hours per day, 7 days a week (including holidays).

(vi) To the extent approved by the Secretary of Health and Human Services, provide a national 24 hours per day, 7 days a week (including holidays), back-up system to State complaint intake systems in order to ensure optimum national responsiveness to complaints of such abuse, neglect, and misappropriation of property.

(vii) Analyze and report annually on the following:

(I) The total number and sources of complaints of such abuse, neglect, and misappropriation of property.

(II) The extent to which such complaints are referred to law enforcement agencies.

(III) General results of Federal and State investigations of such complaints.

(viii) Conduct a national study of the cost to State agencies of conducting complaint investigations of skilled nursing facilities and nursing facilities under sections 1819 and 1919, respectively, of the Social Security Act (42 U.S.C. 1395i–3; 1396r), and making recommendations to the Secretary of Health and Human Services with respect to options to increase the efficiency and cost-effectiveness of such investigations.

**(C) Authorization**

There are authorized to be appropriated to carry out this paragraph, for the period of fiscal years 2011 through 2014, $12,000,000.

**(2) Grants to State survey agencies**

**(A) In general**

The Secretary of Health and Human Services shall make grants to State agencies that perform surveys of skilled nursing facilities or nursing facilities under sections 1819 or 1919, respectively, of the Social Security Act (42 U.S.C. 1395i–3; 1395r [1396r]).

**(B) Use of funds**

A grant awarded under subparagraph (A) shall be used for the purpose of designing and implementing complaint investigations systems that—

(i) promptly prioritize complaints in order to ensure a rapid response to the most serious and urgent complaints;

(ii) respond to complaints with optimum effectiveness and timeliness; and

(iii) optimize the collaboration between local authorities, consumers, and providers, including—

(I) such State agency;

(II) the State Long-Term Care Ombudsman;

(III) local law enforcement agencies;

(IV) advocacy and consumer organizations;

(V) State aging units;

(VI) Area Agencies on Aging; and

(VII) other appropriate entities.

**(C) Authorization**

There are authorized to be appropriated to carry out this paragraph, for each of fiscal years 2011 through 2014, $5,000,000.

(Pub. L. 111–148, title VI, §6703(b)(1), (2), Mar. 23, 2010, 124 Stat. 798, 799.)

REFERENCES IN TEXT

The Social Security Act, referred to in par. (1)(A), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to this subchapter (§1395 et seq.) and subchapter XIX (§1396 et seq.), respectively, of this chapter. For complete classification of this Act to the Code, see section 1305 of this title and Tables.

CODIFICATION

Section was enacted as part of the Elder Justice Act of 2009 and also as part of the Patient Protection and Affordable Care Act, and not as part of the Social Security Act which comprises this chapter.

DEFINITIONS

Pub. L. 111–148, title VI, §6702, Mar. 23, 2010, 124 Stat. 782, provided that: ''Except as otherwise specifically provided, any term that is defined in section 2011 of the Social Security Act [42 U.S.C. 1397j] (as added by section 6703(a)) and is used in this subtitle [subtitle H (§§6701–6703) of title VI of Pub. L. 111–148, enacting this section and sections 1320b–25, 1397j, 1397j–1, 1397k to 1397k–3, 1397*l*, and 1397m to 1397m–5 of this title, amending sections 602, 604, 622, 671 to 673, 1320a–7, 1320a–7a, 1397, 1397a, 1397c to 1397e, and 1397g of this title, and enacting provisions set out as notes under sections 602 and 1305 of this title] has the meaning given such term by such section.''

## § 1395i–4. Medicare rural hospital flexibility program

**(a) Establishment**

Any State that submits an application in accordance with subsection (b) of this section may establish a medicare rural hospital flexibility program described in subsection (c) of this section.

**(b) Application**

A State may establish a medicare rural hospital flexibility program described in subsection (c) of this section if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing—

(1) assurances that the State—

(A) has developed, or is in the process of developing, a State rural health care plan that—

(i) provides for the creation of 1 or more rural health networks (as defined in subsection (d) of this section) in the State;

(ii) promotes regionalization of rural health services in the State; and

(iii) improves access to hospital and other health services for rural residents of the State; and

(B) has developed the rural health care plan described in subparagraph (A) in consultation with the hospital association of the State, rural hospitals located in the State, and the State Office of Rural Health (or, in the case of a State in the process of developing such plan, that assures the Secretary that the State will consult with its State hospital association, rural hospitals located in the State, and the State Office of Rural Health in developing such plan);

(2) assurances that the State has designated (consistent with the rural health care plan described in paragraph (1)(A)), or is in the proc-

ess of so designating, rural nonprofit or public hospitals or facilities located in the State as critical access hospitals; and

(3) such other information and assurances as the Secretary may require.

**(c) Medicare rural hospital flexibility program described**

**(1) In general**

A State that has submitted an application in accordance with subsection (b) of this section, may establish a medicare rural hospital flexibility program that provides that—

(A) the State shall develop at least 1 rural health network (as defined in subsection (d) of this section) in the State; and

(B) at least 1 facility in the State shall be designated as a critical access hospital in accordance with paragraph (2).

**(2) State designation of facilities**

**(A) In general**

A State may designate 1 or more facilities as a critical access hospital in accordance with subparagraphs (B), (C), and (D).

**(B) Criteria for designation as critical access hospital**

A State may designate a facility as a critical access hospital if the facility—

(i) is a hospital that is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1395ww(d)(2)(D) of this title) or is treated as being located in a rural area pursuant to section 1395ww(d)(8)(E) of this title, and that—

(I) is located more than a 35-mile drive (or, in the case of mountainous terrain or in areas with only secondary roads available, a 15-mile drive) from a hospital, or another facility described in this subsection; or

(II) is certified before January 1, 2006, by the State as being a necessary provider of health care services to residents in the area;

(ii) makes available 24-hour emergency care services that a State determines are necessary for ensuring access to emergency care services in each area served by a critical access hospital;

(iii) provides not more than 25 acute care inpatient beds (meeting such standards as the Secretary may establish) for providing inpatient care for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;

(iv) meets such staffing requirements as would apply under section 1395x(e) of this title to a hospital located in a rural area, except that—

(I) the facility need not meet hospital standards relating to the number of hours during a day, or days during a week, in which the facility must be open and fully staffed, except insofar as the facility is required to make available emergency care services as determined under clause (ii) and must have nursing services available on a 24-hour basis, but need not otherwise staff the facility except when an inpatient is present;

(II) the facility may provide any services otherwise required to be provided by a full-time, on site dietitian, pharmacist, laboratory technician, medical technologist, and radiological technologist on a part-time, off site basis under arrangements as defined in section 1395x(w)(1) of this title; and

(III) the inpatient care described in clause (iii) may be provided by a physician assistant, nurse practitioner, or clinical nurse specialist subject to the oversight of a physician who need not be present in the facility; and

(v) meets the requirements of section 1395x(aa)(2)(I) of this title.

