

transparent manner and provides the opportunity for public comment on its activities.

**(5) Voluntary consensus standards setting organization**

The entity operates as a voluntary consensus standards setting organization as defined for purposes of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Public Law 104-113) and Office of Management and Budget Revised Circular A-119 (published in the Federal Register on February 10, 1998).

**(6) Experience**

The entity has at least 4 years of experience in establishing national consensus standards.

**(7) Membership fees**

If the entity requires a membership fee for participation in the functions of the entity, such fees shall be reasonable and adjusted based on the capacity of the potential member to pay the fee. In no case shall membership fees pose a barrier to the participation of individuals or groups with low or nominal resources to participate in the functions of the entity.

**(d) Funding**

(1) For purposes of carrying out this section, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1395i of this title and the Federal Supplementary Medical Insurance Trust Fund under section 1395t of this title (in such proportion as the Secretary determines appropriate), of \$10,000,000 to the Centers for Medicare & Medicaid Services Program Management Account for each of fiscal years 2009 through 2013. Amounts transferred under the preceding sentence shall remain available until expended.

(2) For purposes of carrying out this section and section 1395aaa-1 of this title (other than subsections (e) and (f)), the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1395i of this title and the Federal Supplementary Medical Insurance Trust Fund under section 1395t of this title, in such proportion as the Secretary determines appropriate, to the Centers for Medicare & Medicaid Services Program Management Account of \$5,000,000 for fiscal year 2014 and \$30,000,000 for each of fiscal years 2015 through 2017. Amounts transferred under the preceding sentence shall remain available until expended.

(Aug. 14, 1935, ch. 531, title XVIII, § 1890, as added Pub. L. 110-275, title I, § 183(a)(1), July 15, 2008, 122 Stat. 2583; amended Pub. L. 111-148, title III, § 3003(b), 3014(a), title X, §§ 10304, 10322(b), Mar. 23, 2010, 124 Stat. 367, 384, 938, 954; Pub. L. 112-240, title VI, § 609(a), Jan. 2, 2013, 126 Stat. 2349; Pub. L. 113-67, div. B, title I, § 1109, Dec. 26, 2013, 127 Stat. 1197; Pub. L. 113-93, title I, § 109, Apr. 1, 2014, 128 Stat. 1043; Pub. L. 114-10, title II, § 207, Apr. 16, 2015, 129 Stat. 145.)

REFERENCES IN TEXT

Clause (iii) of section 1395rr(h)(2)(A) of this title, referred to in subsec. (b)(7)(B)(i)(I), was redesignated clause (iv) by Pub. L. 113-93, title II, § 217(d)(1)(B), Apr. 1, 2014, 128 Stat. 1062.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995, referred to in subsec. (c)(5), is section 12(d) of Pub. L. 104-113, which is set out as a note under section 272 of Title 15, Commerce and Trade.

CODIFICATION

In subsec. (a)(4), “section 132 of title 41” substituted for “section 4(5) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(5))” on authority of Pub. L. 111-350, § 6(c), Jan. 4, 2011, 124 Stat. 3854, which Act enacted Title 41, Public Contracts.

PRIOR PROVISIONS

A prior section 1395aaa, act Aug. 14, 1935, ch. 531, title XVIII, § 1890, as added Aug. 18, 1987, Pub. L. 100-93, § 10, 101 Stat. 696, which related to limitation of liability of beneficiaries with respect to services furnished by excluded individuals and entities, was amended and transferred to section 1862(e)(2) of act Aug. 14, 1935, by Pub. L. 100-360, title IV, § 411(i)(4)(D)(ii), July 1, 1988, 102 Stat. 790, as amended by Pub. L. 100-485, title VI, § 608(d)(24)(C)(ii), Oct. 13, 1988, 102 Stat. 2421, and is classified to section 1395y(e)(2) of this title.

AMENDMENTS

2015—Subsec. (d)(2). Pub. L. 114-10 substituted “and \$30,000,000 for each of fiscal years 2015 through 2017” for “and \$15,000,000 for the first 6 months of fiscal year 2015”.

2014—Subsec. (d). Pub. L. 113-93 designated existing provisions as par. (1) and added par. (2).

2013—Subsec. (b)(4). Pub. L. 112-240, § 609(a)(2), struck out par. (4). Text read as follows: “The entity shall promote the development and use of electronic health records that contain the functionality for automated collection, aggregation, and transmission of performance measurement information.”

Subsec. (d). Pub. L. 113-67 inserted at end “Amounts transferred under the preceding sentence shall remain available until expended.”

Pub. L. 112-240, § 609(a)(1), substituted “fiscal years 2009 through 2013” for “fiscal years 2009 through 2012”.

2010—Subsec. (b)(5)(A)(iv) to (vi). Pub. L. 111-148, § 3014(a)(2), added cls. (iv) to (vi).

Subsec. (b)(6). Pub. L. 111-148, § 3003(b), added par. (6).

Subsec. (b)(7). Pub. L. 111-148, § 10304, substituted “quality and efficiency” for “quality” wherever appearing in text.

Pub. L. 111-148, § 3014(a)(1), added par. (7).

Subsec. (b)(7)(B). Pub. L. 111-148, § 10304, which directed substitution of “quality and efficiency” for “quality” wherever appearing, was executed by substituting “Quality and efficiency” for “Quality” in subpar. heading to reflect the probable intent of Congress.

