

(c) Duration of authorization

Notwithstanding section 1104(a)(1) of the Right to Financial Privacy Act¹ [12 U.S.C. 3404(a)(1)], an authorization provided to a State under subsection (b)(1) shall remain effective until the earliest of—

(1) the rendering of a final adverse decision on the applicant's application for medical assistance under the State's plan under this subchapter;

(2) the cessation of the recipient's eligibility for such medical assistance; or

(3) the express revocation by the applicant or recipient (or such other person described in subsection (b)(1), as applicable) of the authorization, in a written notification to the State.

(d) Treatment of Right to Financial Privacy Act requirements

(1) An authorization obtained by the State under subsection (b)(1) shall be considered to meet the requirements of the Right to Financial Privacy Act¹ for purposes of section 1103(a) of such Act [12 U.S.C. 3403(a)], and need not be furnished to the financial institution, notwithstanding section 1104(a) of such Act [12 U.S.C. 3404(a)].

(2) The certification requirements of section 1103(b) of the Right to Financial Privacy Act¹ [12 U.S.C. 3403(b)] shall not apply to requests by the State pursuant to an authorization provided under subsection (b)(1).

(3) A request by the State pursuant to an authorization provided under subsection (b)(1) is deemed to meet the requirements of section 1104(a)(3) of the Right to Financial Privacy Act¹ [12 U.S.C. 3404(a)(3)] and of section 1102 of such Act [12 U.S.C. 3402], relating to a reasonable description of financial records.

(e) Required disclosure

The State shall inform any person who provides authorization pursuant to subsection (b)(1)(A) of the duration and scope of the authorization.

(f) Refusal or revocation of authorization

If an applicant for, or recipient of, medical assistance under the State plan under this subchapter (or such other person described in subsection (b)(1), as applicable) refuses to provide, or revokes, any authorization made by the applicant or recipient (or such other person, as applicable) under subsection (b)(1)(A) for the State to obtain from any financial institution any financial record, the State may, on that basis, determine that the applicant or recipient is ineligible for medical assistance.

(g) Use of contractor

For purposes of implementing an asset verification program under this section, a State may select and enter into a contract with a public or private entity meeting such criteria and qualifications as the State determines appropriate, consistent with requirements in regulations relating to general contracting provisions and with section 1396b(i)(2) of this title. In carrying out activities under such contract, such an entity shall be subject to the same requirements and limitations on use and disclosure of information as would apply if the State were to carry out such activities directly.

(h) Technical assistance

The Secretary shall provide States with technical assistance to aid in implementation of an asset verification program under this section.

(i) Reports

A State implementing an asset verification program under this section shall furnish to the Secretary such reports concerning the program, at such times, in such format, and containing such information as the Secretary determines appropriate.

(j) Treatment of program expenses

Notwithstanding any other provision of law, reasonable expenses of States in carrying out the program under this section shall be treated, for purposes of section 1396b(a) of this title, in the same manner as State expenditures specified in paragraph (7) of such section.

(Aug. 14, 1935, ch. 531, title XIX, §1940, as added Pub. L. 110-252, title VII, §7001(d)(1), June 30, 2008, 122 Stat. 2391.)

REFERENCES IN TEXT

The Right to Financial Privacy Act, referred to in subsec. (d)(1), probably means the Right to Financial Privacy Act of 1978, title XI of Pub. L. 95-630, Nov. 10, 1978, 92 Stat. 3697, which is classified generally to chapter 35 (§3401 et seq.) of Title 12, Banks and Banking. For complete classification of this Act to the Code, see Short Title note set out under section 3401 of Title 12 and Tables.

§ 1396w-1. Medicaid Improvement Fund**(a) Establishment**

The Secretary shall establish under this subchapter a Medicaid Improvement Fund (in this section referred to as the "Fund") which shall be available to the Secretary to improve the management of the Medicaid program by the Centers for Medicare & Medicaid Services, including oversight of contracts and contractors and evaluation of demonstration projects. Payments made for activities under this subsection shall be in addition to payments that would otherwise be made for such activities.

(b) Funding**(1) In general**

There shall be available to the Fund, for expenditures from the Fund for fiscal year 2021 and thereafter, \$5,000,000.

(2) Funding limitation

Amounts in the Fund shall be available in advance of appropriations but only if the total amount obligated from the Fund does not exceed the amount available to the Fund under paragraph (1). The Secretary may obligate funds from the Fund only if the Secretary determines (and the Chief Actuary of the Centers for Medicare & Medicaid Services and the appropriate budget officer certify) that there are available in the Fund sufficient amounts to cover all such obligations incurred consistent with the previous sentence.

(Aug. 14, 1935, ch. 531, title XIX, §1941, as added Pub. L. 110-252, title VII, §7002(b), June 30, 2008, 122 Stat. 2395; amended Pub. L. 111-8, div. F, title II, §226, Mar. 11, 2009, 123 Stat. 784; Pub. L.