**(C) Recently closed facilities**

A State may designate a facility as a critical access hospital if the facility—

(i) was a hospital that ceased operations on or after the date that is 10 years before November 29, 1999; and

(ii) as of the effective date of such designation, meets the criteria for designation under subparagraph (B).

**(D) Downsized facilities**

A State may designate a health clinic or a health center (as defined by the State) as a critical access hospital if such clinic or center—

(i) is licensed by the State as a health clinic or a health center;

(ii) was a hospital that was downsized to a health clinic or health center; and

(iii) as of the effective date of such designation, meets the criteria for designation under subparagraph (B).

**(E) Authority to establish psychiatric and rehabilitation distinct part units**

**(i) In general**

Subject to the succeeding provisions of this subparagraph, a critical access hospital may establish—

(I) a psychiatric unit of the hospital that is a distinct part of the hospital; and

(II) a rehabilitation unit of the hospital that is a distinct part of the hospital,

if the distinct part meets the requirements (including conditions of participation) that would otherwise apply to the distinct part if the distinct part were established by a subsection (d) hospital in accordance with the matter following clause (v) of section 1395ww(d)(1)(B) of this title, including any regulations adopted by the Secretary under such section.

**(ii) Limitation on number of beds**

The total number of beds that may be established under clause (i) for a distinct part unit may not exceed 10.

**(iii) Exclusion of beds from bed count**

In determining the number of beds of a critical access hospital for purposes of ap-

plying the bed limitations referred to in subparagraph (B)(iii) and subsection (f) of this section, the Secretary shall not take into account any bed established under clause (i).

**(iv) Effect of failure to meet requirements**

If a psychiatric or rehabilitation unit established under clause (i) does not meet the requirements described in such clause with respect to a cost reporting period, no payment may be made under this subchapter to the hospital for services furnished in such unit during such period. Payment to the hospital for services furnished in the unit may resume only after the hospital has demonstrated to the Secretary that the unit meets such requirements.

**(d) "Rural health network" defined**

**(1) In general**

In this section, the term ''rural health network'' means, with respect to a State, an organization consisting of—

(A) at least 1 facility that the State has designated or plans to designate as a critical access hospital; and

(B) at least 1 hospital that furnishes acute care services.

**(2) Agreements**

**(A) In general**

Each critical access hospital that is a member of a rural health network shall have an agreement with respect to each item described in subparagraph (B) with at least 1 hospital that is a member of the network.

**(B) Items described**

The items described in this subparagraph are the following:

(i) Patient referral and transfer.

(ii) The development and use of communications systems including (where feasible)—

(I) telemetry systems; and

(II) systems for electronic sharing of patient data.

(iii) The provision of emergency and nonemergency transportation among the facility and the hospital.

**(C) Credentialing and quality assurance**

Each critical access hospital that is a member of a rural health network shall have an agreement with respect to credentialing and quality assurance with at least—

(i) 1 hospital that is a member of the network;

(ii) 1 peer review organization or equivalent entity; or

(iii) 1 other appropriate and qualified entity identified in the State rural health care plan.

**(e) Certification by Secretary**

The Secretary shall certify a facility as a critical access hospital if the facility—

(1) is located in a State that has established a medicare rural hospital flexibility program in accordance with subsection (c) of this section;

(2) is designated as a critical access hospital by the State in which it is located; and

(3) meets such other criteria as the Secretary may require.

**(f) Permitting maintenance of swing beds**

Nothing in this section shall be construed to prohibit a State from designating or the Secretary from certifying a facility as a critical access hospital solely because, at the time the facility applies to the State for designation as a critical access hospital, there is in effect an agreement between the facility and the Secretary under section 1395tt of this title under which the facility's inpatient hospital facilities are used for the provision of extended care services, so long as the total number of beds that may be used at any time for the furnishing of either such services or acute care inpatient services does not exceed 25 beds. For purposes of the previous sentence, any bed of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a critical access hospital shall not be counted.

**(g) Grants**

**(1) Medicare rural hospital flexibility program**

The Secretary may award grants to States that have submitted applications in accordance with subsection (b) of this section for—

(A) engaging in activities relating to planning and implementing a rural health care plan;

(B) engaging in activities relating to planning and implementing rural health networks;

(C) designating facilities as critical access hospitals; and

(D) providing support for critical access hospitals for quality improvement, quality reporting, performance improvements, and benchmarking.

**(2) Rural emergency medical services**

**(A) In general**

The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for the establishment or expansion of a program for the provision of rural emergency medical services.

**(B) Application**

An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii), (A)(iii), and (B) of subsection (b)(1) of this section and paragraph (3) of that subsection.

**(3) Upgrading data systems**

**(A) Grants to hospitals**

The Secretary may award grants to hospitals that have submitted applications in accordance with subparagraph (C) to assist eligible small rural hospitals in meeting the costs of implementing data systems required to meet requirements established under the medicare program pursuant to amendments

made by the Balanced Budget Act of 1997 and to assist such hospitals in participating in delivery system reforms under the provisions of and amendments made by the Patient Protection and Affordable Care Act, such as value-based purchasing programs, accountable care organizations under section 1395jjj of this title, the National pilot program on payment bundling under section 1395cc–4 of this title, and other delivery system reform programs determined appropriate by the Secretary.

**(B) Eligible small rural hospital defined**

For purposes of this paragraph, the term ''eligible small rural hospital'' means a non-Federal, short-term general acute care hospital that—

(i) is located in a rural area (as defined for purposes of section 1395ww(d) of this title); and

(ii) has less than 50 beds.

**(C) Application**

A hospital seeking a grant under this paragraph shall submit an application to the Secretary on or before such date and in such form and manner as the Secretary specifies.

**(D) Amount of grant**

A grant to a hospital under this paragraph may not exceed $50,000.

