

in questions 12(a)–(c) of CMS Form 416 (that consists of the number of enrolled targeted low income children who receive any,² preventive, or restorative dental care under the State plan).

(C) For the age grouping that includes children 8 years of age, the number of such children who have received a protective sealant on at least one permanent molar tooth.

(2) Inclusion of information on enrollees in managed care plans

The information under paragraph (1) shall include information on children who are enrolled in managed care plans and other private health plans and contracts with such plans under this subchapter shall provide for the reporting of such information by such plans to the State.

(Aug. 14, 1935, ch. 531, title XXI, §2108, as added Pub. L. 105–33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 566; amended Pub. L. 106–113, div. B, §1000(a)(6) [title VII, §703(b), (c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–401; Pub. L. 111–3, title II, §201(b)(2)(B)(ii), title IV, §402(a), title V, §501(e)(2), title VI, §§603, 604, Feb. 4, 2009, 123 Stat. 39, 82, 87, 99; Pub. L. 111–8, div. G, title I, §1301(e), Mar. 11, 2009, 123 Stat. 829; Pub. L. 111–148, title IV, §4302(b)(1)(B), Mar. 23, 2010, 124 Stat. 581.)

AMENDMENTS

2010—Subsec. (e)(7). Pub. L. 111–148, which directed amendment of subsec. (e) by adding par. (7) at end, was executed to the subsec. (e) added by Pub. L. 111–3, §402(a)(2), relating to information required for inclusion in State annual report, to reflect the probable intent of Congress.

2009—Subsec. (a). Pub. L. 111–3, §402(a)(1), substituted “Subject to subsection (e), the State” for “The State” in introductory provisions.

Subsec. (c)(3)(B). Pub. L. 111–3, §201(b)(2)(B)(ii), inserted “(such as through community health workers and others)” after “including practices”.

Subsec. (c)(5). Pub. L. 111–3, §603, added par. (5) and struck out former par. (5). Prior to amendment, text read as follows: “Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$10,000,000 for fiscal year 2000 for the purpose of conducting the evaluation authorized under this subsection. Amounts appropriated under this paragraph shall remain available for expenditure through fiscal year 2002.”

Subsec. (d). Pub. L. 111–8 struck out “and GAO report” after “Inspector General audit” in heading and struck out par. (3) which related to duty of Comptroller General to monitor Inspector General audits and report to Congress on audit results.

Pub. L. 111–3, §604, amended subsec. (d) generally. Prior to amendment, subsec. related to Inspector General audits of certain States.

Subsec. (e). Pub. L. 111–3, §501(e)(2), added subsec. (e) relating to information on dental care for children.

Pub. L. 111–3, §402(a)(2), added subsec. (e) relating to information required for inclusion in State annual report.

1999—Subsecs. (c), (d). Pub. L. 106–113 added subsecs. (c) and (d).

EFFECTIVE DATE OF 2009 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111–3 effective Apr. 1, 2009, and applicable to child health assistance and medical assistance provided on or after that date, see section 3 of Pub. L. 111–3, set out as an Effective Date note under section 1396 of this title.

Amendment by section 501(e)(2) of Pub. L. 111–3 effective for annual reports submitted for years beginning after Feb. 4, 2009, see section 501(e)(3) of Pub. L. 111–3, set out as a note under section 1396a of this title.

STANDARDIZED REPORTING FORMAT

Pub. L. 111–3, title IV, §402(b), Feb. 4, 2009, 123 Stat. 83, provided that:

“(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act [Feb. 4, 2009], the Secretary [of Health and Human Services] shall specify a standardized format for States to use for reporting the information required under section 2108(e) of the Social Security Act [subsec. (e) of this section], as added by subsection (a)(2).

“(2) TRANSITION PERIOD FOR STATES.—Each State that is required to submit a report under subsection (a) of section 2108 of the Social Security Act [subsec. (a) of this section] that includes the information required under subsection (e) of such section may use up to 3 reporting periods to transition to the reporting of such information in accordance with the standardized format specified by the Secretary under paragraph (1).”

§ 1397ii. Miscellaneous provisions

(a) Relation to other laws

(1) HIPAA

Health benefits coverage provided under section 1397aa(a)(1) of this title (and coverage provided under a waiver under section 1397ee(c)(2)(B) of this title) shall be treated as creditable coverage for purposes of part 7 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 [29 U.S.C. 1181 et seq.], title XXVII of the Public Health Service Act [42 U.S.C. 300gg et seq.], and subtitle K of the Internal Revenue Code of 1986.

(2) ERISA

Nothing in this subchapter shall be construed as affecting or modifying section 514 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1144) with respect to a group health plan (as defined in section 2791(a)(1) of the Public Health Service Act (42 U.S.C. 300gg–91(a)(1))).

