

as to monitor and report annual total expenditures, health outcomes, and access to benefits for all dual eligible individuals.

(e) Report

The Secretary shall, as part of the budget transmitted under section 1105(a) of title 31, submit to Congress an annual report containing recommendations for legislation that would improve care coordination and benefits for dual eligible individuals.

(f) Dual eligible individual defined

In this section, the term “dual eligible individual” means an individual who is entitled to, or enrolled for, benefits under part A of title XVIII of the Social Security Act [42 U.S.C. 1395c et seq.], or enrolled for benefits under part B of title XVIII of such Act [42 U.S.C. 1395j et seq.], and is eligible for medical assistance under a State plan under title XIX of such Act or under a waiver of such plan.

(Pub. L. 111-148, title II, §2602, Mar. 23, 2010, 124 Stat. 315.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (b), (d)(4), and (f), is act Aug. 14, 1935, ch. 531, 49 Stat. 620. Titles XVIII and XIX of the Act are classified generally to subchapters XVIII (§1395 et seq.) and XIX (§1396 et seq.), respectively, of this chapter. Parts A and B of title XVIII of the Act are classified generally to parts A (§1395c et seq.) and B (§1395j et seq.), respectively, of subchapter XVIII 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 Patient Protection and Affordable Care Act, and not as part of the Social Security Act which comprises this chapter.

§ 1316. Administrative and judicial review of public assistance determinations

(a) Determination of conformity with requirements for approval; petition for reconsideration; hearing; time limitations; review by court of appeals

(1) Whenever a State plan is submitted to the Secretary by a State for approval under subchapter I, X, XIV, XVI, or XIX, he shall, not later than 90 days after the date the plan is submitted to him, make a determination as to whether it conforms to the requirements for approval under such subchapter. The 90-day period provided herein may be extended by written agreement of the Secretary and the affected State.

(2) Any State dissatisfied with a determination of the Secretary under paragraph (1) of this subsection with respect to any plan may, within 60 days after it has been notified of such determination, file a petition with the Secretary for reconsideration of the issue of whether such plan conforms to the requirements for approval under such subchapter. Within 30 days after receipt of such a petition, the Secretary shall notify the State of the time and place at which a hearing will be held for the purpose of reconsidering such issue. Such hearing shall be held not less than 20 days nor more than 60 days after the date notice of such hearing is furnished to such

State, unless the Secretary and such State agree in writing to holding the hearing at another time. The Secretary shall affirm, modify, or reverse his original determination within 60 days of the conclusion of the hearing.

(3) Any State which is dissatisfied with a final determination made by the Secretary on such a reconsideration or a final determination of the Secretary under section 304, 1204, 1354, 1384, or 1396c of this title may, within 60 days after it has been notified of such determination, file with the United States court of appeals for the circuit in which such State is located a petition for review of such determination. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his determination as provided in section 2112 of title 28.

(4) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the transcript and record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(5) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28.

(b) Amendment of plans

For the purposes of subsection (a), any amendment of a State plan approved under subchapter I, X, XIV, XVI, or XIX, may, at the option of the State, be treated as the submission of a new State plan.

(c) Restitution when Secretary reverses his determination

Action pursuant to an initial determination of the Secretary described in subsection (a) shall not be stayed pending reconsideration, but in the event that the Secretary subsequently determines that his initial determination was incorrect he shall certify restitution forthwith in a lump sum of any funds incorrectly withheld or otherwise denied.

(d) Disallowance of items covered under other subchapters

Whenever the Secretary determines that any item or class of items on account of which Federal financial participation is claimed under subchapter I, X, XIV,¹ XVI, shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance.

(e) Disallowance of items covered under subchapter XIX

(1) Whenever the Secretary determines that any item or class of items on account of which

¹ So in original. Probably should be followed by “or”.

Federal financial participation is claimed under subchapter XIX shall be disallowed for such participation, the State shall be entitled to and upon request shall receive a reconsideration of the disallowance, provided that such request is made during the 60-day period that begins on the date the State receives notice of the disallowance.