**(E) Use of funds**

A hospital receiving a grant under this paragraph may use the funds for the purchase of computer software and hardware, the education and training of hospital staff on computer information systems, to offset costs related to the implementation of prospective payment systems and to participate in delivery system reforms under the provisions of and amendments made by the Patient Protection and Affordable Care Act, such as value-based purchasing programs, accountable care organizations under section 1395jjj of this title, the National pilot program on payment bundling under section 1395cc–4 of this title, and other delivery system reform programs determined appropriate by the Secretary.

**(F) Reports**

**(i) Information**

A hospital receiving a grant under this section shall furnish the Secretary with such information as the Secretary may require to evaluate the project for which the grant is made and to ensure that the grant is expended for the purposes for which it is made.

**(ii) Timing of submission**

**(I) Interim reports**

The Secretary shall report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate at least annually on the grant program established under this section, including in such report information on the number of grants made, the nature of the projects involved, the geographic distribution of grant recipients, and such other matters as the Secretary deems appropriate.

**(II) Final report**

The Secretary shall submit a final report to such committees not later than 180 days after the completion of all of the projects for which a grant is made under this section.

**(4) Additional requirements with respect to FLEX grants**

With respect to grants awarded under paragraph (1) or (2) from funds appropriated for fiscal year 2005 and subsequent fiscal years—

**(A) Consultation with the state hospital association and rural hospitals on the most appropriate ways to use grants**

A State shall consult with the hospital association of such State and rural hospitals located in such State on the most appropriate ways to use the funds under such grant.

**(B) Limitation on use of grant funds for administrative expenses**

A State may not expend more than the lesser of—

(i) 15 percent of the amount of the grant for administrative expenses; or

(ii) the State's federally negotiated indirect rate for administering the grant.

**(5) Use of funds for Federal administrative expenses**

Of the total amount appropriated for grants under paragraphs (1) and (2) for a fiscal year (for each of fiscal years 2005 through 2008) and, of the total amount appropriated for grants under paragraphs (1), (2), and (6) for a fiscal year (beginning with fiscal year 2009), up to 5 percent of such amount shall be available to the Health Resources and Services Administration for purposes of administering such grants.

**(6) Providing mental health services and other health services to veterans and other residents of rural areas**

**(A) Grants to States**

The Secretary may award grants to States that have submitted applications in accordance with subparagraph (B) for increasing the delivery of mental health services or other health care services deemed necessary to meet the needs of veterans of Operation Iraqi Freedom and Operation Enduring Freedom living in rural areas (as defined for purposes of section 1395ww(d) of this title and including areas that are rural census tracks, as defined by the Administrator of the Health Resources and Services Administration), including for the provision of crisis intervention services and the detection of post-traumatic stress disorder, traumatic brain injury, and other signature injuries of veterans of Operation Iraqi Freedom and Operation Enduring Freedom, and for referral of such veterans to medical facilities operated by the Department of Veterans Affairs, and for the delivery of such services to other residents of such rural areas.

**(B) Application**

**(i) In general**

An application is in accordance with this subparagraph if the State submits to the Secretary at such time and in such form as the Secretary may require an application containing the assurances described in subparagraphs (A)(ii) and (A)(iii) of subsection (b)(1).

**(ii) Consideration of regional approaches, networks, or technology**

The Secretary may, as appropriate in awarding grants to States under subparagraph (A), consider whether the application submitted by a State under this subparagraph includes 1 or more proposals that utilize regional approaches, networks, health information technology, telehealth, or telemedicine to deliver services described in subparagraph (A) to individuals described in that subparagraph. For purposes of this clause, a network may, as the Secretary determines appropriate, include Federally qualified health centers (as defined in section 1395x(aa)(4) of this title), rural health clinics (as defined in section 1395x(aa)(2) of this title), home health agencies (as defined in section 1395x(*o*) of this title), community mental health centers (as defined in section 1395x(ff)(3)(B) of this title) and other providers of mental health services, pharmacists, local government, and other providers deemed necessary to meet the needs of veterans.

**(iii) Coordination at local level**

The Secretary shall require, as appropriate, a State to demonstrate consultation with the hospital association of such State, rural hospitals located in such State, providers of mental health services, or other appropriate stakeholders for the provision of services under a grant awarded under this paragraph.

**(iv) Special consideration of certain applications**

In awarding grants to States under subparagraph (A), the Secretary shall give special consideration to applications submitted by States in which veterans make up a high percentage (as determined by the Secretary) of the total population of the State. Such consideration shall be given without regard to the number of veterans of Operation Iraqi Freedom and Operation Enduring Freedom living in the areas in which mental health services and other health care services would be delivered under the application.

**(C) Coordination with VA**

The Secretary shall, as appropriate, consult with the Director of the Office of Rural Health of the Department of Veterans Affairs in awarding and administering grants to States under subparagraph (A).

**(D) Use of funds**

A State awarded a grant under this paragraph may, as appropriate, use the funds to reimburse providers of services described in subparagraph (A) to individuals described in that subparagraph.

**(E) Limitation on use of grant funds for administrative expenses**

A State awarded a grant under this paragraph may not expend more than 15 percent of the amount of the grant for administrative expenses.

**(F) Independent evaluation and final report**

The Secretary shall provide for an independent evaluation of the grants awarded under subparagraph (A). Not later than 1 year after the date on which the last grant is awarded to a State under such subparagraph, the Secretary shall submit a report to Congress on such evaluation. Such report shall include an assessment of the impact of such grants on increasing the delivery of mental health services and other health services to veterans of the United States Armed Forces living in rural areas (as so defined and including such areas that are rural census tracks), with particular emphasis on the impact of such grants on the delivery of such services to veterans of Operation Enduring Freedom and Operation Iraqi Freedom, and to other individuals living in such rural areas.

**(7) Critical access hospitals transitioning to skilled nursing facilities and assisted living facilities**

**(A) Grants**

The Secretary may award grants to eligible critical access hospitals that have submitted applications in accordance with subparagraph (B) for assisting such hospitals in the transition to skilled nursing facilities and assisted living facilities.

**(B) Application**

An applicable critical access hospital seeking a grant under this paragraph shall submit an application to the Secretary on or before such date and in such form and manner as the Secretary specifies.

**(C) Additional requirements**

The Secretary may not award a grant under this paragraph to an eligible critical access hospital unless—

(i) local organizations or the State in which the hospital is located provides matching funds; and

(ii) the hospital provides assurances that it will surrender critical access hospital status under this subchapter within 180 days of receiving the grant.

**(D) Amount of grant**

A grant to an eligible critical access hospital under this paragraph may not exceed $1,000,000.

