

§ 1396m. Withholding of Federal share of payments 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 accepted 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 overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from whom 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 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 institution 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 adjustment 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 procedures 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 institution 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 institution 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 payment provisions

(a) Activities deemed as compliance

A State shall not be deemed to be out of compliance 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 political 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 assistance who reside in the geographic area served by such organization and who elect to obtain such care and services from such organization, or by reason of the fact that the plan provides for payment for rural health clinic services only if those services are provided by a rural health clinic; or

(B) arrangements through a competitive bidding process or otherwise for the purchase of laboratory services referred to in section 1396d(a)(3) of this title or medical devices if the Secretary has found that—

(i) adequate services or devices will be available under such arrangements, and

(ii) any such laboratory services will be provided only through laboratories—

(I) which meet the applicable requirements of section 1395x(e)(9) of this title or paragraphs (16) and (17) of section 1395x(s) of this title, and such additional requirements as the Secretary may require, and

(II) no more than 75 percent of whose charges for such services are for services provided to individuals who are entitled to benefits under this subchapter or under part A or part B of subchapter XVIII of this chapter; or

(2) restricts for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if—