

costs for purposes of reimbursement under such subchapter.

(2) The Secretary may not designate more than one organ procurement organization for each service area (described in section 273(b)(1)(E)<sup>1</sup> of this title) under paragraph (1)(F).

(Aug. 14, 1935, ch. 531, title XI, §1138, as added Pub. L. 99-509, title IX, §9318(a), Oct. 21, 1986, 100 Stat. 2009; amended Pub. L. 100-203, title IV, §4039(h)(2), Dec. 22, 1987, as added Pub. L. 100-360, title IV, §411(e)(3), July 1, 1988, 102 Stat. 775; amended Pub. L. 101-239, title VI, §6003(g)(3)(D)(iv), Dec. 19, 1989, 103 Stat. 2153; Pub. L. 103-432, title I, §155(a)(1), Oct. 31, 1994, 108 Stat. 4438; Pub. L. 105-33, title IV, §§4201(c)(1), 4642, Aug. 5, 1997, 111 Stat. 373, 487.)

#### REFERENCES IN TEXT

Section 273(b)(1)(E) of this title, referred to in subsec. (b)(2), was redesignated section 273(b)(1)(F) of this title by Pub. L. 106-505, title VII, §701(c)(1), Nov. 13, 2000, 114 Stat. 2347 and Pub. L. 106-554, §1(a)(1) [title II, §219(b)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-29.

#### AMENDMENTS

1997—Subsec. (a). Pub. L. 105-33, §4201(c)(1), substituted “critical access” for “rural primary care” wherever appearing.

Subsec. (b)(1)(A)(ii). Pub. L. 105-33, §4642, substituted “2 years (4 years if the Secretary determines appropriate for an organization on the basis of its past practices)” for “two years”.

1994—Subsec. (a)(1)(A)(iii). Pub. L. 103-432, §155(a)(1)(A), amended cl. (iii) generally. Prior to amendment, cl. (iii) read as follows: “require that an organ procurement agency designated by the Secretary pursuant to subsection (b)(1)(F) of this section be notified of potential organ donors; and”.

Subsec. (a)(1)(C). Pub. L. 103-432, §155(a)(1)(B), added subpar. (C).

Subsec. (a)(2). Pub. L. 103-432, §155(a)(1)(C)(ii), added par. (2). Former par. (2) redesignated (3).

Subsec. (a)(3). Pub. L. 103-432, §155(a)(1)(D), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “For purposes of this subsection, the term ‘organ’ means a human kidney, liver, heart, lung, pancreas, and any other human organ or tissue specified by the Secretary for purposes of this subsection.”

Pub. L. 103-432, §155(a)(1)(C)(i), redesignated par. (2) as (3).

1989—Subsec. (a)(1). Pub. L. 101-239 substituted “hospital or rural primary care hospital” for “hospital” in two places preceding cl. (i) of subpar. (A).

1988—Subsec. (a)(1)(B). Pub. L. 100-360 added Pub. L. 100-203, §4039(h)(2), see 1987 Amendment note below.

1987—Subsec. (a)(1)(B). Pub. L. 100-203, §4039(h)(2), as added by Pub. L. 100-360, substituted “in” for “In” at beginning.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 4201(c)(1) 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 1994 AMENDMENT

Pub. L. 103-432, title I, §155(a)(3), Oct. 31, 1994, 108 Stat. 4439, provided that: “The amendments made by paragraph (1) [amending this section] shall apply to hospitals and rural primary care hospitals participating in the programs under titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] beginning January 1, 1996.”

<sup>1</sup> See References in Text note below.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

#### EFFECTIVE DATE

Pub. L. 99-509, title IX, §9318(b), Oct. 21, 1986, 100 Stat. 2010, as amended by Pub. L. 100-119, title I, §107(c), Sept. 29, 1987, 101 Stat. 784; Pub. L. 100-203, title IV, §4009(g)(1), Dec. 22, 1987, 101 Stat. 1330-58, provided that:

“(1) Section 1138(a) of the Social Security Act [42 U.S.C. 1320b-8(a)] shall apply to hospitals participating in the programs under titles XVIII and XIX of such Act [42 U.S.C. 1395 et seq., 1396 et seq.] as of November 21, 1987.”