**(E) Funding**

There are appropriated from the Federal Hospital Insurance Trust Fund under section 1395i of this title for making grants under this paragraph, $5,000,000 for fiscal year 2008.

**(F) Eligible critical access hospital defined**

For purposes of this paragraph, the term ''eligible critical access hospital'' means a

critical access hospital that has an average daily acute census of less than 0.5 and an average daily swing bed census of greater than 10.0.

**(h) Grandfathering provisions**

**(1) In general**

Any medical assistance facility operating in Montana and any rural primary care hospital designated by the Secretary under this section prior to August 5, 1997, shall be deemed to have been certified by the Secretary under subsection (e) of this section as a critical access hospital if such facility or hospital is otherwise eligible to be designated by the State as a critical access hospital under subsection (c) of this section.

**(2) Continuation of medical assistance facility and rural primary care hospital terms**

Notwithstanding any other provision of this subchapter, with respect to any medical assistance facility or rural primary care hospital described in paragraph (1), any reference in this subchapter to a ''critical access hospital'' shall be deemed to be a reference to a ''medical assistance facility'' or ''rural primary care hospital''.

**(3) State authority to waive 35-mile rule**

In the case of a facility that was designated as a critical access hospital before January 1, 2006, and was certified by the State as being a necessary provider of health care services to residents in the area under subsection (c)(2)(B)(i)(II) of this section, as in effect before such date, the authority under such subsection with respect to any redesignation of such facility shall continue to apply notwithstanding the amendment made by section 405(h)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003.

**(i) Waiver of conflicting part A provisions**

The Secretary is authorized to waive such provisions of this part and part E of this subchapter as are necessary to conduct the program established under this section.

**(j) Authorization of appropriations**

There are authorized to be appropriated from the Federal Hospital Insurance Trust Fund for making grants to all States under subsection (g) of this section, $25,000,000 in each of the fiscal years 1998 through 2002, for making grants to all States under paragraphs (1) and (2) of subsection (g) of this section, $35,000,000 in each of fiscal years 2005 through 2008, for making grants to all States under paragraphs (1) and (2) of subsection (g), $55,000,000 in each of fiscal years 2009 and 2010, for making grants to all States under paragraph (6) of subsection (g), $50,000,000 in each of fiscal years 2009 and 2010, to remain available until expended and for making grants to all States under subsection (g), such sums as may be necessary in each of fiscal years 2011 and 2012, to remain available until expended.

(Aug. 14, 1935, ch. 531, title XVIII, § 1820, as added Pub. L. 101–239, title VI, § 6003(g)(1)(A), Dec. 19, 1989, 103 Stat. 2145; amended Pub. L. 101–508, title IV, § 4008(d)(1)–(3), (m)(2)(B), Nov. 5, 1990, 104 Stat. 1388–44, 1388–45, 1388–53; Pub. L. 103–432, title I, § 102(a)(1), (2), (b)(1)(A), (2), (c), (f), (h), Oct. 31, 1994, 108 Stat. 4401–4404; Pub. L. 105–33, title IV, §§ 4002(f)(1), 4201(a), Aug. 5, 1997, 111 Stat. 329, 369; Pub. L. 106–113, div. B, § 1000(a)(6) [title III, § 321(a), title IV, §§ 401(b)(2), 403(a)(1), (b), (c), 409], Nov. 29, 1999, 113 Stat. 1536, 1501A–365, 1501A–369, 1501A–370, 1501A–375; Pub. L. 108–173, title I, § 101(e)(1), title IV, § 405(e)(1), (2), (f), (g)(1), (h), Dec. 8, 2003, 117 Stat. 2150, 2267–2269; Pub. L. 110–275, title I, § 121, July 15, 2008, 122 Stat. 2511; Pub. L. 111–148, title III, § 3129(a), (b), Mar. 23, 2010, 124 Stat. 426.)

REFERENCES IN TEXT

The Balanced Budget Act of 1997, referred to in subsec. (g)(3)(A), is Pub. L. 105–33, Aug. 5, 1997, 111 Stat. 251. For complete classification of this Act to the Code, see Tables.

The Patient Protection and Affordable Care Act, referred to in subsec. (g)(3)(A), (E), is Pub. L. 111–148, Mar. 23, 2010, 124 Stat. 119. For complete classification of this Act to the Code, see Short Title note set out under section 18001 of this title and Tables.

Section 405(h)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, referred to in subsec. (h)(3), is section 405(h)(1) of Pub. L. 108–173, which amended this section. See 2003 Amendment note below.

AMENDMENTS

2010—Subsec. (g)(3)(A). Pub. L. 111–148, § 3129(b)(1), inserted ''and to assist such hospitals in participating in delivery system reforms under the provisions of and amendments made by the Patient Protection and Affordable Care Act, such as value-based purchasing programs, accountable care organizations under section 1395jjj of this title, the National pilot program on payment bundling under section 1395cc–4 of this title, and other delivery system reform programs determined appropriate by the Secretary'' before period at end.

Subsec. (g)(3)(E). Pub. L. 111–148, § 3129(b)(2), substituted '', to offset'' for '', and to offset'' and inserted ''and to participate in delivery system reforms under the provisions of and amendments made by the Patient Protection and Affordable Care Act, such as value-based purchasing programs, accountable care organizations under section 1395jjj of this title, the National pilot program on payment bundling under section 1395cc–4 of this title, and other delivery system reform programs determined appropriate by the Secretary'' before period at end.

Subsec. (j). Pub. L. 111–148, § 3129(a), substituted ''2010, for'' for ''2010, and for'' and inserted ''and for making grants to all States under subsection (g), such sums as may be necessary in each of fiscal years 2011 and 2012, to remain available until expended'' before period at end.

2008—Subsec. (g)(1)(D). Pub. L. 110–275, § 121(d), added subpar. (D).

Subsec. (g)(5). Pub. L. 110–275, § 121(b)(2), which directed insertion of ''and, of the total amount appropriated for grants under paragraphs (1), (2), and (6) for a fiscal year (beginning with fiscal year 2009)'' after ''2005)'', was executed by making the insertion after ''2008)'' to reflect the probable intent of Congress and the amendment by section 121(b)(1) of Pub. L. 110–275. See note below.

Pub. L. 110–275, § 121(b)(1), substituted ''for each of fiscal years 2005 through 2008'' for ''beginning with fiscal year 2005''.

Subsec. (g)(6). Pub. L. 110–275, § 121(a), added par. (6).