(2)(A) A State may appeal a disallowance of a claim for federal² financial participation under subchapter XIX by the Secretary, or an unfavorable reconsideration of a disallowance, during the 60-day period that begins on the date the State receives notice of the disallowance or of the unfavorable reconsideration, in whole or in part, to the Departmental Appeals Board, established in the Department of Health and Human Services (in this paragraph referred to as the "Board"), by filing a notice of appeal with the Board.

(B) The Board shall consider a State's appeal of a disallowance of such a claim (or of an unfavorable reconsideration of a disallowance) on the basis of such documentation as the State may submit and as the Board may require to support the final decision of the Board. In deciding whether to uphold a disallowance of such a claim or any portion thereof, the Board shall be bound by all applicable laws and regulations and shall conduct a thorough review of the issues, taking into account all relevant evidence. The Board's decision of an appeal under subparagraph (A) shall be the final decision of the Secretary and shall be subject to reconsideration by the Board only upon motion of either party filed during the 60-day period that begins on the date of the Board's decision or to judicial review in accordance with subparagraph (C).

(C) A State may obtain judicial review of a decision of the Board by filing an action in any United States District Court located within the appealing State (or, if several States jointly appeal the disallowance of claims for Federal financial participation under section 1396b of this title, in any United States District Court that is located within any State that is a party to the appeal) or the United States District Court for the District of Columbia. Such an action may only be filed—

(i) if no motion for reconsideration was filed within the 60-day period specified in subparagraph (B), during such 60-day period; or

(ii) if such a motion was filed within such period, during the 60-day period that begins on the date of the Board's decision on such motion.

(Aug. 14, 1935, ch. 531, title XI, §1116, as added Pub. L. 89-97, title IV, §404(a), July 30, 1965, 79 Stat. 419; amended Pub. L. 90-248, title II, §241(c)(5), Jan. 2, 1968, 81 Stat. 917; Pub. L. 93-233, §18(z-2)(1)(C), Dec. 31, 1973, 87 Stat. 974; Pub. L. 93-647, §3(d), Jan. 4, 1975, 88 Stat. 2349; Pub. L. 97-35, title XXIII, §2353(h), Aug. 13, 1981, 95 Stat. 872; Pub. L. 98-369, div. B, title III, §2354(c)(2), title VI, §2663(e)(6), July 18, 1984, 98 Stat. 1102, 1168; Pub. L. 104-193, title I, §108(g)(3), Aug. 22, 1996, 110 Stat. 2168; Pub. L. 110-275, title II, §204(a), (b), July 15, 2008, 122 Stat. 2592, 2593.)

² So in original. Probably should be capitalized.

REFERENCES IN TEXT

Section 1384 of this title, referred to in subsec. (a)(3), is a reference to section 1384 of this title as it existed prior to the general revision of this subchapter by Pub. L. 92-603, title III, §301, Oct. 30, 1972, 86 Stat. 1465, eff. Jan. 1, 1974. The prior section (which is set out as a note under section 1384 of this title) continues in effect for Puerto Rico, Guam, and the Virgin Islands.

AMENDMENTS

2008—Subsec. (d). Pub. L. 110-275, §204(b), struck out "or XIX," after "XVI,".

Subsec. (e). Pub. L. 110-275, §204(a), added subsec. (e). 1996—Subsec. (a)(1). Pub. L. 104-193, §108(g)(3)(A), struck out "or part A of subchapter IV," after "XIX,".

Subsec. (a)(3). Pub. L. 104-193, §108(g)(3)(B), struck out "604," before "1204,".

Subsecs. (b), (d). Pub. L. 104-193, §108(g)(3)(A), struck out "or part A of subchapter IV," after "XIX,".

1984—Subsec. (a)(1). Pub. L. 98-369, §2663(e)(6)(A), struck out "VI," after "I,".

Pub. L. 98-369, §2354(c)(2), corrected typographical error in directory language of Pub. L. 97-35, §2353(h)(1). See 1981 Amendment note below.

Subsec. (a)(3). Pub. L. 98-369, §2663(e)(6)(B), struck out "804," after "604,".

Subsec. (b). Pub. L. 98-369, §2663(e)(6)(A), struck out "VI," after "I,".