111-127, §4, Jan. 27, 2010, 124 Stat. 5; Pub. L. 111-148, title II, §2007(b), Mar. 23, 2010, 124 Stat. 285; Pub. L. 114-198, title VII, §707, July 22, 2016, 130 Stat. 754.)

AMENDMENTS

2016—Subsec. (b)(1). Pub. L. 114-198 amended par. (1) generally. Prior to amendment, text read as follows: “There shall be available to the Fund, for expenditures from the Fund—

“(A) for fiscal year 2014, \$0; and

“(B) for each of fiscal years 2015 through 2018, \$0.”

2010—Subsec. (b)(1)(A). Pub. L. 111-148, §2007(b)(1), which directed substitution of “\$0” for “\$100,000,000”, was executed by making the substitution for “\$10,000,000”, to reflect the probable intent of Congress and intervening amendment by Pub. L. 111-127. See below.

Pub. L. 111-127 substituted “\$10,000,000” for “\$100,000,000”.

Subsec. (b)(1)(B). Pub. L. 111-148, §2007(b)(2), substituted “\$0” for “\$150,000,000”.

2009—Subsec. (b)(1)(B). Pub. L. 111-8 inserted “each of” after “for”.

§ 1396w-2. Authorization to receive relevant information

(a) In general

Notwithstanding any other provision of law, a Federal or State agency or private entity in possession of the sources of data directly relevant to eligibility determinations under this subchapter (including eligibility files maintained by Express Lane agencies described in section 1396a(e)(13)(F) of this title, information described in paragraph (2) or (3) of section 1320b-7(a) of this title, vital records information about births in any State, and information described in sections 653(i) and 1396a(a)(25)(I) of this title) is authorized to convey such data or information to the State agency administering the State plan under this subchapter, to the extent such conveyance meets the requirements of subsection (b).

(b) Requirements for conveyance

Data or information may be conveyed pursuant to subsection (a) only if the following requirements are met:

(1) The individual whose circumstances are described in the data or information (or such individual’s parent, guardian, caretaker relative, or authorized representative) has either provided advance consent to disclosure or has not objected to disclosure after receiving advance notice of disclosure and a reasonable opportunity to object.

(2) Such data or information are used solely for the purposes of—

(A) identifying individuals who are eligible or potentially eligible for medical assistance under this subchapter and enrolling or attempting to enroll such individuals in the State plan; and

(B) verifying the eligibility of individuals for medical assistance under the State plan.

(3) An interagency or other agreement, consistent with standards developed by the Secretary—

(A) prevents the unauthorized use, disclosure, or modification of such data and otherwise meets applicable Federal requirements safeguarding privacy and data security; and

(B) requires the State agency administering the State plan to use the data and information obtained under this section to seek to enroll individuals in the plan.

(c) Penalties for improper disclosure

(1) Civil money penalty

A private entity described in the¹ subsection (a) that publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section is subject to a civil money penalty in an amount equal to \$10,000 for each such unauthorized publication or disclosure. The provisions of section 1320a-7a of this title (other than subsections (a) and (b) and the second sentence of subsection (f)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1320a-7a(a) of this title.

(2) Criminal penalty

A private entity described in the¹ subsection (a) that willfully publishes, discloses, or makes known in any manner, or to any extent not authorized by Federal law, any information obtained under this section shall be fined not more than \$10,000 or imprisoned not more than 1 year, or both, for each such unauthorized publication or disclosure.

(d) Rule of construction

The limitations and requirements that apply to disclosure pursuant to this section shall not be construed to prohibit the conveyance or disclosure of data or information otherwise permitted under Federal law (without regard to this section).

(Aug. 14, 1935, ch. 531, title XIX, §1942, as added Pub. L. 111-3, title II, §203(d)(1), Feb. 4, 2009, 123 Stat. 47.)

AUTHORIZATION FOR STATES ELECTING EXPRESS LANE OPTION TO RECEIVE CERTAIN DATA DIRECTLY RELEVANT TO DETERMINING ELIGIBILITY AND CORRECT AMOUNT OF ASSISTANCE

Pub. L. 111-3, title II, §203(e), Feb. 4, 2009, 123 Stat. 49, provided that: “The Secretary shall enter into such agreements as are necessary to permit a State that elects the Express Lane option under section 1902(e)(13) of the Social Security Act [42 U.S.C. 1396a(e)(13)] to receive data directly relevant to eligibility determinations and determining the correct amount of benefits under a State child health plan under CHIP or a State plan under Medicaid from the following:

“(1) The National Directory of New Hires established under section 453(i) of the Social Security Act (42 U.S.C. 653(i)).

“(2) Data regarding enrollment in insurance that may help to facilitate outreach and enrollment under the State Medicaid plan, the State CHIP plan, and such other programs as the Secretary may specify.” [For definitions of “CHIP”, “Medicaid”, and “Secretary”, see section 1(c) of Pub. L. 111-3, set out as a Definitions note under section 1396 of this title.]

§ 1396w-3. Enrollment simplification and coordination with State health insurance exchanges

(a) Condition for participation in Medicaid

As a condition of the State plan under this subchapter and receipt of any Federal financial

¹ So in original.