Subsec. (g)(7). Pub. L. 110–275, § 121(e), added par. (7).

Subsec. (j). Pub. L. 110–275, § 121(c), substituted ''2002, for'' for ''2002, and for'' and inserted '', for making grants to all States under paragraphs (1) and (2) of subsection (g), $55,000,000 in each of fiscal years 2009 and 2010, and for making grants to all States under paragraph (6) of subsection (g), $50,000,000 in each of fiscal

years 2009 and 2010, to remain available until expended'' before period at end.

2003—Subsec. (c)(2)(B)(i)(II). Pub. L. 108–173, §405(h)(1), inserted ''before January 1, 2006,'' after ''is certified''.

Subsec. (c)(2)(B)(iii). Pub. L. 108–173, §405(e)(1), substituted ''25'' for ''15 (or, in the case of a facility under an agreement described in subsection (f) of this section, 25)''.

Subsec. (c)(2)(E). Pub. L. 108–173, §405(g)(1), added subpar. (E).

Subsec. (f). Pub. L. 108–173, §405(e)(2), struck out ''and the number of beds used at any time for acute care inpatient services does not exceed 15 beds'' after ''does not exceed 25 beds''.

Subsec. (g)(4), (5). Pub. L. 108–173, §405(f)(2), added pars. (4) and (5).

Subsec. (h). Pub. L. 108–173, §405(h)(2)(A), substituted ''provisions'' for ''of certain facilities'' in heading.

Subsec. (h)(3). Pub. L. 108–173, §405(h)(2)(B), added par. (3).

Subsec. (i). Pub. L. 108–173, §101(e)(1), substituted ''part E'' for ''part D''.

Subsec. (j). Pub. L. 108–173, §405(f)(1), inserted before period at end '', and for making grants to all States under paragraphs (1) and (2) of subsection (g) of this section, $35,000,000 in each of fiscal years 2005 through 2008''.

1999—Subsec. (c)(2)(A). Pub. L. 106–113, §1000(a)(6) [title IV, §403(c)(1)], substituted ''subparagraphs (B), (C), and (D)'' for ''subparagraph (B)''.

Subsec. (c)(2)(B)(i). Pub. L. 106–113, §1000(a)(6) [title IV, §403(b)], substituted ''hospital'' for ''nonprofit or public hospital''.

Pub. L. 106–113, §1000(a)(6) [title IV, §401(b)(2)], inserted ''or is treated as being located in a rural area pursuant to section 1395ww(d)(8)(E) of this title'' after ''section 1395ww(d)(2)(D) of this title)''.

Pub. L. 106–113, §1000(a)(6) [title III, §321(a)], substituted ''that is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1395ww(d)(2)(D) of this title), and that'' for ''and is located in a county (or equivalent unit of local government) in a rural area (as defined in section 1395ww(d)(2)(D) of this title) that''.

Subsec. (c)(2)(B)(iii). Pub. L. 106–113, §1000(a)(6) [title IV, §403(a)(1)], substituted ''for a period that does not exceed, as determined on an annual, average basis, 96 hours per patient;'' for ''for a period not to exceed 96 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions), except that a peer review organization or equivalent entity may, on request, waive the 96-hour restriction on a case-by-case basis;''.

Subsec. (c)(2)(C), (D). Pub. L. 106–113, §1000(a)(6) [title IV, §403(c)(2)], added subpars. (C) and (D).

Subsec. (g)(3). Pub. L. 106–113, §1000(a)(6) [title IV, §409], added par. (3).

1997—Pub. L. 105–33, §4201(a), amended section catchline and text generally, substituting provisions relating to medicare rural hospital flexibility program for provisions relating to essential access community hospital program.

Subsec. (j). Pub. L. 105–33, §4002(f)(1), substituted ''part D'' for ''part C''.

1994—Subsec. (c)(1). Pub. L. 103–432, §102(b)(2)(B)(i), substituted ''paragraph (3) or subsection (k) of this section'' for ''paragraph (3)''.

Subsec. (e)(1). Pub. L. 103–432, §102(b)(1)(A)(i), redesignated par. (2) as (1) and struck out former par. (1) which read as follows: ''is located in a rural area (as defined in section 1395ww(d)(2)(D) of this title);''.

Subsec. (e)(1)(A). Pub. L. 103–432, §102(b)(1)(A)(ii), substituted ''except in the case of a hospital located in an urban area, is located'' for ''is located'' in introductory provisions, substituted ''or (ii)'' for '', (ii)'', and struck out ''or (iii) is located in an urban area that meets the criteria for classification as a regional referral center under such section,'' after ''section 1395ww(d)(5)(C) of this title,''.

Subsec. (e)(2) to (6). Pub. L. 103–432, §102(b)(1)(A)(i), redesignated pars. (2) to (6) as (1) to (5), respectively.

Subsec. (f)(1)(F). Pub. L. 103–432, §102(a)(1), amended subpar. (F) generally. Prior to amendment, subpar. (F) read as follows: ''provides not more than 6 inpatient beds (meeting such conditions as the Secretary may establish) for providing inpatient care for a period not to exceed 72 hours (unless a longer period is required because transfer to a hospital is precluded because of inclement weather or other emergency conditions) to patients requiring stabilization before discharge or transfer to a hospital;''.

Subsec. (f)(1)(H). Pub. L. 103–432, §102(f), inserted before period at end '', except that in determining whether a facility meets the requirements of this subparagraph, subparagraphs (E) and (F) of that paragraph shall be applied as if any reference to a 'physician' is a reference to a physician as defined in section 1395x(r)(1) of this title''.

Subsec. (f)(3). Pub. L. 103–432, §102(c), substituted ''because, at the time the facility applies to the State for designation as a rural primary care hospital, there is in effect an agreement between the facility and the Secretary under section 1395tt of this title under which the facility's inpatient hospital facilities are used for the furnishing of extended care services, except that the number of beds used for the furnishing of such services may not exceed the total number of licensed inpatient beds at the time the facility applies to the State for such designation (minus the number of inpatient beds used for providing inpatient care pursuant to paragraph (1)(F)). For purposes of the previous sentence, the number of beds of the facility used for the furnishing of extended care services shall not include any beds of a unit of the facility that is licensed as a distinct-part skilled nursing facility at the time the facility applies to the State for designation as a rural primary care hospital.'' for ''because the facility has entered into an agreement with the Secretary under section 1395tt of this title under which the facility's inpatient hospital facilities may be used for the furnishing of extended care services.''

