

ANNUAL REPORT ON STATUTORY COMPLIANCE AND  
ENFORCEMENT ACTIONS

Pub. L. 100-203, title IV, §4215, Dec. 22, 1987, 101 Stat. 1330-220, as amended by Pub. L. 101-508, title IV, §4801(b)(5)(B), Nov. 5, 1990, 104 Stat. 1388-214, provided that: "The Secretary of Health and Human Services shall report to the Congress annually on the extent to which nursing facilities are complying with the requirements of subsections (b), (c), and (d) of section 1919 of the Social Security Act [42 U.S.C. 1396r(b), (c), (d)] (as added by the amendments made by this part) and the number and type of enforcement actions taken by States and the Secretary under section 1919(h) of such Act (as added by section 4213 of this Act). Each such report shall also include a summary of the information reported by States under section 1919(e)(7)(C)(iv) of such Act."

**§ 1396r-1. Presumptive eligibility for pregnant women****(a) Ambulatory prenatal care**

A State plan approved under section 1396a of this title may provide for making ambulatory prenatal care available to a pregnant woman during a presumptive eligibility period.

**(b) Definitions**

For purposes of this section—

(1) the term "presumptive eligibility period" means, with respect to a pregnant woman, the period that—

(A) begins with the date on which a qualified provider determines, on the basis of preliminary information, that the family income of the woman does not exceed the applicable income level of eligibility under the State plan, and

(B) ends with (and includes) the earlier of—

(i) the day on which a determination is made with respect to the eligibility of the woman for medical assistance under the State plan, or

(ii) in the case of a woman who does not file an application by the last day of the month following the month during which the provider makes the determination referred to in subparagraph (A), such last day; and

(2) the term "qualified provider" means any provider that—

(A) is eligible for payments under a State plan approved under this subchapter,

(B) provides services of the type described in subparagraph (A) or (B) of section 1396d(a)(2) of this title or in section 1396d(a)(9) of this title,

(C) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A), and

(D)(i) receives funds under—

(I) section 254b or 254c of this title,

(II) subchapter V of this chapter, or

(III) title V of the Indian Health Care Improvement Act [25 U.S.C. 1651 et seq.];

(ii) participates in a program established under—

(I) section 1786 of this title, or

(II) section 4(a) of the Agriculture and Consumer Protection Act of 1973;

(iii) participates in a State perinatal program; or

(iv) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638) [25 U.S.C. 5321 et seq.].

The term "qualified provider" also includes a qualified entity, as defined in section 1396r-1a(b)(3) of this title.

**(c) Duties of State agency, qualified providers, and presumptively eligible pregnant women**

(1) The State agency shall provide qualified providers with—

(A) such forms as are necessary for a pregnant woman to make application for medical assistance under the State plan, and

(B) information on how to assist such women in completing and filing such forms.

(2) A qualified provider that determines under subsection (b)(1)(A) that a pregnant woman is presumptively eligible for medical assistance under a State plan shall—

(A) notify the State agency of the determination within 5 working days after the date on which determination is made, and

(B) inform the woman at the time the determination is made that she is required to make application for medical assistance under the State plan by not later than the last day of the month following the month during which the determination is made.

(3) A pregnant woman who is determined by a qualified provider to be presumptively eligible for medical assistance under a State plan shall make application for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made, which application may be the application used for the receipt of medical assistance by individuals described in section 1396a(l)(1)(A) of this title.

**(d) Ambulatory prenatal care as medical assistance**

Notwithstanding any other provision of this subchapter, ambulatory prenatal care that—

(1) is furnished to a pregnant woman—

(A) during a presumptive eligibility period,

(B) by a provider that is eligible for payments under the State plan; and

(2) is included in the care and services covered by a State plan;

shall be treated as medical assistance provided by such plan for purposes of section 1396b of this title.

**(e) Option to provide presumptive eligibility**

If the State has elected the option to provide a presumptive eligibility period under this section or section 1396r-1a of this title, the State may elect to provide a presumptive eligibility period (as defined in subsection (b)(1)) for individuals who are eligible for medical assistance under clause (i)(VIII), clause (i)(IX), or clause (ii)(XX) of subsection (a)(10)(A)<sup>1</sup> or section 1396u-1 of this title in the same manner as the State provides for such a period under this sec-

<sup>1</sup> So in original. Probably means subsection (a)(10)(A) of section 1396a of this title.

tion or section 1396r-1a of this title, subject to such guidance as the Secretary shall establish.

(Aug. 14, 1935, ch. 531, title XIX, §1920, as added Pub. L. 99-509, title IX, §9407(b), Oct. 21, 1986, 100 Stat. 2058; amended Pub. L. 100-360, title IV, §411(k)(16)(A), (B), July 1, 1988, 102 Stat. 799; Pub. L. 100-485, title VI, §608(d)(26)(L), Oct. 13, 1988, 102 Stat. 2422; Pub. L. 101-508, title IV, §4605(a), (b), Nov. 5, 1990, 104 Stat. 1388-169; Pub. L. 106-113, div. B, §1000(a)(6) [title VI, §608(q)], Nov. 29, 1999, 113 Stat. 1536, 1501A-397; Pub. L. 111-3, title I, §113(b)(2), Feb. 4, 2009, 123 Stat. 34; Pub. L. 111-148, title II, §§2001(a)(4)(B), (e)(2)(C), 2004(b), Mar. 23, 2010, 124 Stat. 274, 279, 283.)