(b) Adjustment to Current Population Survey to include State-by-State data relating to children without health insurance coverage

(1) In general

The Secretary of Commerce shall make appropriate adjustments to the annual Current Population Survey conducted by the Bureau of the Census in order to produce statistically reliable annual State data on the number of low-income children who do not have health insurance coverage, so that real changes in the uninsurance rates of children can reasonably be detected. The Current Population Survey should produce data under this subsection that categorizes such children by family income, age, and race or ethnicity. The adjustments made to produce such data shall include, where appropriate, expanding the sample size used in the State sampling units, expanding the number of sampling units in a State, and an appropriate verification element.

(2) Additional requirements

In addition to making the adjustments required to produce the data described in paragraph (1), with respect to data collection oc-

curing for fiscal years beginning with fiscal year 2009, in appropriate consultation with the Secretary of Health and Human Services, the Secretary of Commerce shall do the following:

(A) Make appropriate adjustments to the Current Population Survey to develop more accurate State-specific estimates of the number of children enrolled in health coverage under subchapter XIX or this subchapter.

(B) Make appropriate adjustments to the Current Population Survey to improve the survey estimates used to determine a high-performing State under section 1397kk(b)(3)(B) of this title and any other data necessary for carrying out this subchapter.

(C) Include health insurance survey information in the American Community Survey related to children.

(D) Assess whether American Community Survey estimates, once such survey data are first available, produce more reliable estimates than the Current Population Survey with respect to the purposes described in subparagraph (B).

(E) On the basis of the assessment required under subparagraph (D), recommend to the Secretary of Health and Human Services whether American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in subparagraph (B).

(F) Continue making the adjustments described in the last sentence of paragraph (1) with respect to expansion of the sample size used in State sampling units, the number of sampling units in a State, and using an appropriate verification element.

(3) Authority for the Secretary of Health and Human Services to transition to the use of all, or some combination of, ACS estimates upon recommendation of the Secretary of Commerce

If, on the basis of the assessment required under paragraph (2)(D), the Secretary of Commerce recommends to the Secretary of Health and Human Services that American Community Survey estimates should be used in lieu of, or in some combination with, Current Population Survey estimates for the purposes described in paragraph (2)(B), the Secretary of Health and Human Services, in consultation with the States, may provide for a period during which the Secretary may transition from carrying out such purposes through the use of Current Population Survey estimates to the use of American Community Survey estimates (in lieu of, or in combination with the Current Population Survey estimates, as recommended), provided that any such transition is implemented in a manner that is designed to avoid adverse impacts upon States with approved State child health plans under this subchapter.

(4) Appropriation

Out of any money in the Treasury of the United States not otherwise appropriated, there are appropriated \$20,000,000 for fiscal

year 2009 and each fiscal year thereafter for the purpose of carrying out this subsection (except that only with respect to fiscal year 2008, there are appropriated \$20,000,000 for the purpose of carrying out this subsection, to remain available until expended).

(Aug. 14, 1935, ch. 531, title XXI, §2109, as added Pub. L. 105-33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 567; amended Pub. L. 106-113, div. B, §1000(a)(6) [title VII, §§703(a), 705(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A-400, 1501A-403; Pub. L. 110-173, title II, §205, Dec. 29, 2007, 121 Stat. 2514; Pub. L. 111-3, title VI, §602, Feb. 4, 2009, 123 Stat. 98; Pub. L. 111-148, title II, §2102(a)(6), Mar. 23, 2010, 124 Stat. 288.)

REFERENCES IN TEXT

The Employee Retirement Income Security Act of 1974, referred to in subsec. (a)(1), 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. (a)(1), 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. For complete classification of this Act to the Code, see Short Title note set out under section 201 of this title and Tables.

The Internal Revenue Code of 1986, referred to in subsec. (a)(1), is classified generally to Title 26, Internal Revenue Code. Subtitle K of such Code appears at section 9801 et seq. of Title 26.

AMENDMENTS

2010—Subsec. (b)(2)(B). Pub. L. 111-148 substituted “a high-performing State under section 1397kk(b)(3)(B) of this title” for “the child population growth factor under section 1397dd(m)(5)(B) of this title”.

2009—Subsec. (b)(2). Pub. L. 111-3, §602(b)(2), added par. (2). Former par. (2) redesignated (4).

Pub. L. 111-3, §602(a), substituted “\$20,000,000 for fiscal year 2009” for “\$10,000,000 for fiscal year 2000”.

Subsec. (b)(3), (4). Pub. L. 111-3, §602(b), added par. (3) and redesignated former par. (2) as (4).

2007—Subsec. (b)(2). Pub. L. 110-173 inserted before period at end “(except that only with respect to fiscal year 2008, there are appropriated \$20,000,000 for the purpose of carrying out this subsection, to remain available until expended)”.

