

complex chronic conditions that are substantially disabling or life threatening, have a high risk of hospitalization or other significant adverse health outcomes, and require specialized delivery systems across domains of care” before period at end.

Subsec. (f). Pub. L. 110-275, §164(c)(1)(B)(ii), (iii), designated existing provisions as par. (1), inserted par. heading, and added pars. (2) to (4).

Pub. L. 110-275, §164(c)(1)(B)(i), amended heading generally. Prior to amendment, heading read “Restriction on enrollment for specialized MA plans for special needs individuals”.

Pub. L. 110-275, §164(a), substituted “2011” for “2010”. Subsec. (f)(5). Pub. L. 110-275, §164(d)(1), added par. (5).

2007—Subsec. (f). Pub. L. 110-173 substituted “2010” for “2009”.

2003—Subsec. (b)(4), (5). Pub. L. 108-173, §221(b)(1), added pars. (4) and (5).

Subsec. (b)(6). Pub. L. 108-173, §231(b), added par. (6).

Subsec. (c)(5). Pub. L. 108-173, §221(d)(2), added par. (5).

Subsec. (f). Pub. L. 108-173, §231(c), added subsec. (f). 1999—Subsec. (e)(2). Pub. L. 106-113 substituted “section 1395w-21(a)(2) of this title” for “section 1395w-21(a)(2)(A) of this title” in introductory provisions.

#### 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 2010 AMENDMENT

Pub. L. 111-148, title III, §3208(b), Mar. 23, 2010, 124 Stat. 460, provided that: “The amendment made by this section [amending this section] shall take effect on January 1, 2010, and shall apply to plan years beginning on or after such date.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by section 164(c)(1), (d)(1), (e)(1) of Pub. L. 110-275 applicable to plan years beginning on or after Jan. 1, 2010, and applicable to all specialized Medicare Advantage plans for special needs individuals regardless of when the plan first entered the Medicare Advantage program under this part, see section 164(g) of Pub. L. 110-275, set out as a note under section 1395w-27 of this title.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by section 221(b)(1), (d)(2) of Pub. L. 108-173 applicable with respect to plan years beginning on or after Jan. 1, 2006, see section 223(a) of Pub. L. 108-173, set out as a note under section 1395w-21 of this title.

Amendment by section 231(b), (c) of Pub. L. 108-173 effective Dec. 8, 2003, see section 231(f)(1) of Pub. L. 108-173, set out as a note under section 1395w-21 of this title.

#### REGULATIONS

Pub. L. 108-173, title II, §231(f)(2), Dec. 8, 2003, 117 Stat. 2208, provided that: “No later than 1 year after the date of the enactment of this Act [Dec. 8, 2003], the Secretary [of Health and Human Services] shall issue final regulations to establish requirements for special needs individuals under section 1859(b)(6)(B)(iii) of the Social Security Act [42 U.S.C. 1395w-28(b)(6)(B)(iii)], as added by subsection (b).”

#### AUTHORIZATION TO OPERATE; RESOURCES FOR STATE MEDICAID AGENCIES; CONTRACTING REQUIREMENTS

Pub. L. 110-275, title I, §164(c)(2)-(4), July 15, 2008, 122 Stat. 2573, as amended by Pub. L. 111-148, title III, §3205(d), Mar. 23, 2010, 124 Stat. 458, provided that:

“(2) AUTHORITY TO OPERATE BUT NO SERVICE AREA EXPANSION FOR DUAL SNPS THAT DO NOT MEET CERTAIN REQUIREMENTS.—Notwithstanding subsection (f) of section 1859 of the Social Security Act (42 U.S.C. 1395w-28), during the period beginning on January 1, 2010, and ending on December 31, 2012, in the case of a specialized Medicare Advantage plan for special needs individuals described in subsection (b)(6)(B)(ii) of such section, as amended by this section, that does not meet the requirement described in subsection (f)(3)(D) of such section, the Secretary of Health and Human Services—

“(A) shall permit such plan to be offered under part C of title XVIII of such Act [42 U.S.C. 1395w-21 et seq.]; and

“(B) shall not permit an expansion of the service area of the plan under such part C.

“(3) RESOURCES FOR STATE MEDICAID AGENCIES.—The Secretary of Health and Human Services shall provide for the designation of appropriate staff and resources that can address State inquiries with respect to the coordination of State and Federal policies for specialized MA plans for special needs individuals described in section 1859(b)(6)(B)(ii) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(B)(ii)), as amended by this section.

“(4) NO REQUIREMENT FOR CONTRACT.—Nothing in the provisions of, or amendments made by, this subsection [amending this section] shall require a State to enter into a contract with a Medicare Advantage organization with respect to a specialized MA plan for special needs individuals described in section 1859(b)(6)(B)(ii) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(B)(ii)), as amended by this section.”

#### PANEL OF CLINICAL ADVISORS TO DETERMINE CONDITIONS

Pub. L. 110-275, title I, §164(e)(2), July 15, 2008, 122 Stat. 2574, provided that: “The Secretary of Health and Human Services shall convene a panel of clinical advisors to determine the conditions that meet the definition of severe and disabling chronic conditions under section 1859(b)(6)(B)(iii) of the Social Security Act (42 U.S.C. 1395w-28(b)(6)(B)(iii)), as amended by paragraph (1). The panel shall include the Director of the Agency for Healthcare Research and Quality (or the Director’s designee).”