#### REFERENCES IN TEXT

The Indian Health Care Improvement Act, referred to in subsec. (b)(2)(D)(i)(III), is Pub. L. 94-437, Sept. 30, 1976, 90 Stat. 1400. Title V of the Indian Health Care Improvement Act is classified generally to subchapter IV (§1651 et seq.) of chapter 18 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

Section 4(a) of the Agriculture and Consumer Protection Act of 1973, referred to in subsec. (b)(2)(D)(ii)(II), is section 4(a) of Pub. L. 93-86, Aug. 10, 1973, 87 Stat. 249, which is set out as a note under section 612c of Title 7, Agriculture.

The Indian Self-Determination Act (Public Law 93-638), referred to in subsec. (b)(2)(D)(iv), is title I of Pub. L. 93-638, Jan. 4, 1975, 88 Stat. 2206, which is classified principally to subchapter I (§5321 et seq.) of chapter 46 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 25 and Tables.

#### PRIOR PROVISIONS

A prior section 1920 of act Aug. 14, 1935, was renumbered section 1939 and is classified to section 1396v of this title.

#### AMENDMENTS

2010—Subsec. (e). Pub. L. 111-148, §2004(b), inserted “, clause (i)(IX),” after “clause (i)(VIII)”.

Pub. L. 111-148, §2001(e)(2)(C), inserted “or clause (ii)(XX)” after “clause (i)(VIII)”.

Pub. L. 111-148, §2001(a)(4)(B), added subsec. (e).

2009—Subsec. (b). Pub. L. 111-3 inserted concluding provisions.

1999—Subsec. (b)(2)(D)(i)(I). Pub. L. 106-113 substituted “section 254b or 254c of this title,” for “section 254b, 254c, or 256 of this title.”.

1990—Subsec. (b)(1)(B). Pub. L. 101-508, §4605(a)(1), inserted “or” at end of cl. (i), redesignated cl. (iii) as (ii) and amended it generally, and struck out former cl. (ii). Prior to amendment, cls. (ii) and (iii) read as follows:

“(ii) the day that is 45 days after the date on which the provider makes the determination referred to in subparagraph (A), or

“(iii) in the case of a woman who does not file an application for medical assistance within 14 calendar days after the date on which the provider makes the determination referred to in subparagraph (A), the fourteenth calendar day after such determination is made; and”.

Subsec. (c)(2)(B). Pub. L. 101-508, §4605(a)(2), substituted “by not later than the last day of the month following the month during which” for “within 14 calendar days after the date on which”.

Subsec. (c)(3). Pub. L. 101-508, §4605(b), inserted before period at end “, which application may be the application used for the receipt of medical assistance by individuals described in section 1396a(l)(1)(A) of this title”.

Pub. L. 101-508, §4605(a)(2), substituted “by not later than the last day of the month following the month

during which” for “within 14 calendar days after the date on which”.

1988—Subsec. (b)(2)(D)(i). Pub. L. 100-360, §411(k)(16)(B)(i), substituted “section 254b, 254c, or 256 of this title,” for “section 254b of this title or section 254c of this title, or” in subcl. (I), substituted “chapter, or” for “chapter;” in subcl. (II), and added subcl. (III).

Subsec. (b)(2)(D)(ii)(II). Pub. L. 100-360, §411(k)(16)(B)(ii), as amended by Pub. L. 100-485, §608(d)(26)(L)(i), struck out “or” after “1973;”.

Subsec. (b)(2)(D)(iii). Pub. L. 100-360, §411(k)(16)(B)(iii), as added by Pub. L. 100-485, §608(d)(26)(L)(iii), substituted “program; or” for “program.”

Subsec. (b)(2)(D)(iv). Pub. L. 100-360, §411(k)(16)(B)(iv), formerly §411(k)(16)(B)(iii), as redesignated by Pub. L. 100-485, §608(d)(26)(L)(ii), added cl. (iv).

Subsec. (d)(1)(B). Pub. L. 100-360, §411(k)(16)(A), substituted “by a provider that is eligible for payments under the State plan” for “by a qualified provider”.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 2004(b) of Pub. L. 111-148 effective Jan. 1, 2014, see section 2004(d) of Pub. L. 111-148, set out as an Effective and Termination Dates of 2010 Amendment note under section 1396a of this title.

#### 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 1990 AMENDMENT

Pub. L. 101-508, title IV, §4605(c), Nov. 5, 1990, 104 Stat. 1388-169, provided that:

“(1) The amendments made by subsection (a) [amending this section] apply to payments under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.] for calendar quarters beginning on or after July 1, 1991, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

“(2) The amendment made by subsection (b) [amending this section] shall be effective as if included in the enactment of section 9407(b) of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509, enacting this section].”

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

Pub. L. 100-360, title IV, §411(k)(16)(C), July 1, 1988, 102 Stat. 799, provided that: “The amendments made by this paragraph [amending this section] shall be effective as if they were included in section 9407(b) of the Omnibus Budget Reconciliation Act of 1986 [Pub. L. 99-509].”

#### EFFECTIVE DATE

Section applicable to ambulatory prenatal care furnished in calendar quarters beginning on or after Apr. 1, 1987, without regard to whether or not final regulations to carry out such section have been promulgated, see section 9407(d) of Pub. L. 99-509, set out as an Effective Date of 1986 Amendment note under section 1396a of this title.

### § 1396r-1a. Presumptive eligibility for children

#### (a) In general

A State plan approved under section 1396a of this title may provide for making medical assistance with respect to health care items and