“(2) Section 1138(b) of such Act [42 U.S.C. 1320b-8(b)] shall apply to costs of organs procured on or after March 31, 1988.”

[Pub. L. 100-203, title IV, §4009(g)(2), Dec. 22, 1987, 101 Stat. 1330-58, provided that: “The amendment made by paragraph (1) [amending this note] shall be effective as if included in the enactment of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509].”]

#### EXISTING AGREEMENTS WITH ORGAN PROCUREMENT AGENCIES

Pub. L. 103-432, title I, §155(a)(2), Oct. 31, 1994, 108 Stat. 4439, provided that: “Any hospital or rural primary care hospital which has an agreement (as defined in section 1138(a)(3)(A) of the Social Security Act [42 U.S.C. 1320b-8(a)(3)(A)]) with an organ procurement agency other than such hospital’s designated organ procurement agency (as defined in section 1138(a)(3)(B) of such Act) on the date of the enactment of this section [Oct. 31, 1994] shall, if such hospital desires to continue such agreement on and after the effective date of the amendments made by paragraph (1) [see Effective Date of 1994 Amendment note above], submit an application to the Secretary for a waiver under section 1138(a)(2) of such Act not later than January 1, 1996, and such agreement may continue in effect pending the Secretary’s determination with respect to such application.”

### § 1320b-9. Improved access to, and delivery of, health care for Indians under subchapters XIX and XXI

#### (a) Agreements with States for Medicaid and CHIP outreach on or near reservations to increase the enrollment of Indians in those programs

##### (1) In general

In order to improve the access of Indians residing on or near a reservation to obtain benefits under the Medicaid and State children’s health insurance programs established under subchapters XIX and XXI, the Secretary shall encourage the State to take steps to provide for enrollment on or near the reservation. Such steps may include outreach efforts such as the outstationing of eligibility workers, entering into agreements with the Indian Health Service, Indian Tribes, Tribal Organizations, and Urban Indian Organizations to provide outreach, education regarding eligibility and benefits, enrollment, and translation services when such services are appropriate.

##### (2) Construction

Nothing in paragraph (1) shall be construed as affecting arrangements entered into be-

tween States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations for such Service, Tribes, or Organizations to conduct administrative activities under such subchapters.

**(b) Requirement to facilitate cooperation**

The Secretary, acting through the Centers for Medicare & Medicaid Services, shall take such steps as are necessary to facilitate cooperation with, and agreements between, States and the Indian Health Service, Indian Tribes, Tribal Organizations, or Urban Indian Organizations with respect to the provision of health care items and services to Indians under the programs established under subchapter XIX or XXI.

**(c) Definition of Indian; Indian Tribe; Indian Health Program; Tribal Organization; Urban Indian Organization**

For purposes of this section, subchapter XIX, and subchapter XXI, the terms “Indian”, “Indian Tribe”, “Indian Health Program”, “Tribal Organization”, and “Urban Indian Organization” have the meanings given those terms in section 1603 of title 25.

(Aug. 14, 1935, ch. 531, title XI, §1139, as added Pub. L. 100-203, title IX, §9136, Dec. 22, 1987, 101 Stat. 1330-316; amended Pub. L. 100-647, title VIII, §8201, Nov. 10, 1988, 102 Stat. 3798; Pub. L. 101-45, title IV, §409, June 30, 1989, 103 Stat. 130; Pub. L. 101-239, title VI, §6221, Dec. 19, 1989, 103 Stat. 2255; Pub. L. 101-508, title IV, §4207(k)(6), formerly §4027(k)(6), title V, §5057, Nov. 5, 1990, 104 Stat. 1388-125, 1388-230; Pub. L. 103-432, title I, §160(d)(4), title II, §264(d), Oct. 31, 1994, 108 Stat. 4444, 4468; Pub. L. 111-3, title II, §202(a), Feb. 4, 2009, 123 Stat. 39; Pub. L. 111-148, title II, §2901(d), Mar. 23, 2010, 124 Stat. 333.)

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-148 substituted “For purposes of this section, subchapter XIX, and subchapter XXI” for “In this section”.

2009—Pub. L. 111-3 amended section generally. Prior to amendment, section related to the National Commission on Children.