1999—Subsec. (a)(1). Pub. L. 106-113, §1000(a)(6) [title VII, §705(c)(1)], substituted “title I” for “title II” before “of the Employee Retirement Income Security Act of 1974.”.

Subsec. (a)(2). Pub. L. 106-113, §1000(a)(6) [title VII, §705(c)(2)], inserted closing parenthesis before period at end.

Subsec. (b). Pub. L. 106-113, §1000(a)(6) [title VII, §703(a)], added subsec. (b).

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 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 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.

§ 1397jj. Definitions**(a) Child health assistance**

For purposes of this subchapter, the term “child health assistance” means payment for part or all of the cost of health benefits coverage for targeted low-income children that includes any of the following (and includes, in the case described in section 1397ee(a)(1)(D)(i) of this title, payment for part or all of the cost of providing any of the following), as specified under the State plan:

- (1) Inpatient hospital services.
- (2) Outpatient hospital services.
- (3) Physician services.
- (4) Surgical services.
- (5) Clinic services (including health center services) and other ambulatory health care services.
- (6) Prescription drugs and biologicals and the administration of such drugs and biologicals, only if such drugs and biologicals are not furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
- (7) Over-the-counter medications.
- (8) Laboratory and radiological services.
- (9) Prenatal care and pre-pregnancy family planning services and supplies.
- (10) Inpatient mental health services, other than services described in paragraph (18) but including services furnished in a State-operated mental hospital and including residential or other 24-hour therapeutically planned structured services.
- (11) Outpatient mental health services, other than services described in paragraph (19) but including services furnished in a State-operated mental hospital and including community-based services.
- (12) Durable medical equipment and other medically-related or remedial devices (such as prosthetic devices, implants, eyeglasses, hearing aids, dental devices, and adaptive devices).
- (13) Disposable medical supplies.
- (14) Home and community-based health care services and related supportive services (such as home health nursing services, home health aide services, personal care, assistance with activities of daily living, chore services, day care services, respite care services, training for family members, and minor modifications to the home).
- (15) Nursing care services (such as nurse practitioner services, nurse midwife services, advanced practice nurse services, private duty nursing care, pediatric nurse services, and respiratory care services) in a home, school, or other setting.
- (16) Abortion only if necessary to save the life of the mother or if the pregnancy is the result of an act of rape or incest.
- (17) Dental services.
- (18) Inpatient substance abuse treatment services and residential substance abuse treatment services.
- (19) Outpatient substance abuse treatment services.
- (20) Case management services.
- (21) Care coordination services.
- (22) Physical therapy, occupational therapy, and services for individuals with speech, hearing, and language disorders.

(23) Hospice care (concurrent, in the case of an individual who is a child, with care related to the treatment of the child’s condition with respect to which a diagnosis of terminal illness has been made).¹

(24) Any other medical, diagnostic, screening, preventive, restorative, remedial, therapeutic, or rehabilitative services (whether in a facility, home, school, or other setting) if recognized by State law and only if the service is—

(A) prescribed by or furnished by a physician or other licensed or registered practitioner within the scope of practice as defined by State law,

(B) performed under the general supervision or at the direction of a physician, or

(C) furnished by a health care facility that is operated by a State or local government or is licensed under State law and operating within the scope of the license.

(25) Premiums for private health care insurance coverage.

(26) Medical transportation.

(27) Enabling services (such as transportation, translation, and outreach services) only if designed to increase the accessibility of primary and preventive health care services for eligible low-income individuals.

(28) Any other health care services or items specified by the Secretary and not excluded under this section.

(b) “Targeted low-income child” defined

For purposes of this subchapter—

(1) In general

Subject to paragraph (2), the term “targeted low-income child” means a child—

(A) who has been determined eligible by the State for child health assistance under the State plan;

(B)(i) who is a low-income child, or

(ii) is a child—

(I) whose family income (as determined under the State child health plan) exceeds the medicaid applicable income level (as defined in paragraph (4)), but does not exceed 50 percentage points above the medicaid applicable income level;

(II) whose family income (as so determined) does not exceed the medicaid applicable income level (as defined in paragraph (4) but determined as if “June 1, 1997” were substituted for “March 31, 1997”); or

(III) who resides in a State that does not have a medicaid applicable income level (as defined in paragraph (4)); and

(C) who is not found to be eligible for medical assistance under subchapter XIX of this chapter or, subject to paragraph (5), covered under a group health plan or under health insurance coverage (as such terms are defined in section 300gg-91 of this title).

(2) Children excluded

Such term does not include—

(A) a child who is an inmate of a public institution or a patient in an institution for mental diseases; or

¹ So in original. A closing parenthesis probably should precede the period.