#### NO EFFECT ON MEDICAID BENEFITS FOR DUALS

Pub. L. 110-275, title I, §164(h), July 15, 2008, 122 Stat. 2575, provided that: “Nothing in the provisions of, or amendments made by, this section [amending this section and sections 1395w-22 and 1395w-27 of this title and enacting provisions set out as notes under this section and sections 1395w-21, 1395w-22, and 1395w-27 of this title] shall affect the benefits available under the Medicaid program under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for special needs individuals described in section 1859(b)(6)(B)(ii) of such Act (42 U.S.C. 1395w-28(b)(6)(B)(ii)).”

#### AUTHORITY TO DESIGNATE OTHER PLANS AS SPECIALIZED MA PLANS

Secretary of Health and Human Services authorized, in promulgating regulations to carry out subsection (b)(6) of this section, to provide, notwithstanding subsection (b)(6)(A) of this section, for the offering of specialized MA plans for special needs individuals by MA plans that disproportionately serve special needs individuals, see section 231(d) of Pub. L. 108-173, set out as a note under section 1395w-21 of this title.

#### § 1395w-29. Repealed. Pub. L. 111-152, title I, § 1102(f), Mar. 30, 2010, 124 Stat. 1046

Section, act Aug. 14, 1935, ch. 531, title XVIII, §1860C-1, as added Pub. L. 108-173, title II, §241(a), Dec. 8, 2003, 117 Stat. 2214; amended Pub. L. 111-148, title III, §3201(a)(2)(D), Mar. 23, 2010, 124 Stat. 444; Pub. L. 111-152, title I, §1102(a), Mar. 30, 2010, 124 Stat. 1040, related to comparative cost adjustment program.

PART D—VOLUNTARY PRESCRIPTION DRUG  
BENEFIT PROGRAM

PRIOR PROVISIONS

A prior part D of this subchapter, consisting of section 1395x et seq., was redesignated part E of this subchapter.

SUBPART 1—PART D ELIGIBLE INDIVIDUALS AND  
PRESCRIPTION DRUG BENEFITS

§ 1395w-101. Eligibility, enrollment, and information

(a) Provision of qualified prescription drug coverage through enrollment in plans

(1) In general

Subject to the succeeding provisions of this part, each part D eligible individual (as defined in paragraph (3)(A)) is entitled to obtain qualified prescription drug coverage (described in section 1395w-102(a) of this title) as follows:

(A) Fee-for-service enrollees may receive coverage through a prescription drug plan

A part D eligible individual who is not enrolled in an MA plan may obtain qualified prescription drug coverage through enrollment in a prescription drug plan (as defined in section 1395w-151(a)(14) of this title).

(B) Medicare Advantage enrollees

(i) Enrollees in a plan providing qualified prescription drug coverage receive coverage through the plan

A part D eligible individual who is enrolled in an MA-PD plan obtains such coverage through such plan.

(ii) Limitation on enrollment of MA plan enrollees in prescription drug plans

Except as provided in clauses (iii) and (iv), a part D eligible individual who is enrolled in an MA plan may not enroll in a prescription drug plan under this part.

(iii) Private fee-for-service enrollees in MA plans not providing qualified prescription drug coverage permitted to enroll in a prescription drug plan

A part D eligible individual who is enrolled in an MA private fee-for-service plan (as defined in section 1395w-28(b)(2) of this title) that does not provide qualified prescription drug coverage may obtain qualified prescription drug coverage through enrollment in a prescription drug plan.

(iv) Enrollees in MSA plans permitted to enroll in a prescription drug plan

A part D eligible individual who is enrolled in an MSA plan (as defined in section 1395w-28(b)(3) of this title) may obtain qualified prescription drug coverage through enrollment in a prescription drug plan.

(2) Coverage first effective January 1, 2006

Coverage under prescription drug plans and MA-PD plans shall first be effective on January 1, 2006.

(3) Definitions

For purposes of this part:

(A) Part D eligible individual

The term “part D eligible individual” means an individual who is entitled to benefits under part A of this subchapter or enrolled under part B of this subchapter.

(B) MA plan

The term “MA plan” has the meaning given such term in section 1395w-28(b)(1) of this title.

(C) MA-PD plan

The term “MA-PD plan” means an MA plan that provides qualified prescription drug coverage.

(b) Enrollment process for prescription drug plans

(1) Establishment of process

(A) In general

The Secretary shall establish a process for the enrollment, disenrollment, termination, and change of enrollment of part D eligible individuals in prescription drug plans consistent with this subsection.

(B) Application of MA rules

In establishing such process, the Secretary shall use rules similar to (and coordinated with) the rules for enrollment, disenrollment, termination, and change of enrollment with an MA-PD plan under the following provisions of section 1395w-21 of this title:

(i) Residence requirements

Section 1395w-21(b)(1)(A) of this title, relating to residence requirements.

(ii) Exercise of choice

Section 1395w-21(c) of this title (other than paragraph (3)(A) of such section), relating to exercise of choice.

(iii) Coverage election periods

Subject to paragraphs (2) and (3) of this subsection, section 1395w-21(e) of this title (other than subparagraphs (B), (C), and (E) of paragraph (2) and the second sentence of paragraph (4) of such section), relating to coverage election periods, including initial periods, annual coordinated election periods, special election periods, and election periods for exceptional circumstances.

(iv) Coverage periods

Section 1395w-21(f) of this title, relating to effectiveness of elections and changes of elections.

(v) Guaranteed issue and renewal

Section 1395w-21(g) of this title (other than paragraph (2) of such section and clause (i) and the second sentence of clause (ii) of paragraph (3)(C) of such section), relating to guaranteed issue and renewal.

(vi) Marketing material and application forms

Section 1395w-21(h) of this title, relating to approval of marketing material and application forms.

In applying clauses (ii), (iv), and (v) of this subparagraph, any reference to section