Subsec. (f)(4). Pub. L. 103–432, §102(a)(2), added par. (4).

Subsec. (i)(1)(A). Pub. L. 103–432, §102(b)(2)(B)(ii), in cl. (i) inserted ''(except as provided in subsection (k) of this section)'' and in cl. (ii) inserted ''or subsection (k) of this section''.

Subsec. (i)(1)(B). Pub. L. 103–432, §102(b)(1)(A)(iii), substituted ''paragraph (2)'' for ''paragraph (3)''.

Subsec. (i)(2)(A). Pub. L. 103–432, §102(b)(2)(B)(ii), in cl. (i) inserted ''(except as provided in subsection (k) of this section)'' and in cl. (ii) inserted ''or subsection (k) of this section''.

Subsec. (k). Pub. L. 103–432, §102(b)(2)(A)(ii), added subsec. (k). Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 103–432, §102(h), substituted ''1990 through 1997'' for ''1990, 1991, and 1992'' in introductory provisions.

Pub. L. 103–432, §102(b)(2)(A)(i), redesignated subsec. (k) as (*l*).

1990—Subsec. (d)(1). Pub. L. 101–508, §4008(m)(2)(B)(i), struck out ''demonstration'' before ''program''.

Subsec. (f)(1)(A). Pub. L. 101–508, §4008(d)(3), inserted before semicolon at end '', or is located in a county whose geographic area is substantially larger than the average geographic area for urban counties in the United States and whose hospital service area is characteristic of service areas of hospitals located in rural areas''.

Subsec. (f)(1)(B). Pub. L. 101–508, §4008(d)(2), which directed the substitution of ''is a hospital (or, in the case of a facility that closed during the 12-month period that ends on the date the facility applies for such designation, at the time the facility closed),'' for ''is a hospital,'' was executed by making the substitution for ''is a hospital'' to reflect the probable intent of Congress.

Subsec. (g)(1)(A)(ii). Pub. L. 101–508, §4008(m)(2)(B)(ii), substituted ''regional referral center'' for ''rural referral center''.

Subsec. (i)(2)(C). Pub. L. 101–508, § 4008(d)(1), inserted at end ''In designating facilities as rural primary care hospitals under this subparagraph, the Secretary shall give preference to facilities not meeting the requirements of clause (i) of subparagraph (A) that have entered into an agreement described in subsection (g)(2) of this section with a rural health network located in a State receiving a grant under subsection (a)(1) of this section.''

Subsec. (j). Pub. L. 101–508, § 4008(m)(2)(B)(iii), inserted ''and part C of this subchapter'' after ''this part''.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111–148, title III, § 3129(c), Mar. 23, 2010, 124 Stat. 427, provided that: ''The amendments made by this section [amending this section] shall apply to grants made on or after January 1, 2010.''

EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108–173, title IV, § 405(e)(3), Dec. 8, 2003, 117 Stat. 2267, provided that: ''The amendments made by this subsection [amending this section] shall apply to designations made before, on, or after January 1, 2004, but any election made pursuant to regulations promulgated to carry out such amendments shall only apply prospectively.''

Amendment by section 405(g)(1) of Pub. L. 108–173 applicable to cost reporting periods beginning on or after Oct. 1, 2004, see section 405(g)(3) of Pub. L. 108–173, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by section 1000(a)(6) [title III, § 321(a)] of Pub. L. 106–113 effective as if included in the enactment of the Balanced Budget Act of 1997, Pub. L. 105–33, except as otherwise provided, see section 1000(a)(6) [title III, § 321(m)] of Pub. L. 106–113, set out as a note under section 1395d of this title.

Pub. L. 106–113, div. B, § 1000(a)(6) [title IV, § 401(c)], Nov. 29, 1999, 113 Stat. 1536, 1501A–369, provided that: ''The amendments made by this section [amending this section and sections 1395*l* and 1395ww of this title] shall become effective on January 1, 2000.''

Pub. L. 106–113, div. B, § 1000(a)(6) [title IV, § 403(a)(2)], Nov. 29, 1999, 113 Stat. 1536, 1501A–370, provided that: ''The amendment made by paragraph (1) [amending this section] takes effect on the date of the enactment of this Act [Nov. 29, 1999].''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 4201(a) of Pub. L. 105–33 applicable to services furnished on or after Oct. 1, 1997, see section 4201(d) of Pub. L. 105–33, set out as a note under section 1395f of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–508, title IV, § 4008(d)(4), Nov. 5, 1990, 104 Stat. 1388–45, provided that: ''The amendments made by paragraphs (1), (2), and (3) [amending this section] shall take effect on the date of the enactment of this Act [Nov. 5, 1990].''

DEMONSTRATION PROJECT ON COMMUNITY HEALTH INTEGRATION MODELS IN CERTAIN RURAL COUNTIES

Pub. L. 110–275, title I, § 123, July 15, 2008, 122 Stat. 2514, as amended by Pub. L. 111–148, title III, § 3126, Mar. 23, 2010, 124 Stat. 425, provided that:

''(a) IN GENERAL.—The Secretary shall establish a demonstration project to allow eligible entities to develop and test new models for the delivery of health care services in eligible counties for the purpose of improving access to, and better integrating the delivery of, acute care, extended care, and other essential health care services to Medicare beneficiaries.

''(b) PURPOSE.—The purpose of the demonstration project under this section is to—

''(1) explore ways to increase access to, and improve the adequacy of, payments for acute care, extended care, and other essential health care services provided under the Medicare and Medicaid programs in eligible counties; and

''(2) evaluate regulatory challenges facing such providers and the communities they serve.

''(c) REQUIREMENTS.—The following requirements shall apply under the demonstration project:

''(1) Health care providers in eligible counties selected to participate in the demonstration project under subsection (d)(3) shall (when determined appropriate by the Secretary), instead of the payment rates otherwise applicable under the Medicare program, be reimbursed at a rate that covers at least the reasonable costs of the provider in furnishing acute care, extended care, and other essential health care services to Medicare beneficiaries.

''(2) Methods to coordinate the survey and certification process under the Medicare program and the Medicaid program across all health service categories included in the demonstration project shall be tested with the goal of assuring quality and safety while reducing administrative burdens, as appropriate, related to completing such survey and certification process.

''(3) Health care providers in eligible counties selected to participate in the demonstration project under subsection (d)(3) and the Secretary shall work with the State to explore ways to revise reimbursement policies under the Medicaid program to improve access to the range of health care services available in such eligible counties.