Pub. L. 98-369, §2354(c)(2), corrected typographical error in directory language of Pub. L. 97-35, §2353(h)(1). See 1981 Amendment note below.

Subsec. (d). Pub. L. 98-369, §2663(e)(6)(C), substituted "XVI, or XIX, or part A" for "XVI, or or XIX, or part A" .

Pub. L. 98-369, §2663(e)(6)(A), struck out "VI," after "I,".

1981—Subsec. (a)(1). Pub. L. 97-35, §2353(h)(1), as amended by Pub. L. 98-369, §2354(c)(2), substituted "or XIX" for "XIX or XX" .

Subsec. (a)(3). Pub. L. 97-35, §2353(h)(2), substituted "or 1396c of this title" for "1396c, or 1397b of this title" .

Subsec. (b). Pub. L. 97-35, §2353(h)(1), as amended by Pub. L. 98-369, §2354(c)(2), substituted "or XIX" for "XIX or XX" .

Subsec. (d). Pub. L. 97-35, §2353(h)(3), substituted "or XIX" for "XIX, or XX" .

1975—Subsec. (a)(1). Pub. L. 93-647, §3(d)(1), substituted "XIX or XX" for "or XIX" .

Subsec. (a)(3). Pub. L. 93-647, §3(d)(2), substituted "1396c, or 1397b" for "or 1396c" .

Subsec. (b). Pub. L. 93-647, §3(d)(1), substituted "XIX or XX" for "or XIX" .

Subsec. (d). Pub. L. 93-647, §3(d)(3), inserted "XX," after "XIX," .

1973—Subsec. (a). Pub. L. 93-233, §18(z-2)(1)(C)(i), (ii), inserted references in par. (1) to subchapter VI of this chapter and in par. (3) to section 804 of this title.

Subsecs. (b), (d). Pub. L. 93-233, §18(z-2)(1)(C)(iii), (iv), inserted reference to subchapter VI of this chapter.

1968—Subsec. (a)(1). Pub. L. 90-248, §241(c)(5)(A), struck out "IV," after "I," and inserted "or part A of subchapter IV," after "XIX," .

Subsecs. (b), (d). Pub. L. 90-248, §241(c)(5)(B), struck out "IV," after "I," and inserted ", or part A of subchapter IV," after "XIX" .

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-275, title II, §204(c), July 15, 2008, 122 Stat. 2593, provided that: "The amendments made by this section [amending this section] take effect on the date of the enactment of this Act [July 15, 2008] and apply to any disallowance of a claim for Federal financial participation under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) made on or after such date or during the 60-day period prior to such date."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-193 effective July 1, 1997, with transition rules relating to State options to accel-

erate such date, rules relating to claims, actions, and proceedings commenced before such date, rules relating to closing out of accounts for terminated or substantially modified programs and continuance in office of Assistant Secretary for Family Support, and provisions relating to termination of entitlement under AFDC program, see section 116 of Pub. L. 104-193, as amended, set out as an Effective Date note under section 601 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 2354(c)(2) of Pub. L. 98-369 effective as if originally included in Pub. L. 97-35, see section 2354(e)(2) of Pub. L. 98-369, set out as a note under section 1320a-1 of this title.

Amendment by section 2663(e)(6) of Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2664(b) of Pub. L. 98-369, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-35 effective Oct. 1, 1981, except as otherwise explicitly provided, see section 2354 of Pub. L. 97-35, set out as an Effective Date note under section 1397 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-647 effective with respect to payments under sections 603 and 803 of this title for quarters commencing after Sept. 30, 1975, see section 7(b) of Pub. L. 93-647, set out as a note under section 303 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-233 effective on and after Jan. 1, 1974, see section 18(z-2)(2) of Pub. L. 93-233, set out as a note under section 1301 of this title.

EFFECTIVE DATE

Pub. L. 89-97, title IV, §404(b), July 30, 1965, 79 Stat. 420, provided that: "The amendment made by subsection (a) [enacting this section] shall apply only with respect to determinations made after December 31, 1965."

§ 1317. Appointment of the Administrator and Chief Actuary of the Centers for Medicare & Medicaid Services

(a) The Administrator of the Centers for Medicare & Medicaid Services shall be appointed by the President by and with the advice and consent of the Senate.