1994—Subsec. (d). Pub. L. 103-432, §264(d), repealed Pub. L. 101-508, §5057. See 1990 Amendment note below.

1990—Subsec. (d). Pub. L. 101-508, §5057, which directed amendment of subsec. (d) by substituting “an interim report no later than September 30, 1990, and a final report no later than March 31, 1991” for “an interim report no later than March 31, 1991, and a final report no later than September 30, 1990”, and could not be executed, was repealed by Pub. L. 103-432, §264(d). See Construction of 1990 Amendment note below.

Pub. L. 101-508, §4207(k)(6), formerly §4027(k)(6), as renumbered by Pub. L. 103-432, §160(d)(4), substituted “interim report no later than March 31, 1990, and a final report no later than March 31, 1991, setting forth” for “interim report no later than March 31, 1991, and a final report no later than September 30, 1990, setting forth”.

1989—Subsec. (d). Pub. L. 101-239, §6221(1), which directed the substitution of “March 31, 1990” for “September 30, 1988” and “March 31, 1991” for “March 31, 1990 [1989]”, could only be executed in part by substituting “March 31, 1991” for “March 30, 1990” in view of amendment by Pub. L. 100-647. See 1990 Amendment note above.

Subsec. (e)(1)(A), (4)(B). Pub. L. 101-239, §6221(2), substituted “March 31, 1991” for “September 30, 1990”.

Subsec. (f). Pub. L. 101-45 amended subsec. (f) generally. Prior to amendment, subsec. (f) read as follows:

“(1) The Commission shall appoint an Executive Director of the Commission who shall be compensated at

a rate fixed by the Commission, but which shall not exceed the rate established for level V of the Executive Schedule under title 5.

“(2) In addition to the Executive Director, the Commission may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5 governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.”

Subsec. (j). Pub. L. 101-239, §6221(3), substituted “through fiscal year 1991, such sums” for “such sums”.

Subsecs. (k), (l). Pub. L. 101-239, §6221(4), added subsecs. (k) and (l).

1988—Subsec. (d). Pub. L. 100-647, §8201(1), (2), substituted “March 31, 1990” for “September 30, 1988” and “September 30, 1990” for “March 31, 1989” in introductory provisions.

Subsec. (e)(1)(A), (4)(B). Pub. L. 100-647, §8201(3), (4), substituted “September 30, 1990” for “March 31, 1989”.

Subsec. (j). Pub. L. 100-647, §8201(5), inserted “for each of fiscal years 1989 and 1990” before period at end.

EFFECTIVE DATE OF 2009 AMENDMENT

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

EFFECTIVE DATE OF 1994 AMENDMENT

Pub. L. 103-432, title II, §264(h), Oct. 31, 1994, 108 Stat. 4469, provided that: “Each amendment made by this section [amending this section and sections 602, 1382a, and 1383 of this title] shall take effect as if included in the provision of OBRA-1990 [Pub. L. 101-508] to which the amendment relates at the time such provision became law.”

CONSTRUCTION OF 1990 AMENDMENT

Pub. L. 103-432, title II, §264(d), Oct. 31, 1994, 108 Stat. 4468, provided that: “Section 5057 of OBRA-1990 [Pub. L. 101-508, amending this section], and the amendment made by such section, are hereby repealed, and section 1139(d) of the Social Security Act [42 U.S.C. 1320b-9(d)] shall be applied and administered as if such section 5057 had never been enacted.”

**§ 1320b-9a. Child health quality measures**

**(a) Development of an initial core set of health care quality measures for children enrolled in Medicaid or CHIP**

**(1) In general**

Not later than January 1, 2010, the Secretary shall identify and publish for general comment an initial, recommended core set of child health quality measures for use by State programs administered under subchapters XIX and XXI, health insurance issuers and managed care entities that enter into contracts with such programs, and providers of items and services under such programs.

**(2) Identification of initial core measures**

In consultation with the individuals and entities described in subsection (b)(3), the Secretary shall identify existing quality of care measures for children that are in use under public and privately sponsored health care coverage arrangements, or that are part of reporting systems that measure both the presence and duration of health insurance coverage over time.

**(3) Recommendations and dissemination**

Based on such existing and identified measures, the Secretary shall publish an initial