''(4) The Secretary shall identify regulatory requirements that may be revised appropriately to improve access to care in eligible counties.

''(5) Other essential health care services necessary to ensure access to the range of health care services in eligible counties selected to participate in the demonstration project under subsection (d)(3) shall be identified. Ways to ensure adequate funding for such services shall also be explored.

''(d) APPLICATION PROCESS.—

''(1) ELIGIBILITY.—

''(A) IN GENERAL.—Eligibility to participate in the demonstration project under this section shall be limited to eligible entities.

''(B) ELIGIBLE ENTITY DEFINED.—In this section, the term 'eligible entity' means an entity that—

''(i) is a Rural Hospital Flexibility Program grantee under section 1820(g) of the Social Security Act (42 U.S.C. 1395i–4(g)); and

''(ii) is located in a State in which at least 65 percent of the counties in the State are counties that have 6 or less residents per square mile.

''(2) APPLICATION.—

''(A) IN GENERAL.—An eligible entity seeking to participate in the demonstration project under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

''(B) LIMITATION.—The Secretary shall select eligible entities located in not more than 4 States to participate in the demonstration project under this section.

''(3) SELECTION OF ELIGIBLE COUNTIES.—An eligible entity selected by the Secretary to participate in the demonstration project under this section shall select eligible counties in the State in which the entity is located in which to conduct the demonstration project.

''(4) ELIGIBLE COUNTY DEFINED.—In this section, the term 'eligible county' means a county that meets the following requirements:

''(A) The county has 6 or less residents per square mile.

''(B) As of the date of the enactment of this Act [July 15, 2008], a facility designated as a critical access hospital which meets the following requirements was located in the county:

''(i) As of the date of the enactment of this Act, the critical access hospital furnished 1 or more of the following:

''(I) Home health services.

''(II) Hospice care.

''(ii) As of the date of the enactment of this Act, the critical access hospital has an average daily inpatient census of 5 or less.

''(C) As of the date of the enactment of this Act, skilled nursing facility services were available in the county in—

''(i) a critical access hospital using swing beds; or

''(ii) a local nursing home.

''(e) ADMINISTRATION.—

''(1) IN GENERAL.—The demonstration project under this section shall be administered jointly by the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration and the Administrator of the Centers for Medicare & Medicaid Services, in accordance with paragraphs (2) and (3).

''(2) HRSA DUTIES.—In administering the demonstration project under this section, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration shall—

''(A) award grants to the eligible entities selected to participate in the demonstration project; and

''(B) work with such entities to provide technical assistance related to the requirements under the project.

''(3) CMS DUTIES.—In administering the demonstration project under this section, the Administrator of the Centers for Medicare & Medicaid Services shall determine which provisions of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) the Secretary should waive under the waiver authority under subsection (i) that are relevant to the development of alternative reimbursement methodologies, which may include, as appropriate, covering at least the reasonable costs of the provider in furnishing acute care, extended care, and other essential health care services to Medicare beneficiaries and coordinating the survey and certification process under the Medicare and Medicaid programs, as appropriate, across all service categories included in the demonstration project.

''(f) DURATION.—

''(1) IN GENERAL.—The demonstration project under this section shall be conducted for a 3-year period beginning on October 1, 2009.

''(2) BEGINNING DATE OF DEMONSTRATION PROJECT.—The demonstration project under this section shall be considered to have begun in a State on the date on which the eligible counties selected to participate in the demonstration project under subsection (d)(3) begin operations in accordance with the requirements under the demonstration project.

''(g) FUNDING.—

''(1) CMS.—

''(A) IN GENERAL.—The Secretary shall provide for the transfer, in appropriate part from the Federal Hospital Insurance Trust Fund established under section 1817 of the Social Security Act (42 U.S.C. 1395i) and the Federal Supplementary Medical Insurance Trust Fund established under section 1841 of such Act (42 U.S.C. 1395t), of such sums as are necessary for the costs to the Centers for Medicare & Medicaid Services of carrying out its duties under the demonstration project under this section.

''(B) BUDGET NEUTRALITY.—In conducting the demonstration project under this section, the Secretary shall ensure that the aggregate payments made by the Secretary do not exceed the amount which the Secretary estimates would have been paid if the demonstration project under this section was not implemented.

''(2) HRSA.—There are authorized to be appropriated to the Office of Rural Health Policy of the Health Resources and Services Administration $800,000 for each of fiscal years 2010, 2011, and 2012 for the purpose of carrying out the duties of such Office under the demonstration project under this section, to remain available for the duration of the demonstration project.

''(h) REPORT.—

''(1) INTERIM REPORT.—Not later than the date that is 2 years after the date on which the demonstration project under this section is implemented, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to Congress on the status of the demonstration project that includes initial recommendations on ways to improve access to, and the availability of, health care services in eligible counties based on the findings of the demonstration project.

''(2) FINAL REPORT.—Not later than 1 year after the completion of the demonstration project, the Administrator of the Office of Rural Health Policy of the Health Resources and Services Administration, in coordination with the Administrator of the Centers for Medicare & Medicaid Services, shall submit a report to Congress on such project, together with recommendations for such legislation and administrative action as the Secretary determines appropriate.

''(i) WAIVER AUTHORITY.—The Secretary may waive such requirements of titles XVIII and XIX of the Social Security Act (42 U.S.C. 1395 et seq.; 1396 et seq.) as may be necessary and appropriate for the purpose of carrying out the demonstration project under this section.

''(j) DEFINITIONS.—In this section:

''(1) EXTENDED CARE SERVICES.—The term 'extended care services' means the following:

''(A) Home health services.

''(B) Covered skilled nursing facility services.

''(C) Hospice care.

''(2) COVERED SKILLED NURSING FACILITY SERVICES.—The term 'covered skilled nursing facility services' has the meaning given such term in section 1888(e)(2)(A) of the Social Security Act (42 U.S.C. 1395yy(e)(2)(A)).

''(3) CRITICAL ACCESS HOSPITAL.—The term 'critical access hospital' means a facility designated as a critical access hospital under section 1820(c) of such Act (42 U.S.C. 1395i–4(c)).

''(4) HOME HEALTH SERVICES.—The term 'home health services' has the meaning given such term in section 1861(m) of such Act (42 U.S.C. 1395x(m)).