Subsec. (b)(7)(B)(i)(D). Pub. L. 111-148, § 10322(b), inserted “1395ww(s)(4)(D),” after “1395ww(o)(2),”.

Subsec. (b)(8). Pub. L. 111-148, § 3014(a)(1), added par. (8).

**§ 1395aaa-1. Quality and efficiency measurement**

**(a) Multi-stakeholder group input into selection of quality and efficiency measures**

The Secretary shall establish a pre-rule-making process under which the following steps occur with respect to the selection of quality and efficiency measures described in section 1395aaa(b)(7)(B) of this title:

**(1) Input**

Pursuant to section 1395aaa(b)(7) of this title, the entity with a contract under section 1395aaa of this title shall convene multi-stakeholder groups to provide input to the Secretary on the selection of quality and efficiency measures described in subparagraph (B) of such paragraph.

**(2) Public availability of measures considered for selection**

Not later than December 1 of each year (beginning with 2011), the Secretary shall make available to the public a list of quality and efficiency measures described in section 1395aaa(b)(7)(B) of this title that the Secretary is considering under this subchapter.

**(3) Transmission of multi-stakeholder input**

Pursuant to section 1395aaa(b)(8) of this title, not later than February 1 of each year (beginning with 2012), the entity shall transmit to the Secretary the input of multi-stakeholder groups described in paragraph (1).

**(4) Consideration of multi-stakeholder input**

The Secretary shall take into consideration the input from multi-stakeholder groups described in paragraph (1) in selecting quality and efficiency measures described in section 1395aaa(b)(7)(B) of this title that have been endorsed by the entity with a contract under section 1395aaa of this title and measures that have not been endorsed by such entity.

**(5) Rationale for use of quality and efficiency measures**

The Secretary shall publish in the Federal Register the rationale for the use of any quality and efficiency measure described in section 1395aaa(b)(7)(B) of this title that has not been endorsed by the entity with a contract under section 1395aaa of this title.

**(6) Assessment of impact**

Not later than March 1, 2012, and at least once every three years thereafter, the Secretary shall—

(A) conduct an assessment of the quality and efficiency impact of the use of endorsed measures described in section 1395aaa(b)(7)(B) of this title; and

(B) make such assessment available to the public.

**(b) Process for dissemination of measures used by the Secretary**

**(1) In general**

The Secretary shall establish a process for disseminating quality and efficiency measures used by the Secretary. Such process shall include the following:

(A) The incorporation of such measures, where applicable, in workforce programs, training curricula, and any other means of dissemination determined appropriate by the Secretary.

(B) The dissemination of such quality and efficiency measures through the national strategy developed under section 280j of this title.

**(2) Existing methods**

To the extent practicable, the Secretary shall utilize and expand existing dissemination methods in disseminating quality and efficiency measures under the process established under paragraph (1).

**(c) Review of quality and efficiency measures used by the Secretary**

**(1) In general**

The Secretary shall—

(A) periodically (but in no case less often than once every 3 years) review quality and efficiency measures described in section 1395aaa(b)(7)(B) of this title; and

(B) with respect to each such measure, determine whether to—

- (i) maintain the use of such measure; or
- (ii) phase out such measure.

**(2) Considerations**

In conducting the review under paragraph (1), the Secretary shall take steps to—

(A) seek to avoid duplication of measures used; and

(B) take into consideration current innovative methodologies and strategies for quality and efficiency improvement practices in the delivery of health care services that represent best practices for such quality and efficiency improvement and measures endorsed by the entity with a contract under section 1395aaa of this title since the previous review by the Secretary.

**(d) Rule of construction**

Nothing in this section shall preclude a State from using the quality and efficiency measures identified under sections 1320b-9a and 1320b-9b of this title.

**(e) Development of quality and efficiency measures**

The Administrator of the Center for Medicare & Medicaid Services shall through contracts develop quality and efficiency measures (as determined appropriate by the Administrator) for use under this chapter. In developing such measures, the Administrator shall consult with the Director of the Agency for Healthcare Research and Quality.

**(f) Hospital acquired conditions**

The Secretary shall, to the extent practicable, publicly report on measures for hospital-acquired conditions that are currently utilized by the Centers for Medicare & Medicaid Services for the adjustment of the amount of payment to hospitals based on rates of hospital-acquired infections.

(Aug. 14, 1935, ch. 531, title XVIII, §1890A, as added and amended Pub. L. 111-148, title III, §§3013(b), 3014(b), title X, §§10303(b), 10304, Mar. 23, 2010, 124 Stat. 383, 385, 938.)

AMENDMENTS

2010—Pub. L. 111-148, §10304, substituted “quality and efficiency” for “quality” wherever appearing in text.

Subsec. (e). Pub. L. 111-148, §3013(b), added subsec. (e).

Subsec. (f). Pub. L. 111-148, §10303(b), added subsec. (f).

**§ 1395bbb. Conditions of participation for home health agencies; home health quality**

**(a) Conditions of participation; protection of individual rights; notification of State entities; use of home health aides; medical equipment; individual’s plan of care; compliance with Federal, State, and local laws and regulations**

The conditions of participation that a home health agency is required to meet under this subsection are as follows: