exceptional and unusual circumstances as the Secretary may provide, if an individual makes such an election for a period with respect to a particular hospice program, the individual shall be deemed to have waived all rights to have payment made under this subchapter with respect to—

(i) hospice care provided by another hospice program (other than under arrangements