''(5) HOSPICE CARE.—The term 'hospice care' has the meaning given such term in section 1861(dd) of such Act (42 U.S.C. 1395x(dd)).

''(6) MEDICAID PROGRAM.—The term 'Medicaid program' means the program under title XIX of such Act (42 U.S.C. 1396 et seq.).

''(7) MEDICARE PROGRAM.—The term 'Medicare program' means the program under title XVIII of such Act (42 U.S.C. 1395 et seq.).

''(8) OTHER ESSENTIAL HEALTH CARE SERVICES.—The term 'other essential health care services' means the following:

''(A) Ambulance services (as described in section 1861(s)(7) of the Social Security Act (42 U.S.C. 1395x(s)(7))).

''(B) Physicians' services (as defined in section 1861(q) of the Social Security Act (42 U.S.C. 1395x(q))[)].

''(C) Public health services (as defined by the Secretary).

''(D) Other health care services determined appropriate by the Secretary.

''(9) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.''

[Pub. L. 111–148, title III, §3126(b)(1), Mar. 23, 2010, 124 Stat. 426, which directed amendment of section 123 of Pub. L. 111–275, set out above, by striking out subsec. (d)(4)(B)(i)(3)(III), was executed by striking out subsec. (d)(4)(B)(i)(III) to reflect the probable intent of Congress.]

### GAO STUDY ON CERTAIN ELIGIBILITY REQUIREMENTS FOR CRITICAL ACCESS HOSPITALS

Pub. L. 106–554, §1(a)(6) [title II, §206], Dec. 21, 2000, 114 Stat. 2763, 2763A–483, provided that:

''(a) STUDY.—The Comptroller General of the United States shall conduct a study on the eligibility requirements for critical access hospitals under section 1820(c) of the Social Security Act (42 U.S.C. 1395i–4(c)) with respect to limitations on average length of stay and number of beds in such a hospital, including an analysis of—

''(1) the feasibility of having a distinct part unit as part of a critical access hospital for purposes of the medicare program under title XVIII of such Act [this subchapter]; and

''(2) the effect of seasonal variations in patient admissions on critical access hospital eligibility requirements with respect to limitations on average annual length of stay and number of beds.

''(b) REPORT.—Not later than 1 year after the date of the enactment of this Act [Dec. 21, 2000], the Comptroller General shall submit to Congress a report on the study conducted under subsection (a) together with recommendations regarding—

''(1) whether distinct part units should be permitted as part of a critical access hospital under the medicare program;

''(2) if so permitted, the payment methodologies that should apply with respect to services provided by such units;

''(3) whether, and to what extent, such units should be included in or excluded from the bed limits applicable to critical access hospitals under the medicare program; and

''(4) any adjustments to such eligibility requirements to account for seasonal variations in patient admissions.''

TRANSITION FOR MAF

Pub. L. 105–33, title IV, § 4201(c)(6), Aug. 5, 1997, 111 Stat. 374, provided that:

''(A) IN GENERAL.—The Secretary of Health and Human Services shall provide for an appropriate transition for a facility that, as of the date of the enactment of this Act [Aug. 5, 1997], operated as a limited service rural hospital under a demonstration described in section 4008(i)(1) of the Omnibus Budget Reconciliation Act of 1990 [Pub. L. 101–508] (42 U.S.C. 1395b–1 note) from such demonstration to the program established under subsection (a) [amending this section]. At the conclusion of the transition period described in subparagraph (B), the Secretary shall end such demonstration.

''(B) TRANSITION PERIOD DESCRIBED.—

''(i) INITIAL PERIOD.—Subject to clause (ii), the transition period described in this subparagraph is the period beginning on the date of the enactment of this Act and ending on October 1, 1998.

''(ii) EXTENSION.—If the Secretary determines that the transition is not complete as of October 1, 1998, the Secretary shall provide for an appropriate extension of the transition period.''

GAO REPORTS

Pub. L. 103–432, title I, § 102(a)(4), Oct. 31, 1994, 108 Stat. 4402, directed Comptroller General to submit to Congress, not later than 2 years after Oct. 31, 1994, reports on application of requirements under subsec. (f) of this section that rural primary care hospitals provide inpatient care only to those individuals whose attending physicians certify may reasonably be expected to be discharged within 72 hours after admission and maintain average length of inpatient stay during a year that does not exceed 72 hours, and extent to which such requirements have resulted in such hospitals providing inpatient care beyond their capabilities or have limited ability of such hospitals to provide needed services.

## § 1395i–5. Conditions for coverage of religious nonmedical health care institutional services

### (a) In general

Subject to subsections (c) and (d) of this section, payment under this part may be made for inpatient hospital services or post-hospital extended care services furnished an individual in a religious nonmedical health care institution and for home health services furnished an individual by a religious nonmedical health care institution only if—

(1) the individual has an election in effect for such benefits under subsection (b) of this section; and

(2) the individual has a condition such that the individual would qualify for benefits under this part for inpatient hospital services, extended care services, or home health services, respectively, if the individual were an inpatient or resident in a hospital or skilled nursing facility, or receiving services from a home health agency, that was not such an institution.

### (b) Election

#### (1) In general

An individual may make an election under this subsection in a form and manner specified by the Secretary consistent with this subsection. Unless otherwise provided, such an election shall take effect immediately upon its execution. Such an election, once made, shall continue in effect until revoked.

#### (2) Form

The election form under this subsection shall include the following:

(A) A written statement, signed by the individual (or such individual's legal representative), that—

(i) the individual is conscientiously opposed to acceptance of nonexcepted medical treatment; and

(ii) the individual's acceptance of nonexcepted medical treatment would be inconsistent with the individual's sincere religious beliefs.

(B) A statement that the receipt of nonexcepted medical services shall constitute a revocation of the election and may limit further receipt of services described in subsection (a) of this section.

#### (3) Revocation

An election under this subsection by an individual may be revoked by voluntarily notifying the Secretary in writing of such revocation and shall be deemed to be revoked if the individual receives nonexcepted medical treatment for which reimbursement is made under this subchapter.

#### (4) Limitation on subsequent elections

Once an individual's election under this subsection has been made and revoked twice—

(A) the next election may not become effective until the date that is 1 year after the date of most recent previous revocation, and

(B) any succeeding election may not become effective until the date that is 5 years after the date of the most recent previous revocation.

#### (5) Excepted medical treatment

For purposes of this subsection:

##### (A) Excepted medical treatment

The term ''excepted medical treatment'' means medical care or treatment (including medical and other health services)—