(b)(1) There is established in the Centers for Medicare & Medicaid Services the position of Chief Actuary. The Chief Actuary shall be appointed by, and in direct line of authority to, the Administrator of such Centers. The Chief Actuary shall be appointed from among individuals who have demonstrated, by their education and experience, superior expertise in the actuarial sciences. The Chief Actuary shall exercise such duties as are appropriate for the office of the Chief Actuary and in accordance with professional standards of actuarial independence. The Chief Actuary may be removed only for cause.

(2) The Chief Actuary shall be compensated at the highest rate of basic pay for the Senior Executive Service under section 5382(b) of title 5.

(3) In the office of the Chief Actuary there shall be an actuary whose duties relate exclusively to the programs under parts C and D of subchapter XVIII and related provisions of such subchapter.

(Aug. 14, 1935, ch. 531, title XI, §1117, as added Pub. L. 98-369, div. B, title III, §2332(a), July 18, 1984, 98 Stat. 1088; amended Pub. L. 105-33, title IV, §4643, Aug. 5, 1997, 111 Stat. 487; Pub. L. 108-173, title IX, §900(c), (e)(1)(A), Dec. 8, 2003, 117 Stat. 2370.)

PRIOR PROVISIONS

A prior section 1317, act Aug. 14, 1935, ch. 531, title XI, §1117, as added July 30, 1965, Pub. L. 89-97, title IV, §405, 79 Stat. 420; amended Jan. 2, 1968, Pub. L. 90-248, title II, §§221(a)-(c), 241(c)(6), 81 Stat. 899, 917, related to maintenance of State public assistance expenditures, prior to repeal by Pub. L. 90-248, title II, §221(d), Jan. 2, 1968, 81 Stat. 900, eff. July 1, 1968.

AMENDMENTS

2003—Pub. L. 108-173, §900(e)(1)(A)(i), substituted "Appointment of the Administrator and Chief Actuary of the Centers for Medicare & Medicaid Services" for "Appointment of Administrator and Chief Actuary of Health Care Financing Administration" in section catchline.

Subsec. (a). Pub. L. 108-173, §900(e)(1)(A)(ii), substituted "Centers for Medicare & Medicaid Services" for "Health Care Financing Administration".

Subsec. (b)(1). Pub. L. 108-173, §900(e)(1)(A)(iii), substituted "Centers for Medicare & Medicaid Services" for "Health Care Financing Administration" and "such Centers" for "such Administration".

Subsec. (b)(3). Pub. L. 108-173, §900(c), added par. (3). 1997—Pub. L. 105-33 amended section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE

Pub. L. 98-369, div. B, title III, §2332(c), July 18, 1984, 98 Stat. 1089, provided that: "The amendments made by this section [enacting this section and amending section 5315 of Title 5, Government Organization and Employees] shall apply to appointments made after the date of the enactment of this Act [July 18, 1984]."

§ 1318. Alternative Federal payment with respect to public assistance expenditures

In the case of any State which has in effect a plan approved under subchapter XIX for any calendar quarter, the total of the payments to which such State is entitled for such quarter, and for each succeeding quarter in the same fiscal year (which for purposes of this section means the 4 calendar quarters ending with September 30), under paragraphs (1) and (2) of sections 303(a),¹ 1203(a),¹ 1353(a),¹ and 1383(a)¹ of this title shall, at the option of the State, be determined by application of the Federal medical assistance percentage (as defined in section 1396d of this title), instead of the percentages provided under each such section, to the expenditures under its State plans approved under subchapters I, X, XIV, and XVI, which would be included in determining the amounts of the Federal payments to which such State is entitled under such sections, but without regard to any maximum on the dollar amounts per recipient which may be counted under such sections. For purposes of the preceding sentence, the term "Federal medical assistance percentage" shall, in the case of Puerto Rico, the Virgin Islands, and Guam, mean 75 per centum.

(Aug. 14, 1935, ch. 531, title XI, §1118, as added Pub. L. 89-97, title IV, §411, July 30, 1965, 79 Stat.

¹ See References in Text note below.