

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

services covered under the State plan available to a child during a presumptive eligibility period.

(b) Definitions; regulations

For purposes of this section:

(1) The term “child” means an individual under 19 years of age.

(2) The term “presumptive eligibility period” means, with respect to a child, the period that—

(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the family income of the child 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 child for medical assistance under the State plan, or

(ii) in the case of a child on whose behalf an application is not filed by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

(3)(A) Subject to subparagraph (B), the term “qualified entity” means any entity that—

(i)(I) is eligible for payments under a State plan approved under this subchapter and provides items and services described in subsection (a), (II) is authorized to determine eligibility of a child to participate in a Head Start program under the Head Start Act (42 U.S.C. 9831 et seq.), eligibility of a child to receive child care services for which financial assistance is provided under the Child Care and Development Block Grant Act of 1990 [42 U.S.C. 9857 et seq.], eligibility of an infant or child to receive assistance under the special supplemental nutrition program for women, infants, and children (WIC) under section 1786 of this title¹ eligibility of a child for medical assistance under the State plan under this subchapter, or eligibility of a child for child health assistance under the program funded under subchapter XXI, (III) is an elementary school or secondary school, as such terms are defined in section 8801 of title 20,² an elementary or secondary school operated or supported by the Bureau of Indian Affairs, a State or tribal child support enforcement agency, an organization that is providing emergency food and shelter under a grant under the Stewart B. McKinney Homeless Assistance Act² [42 U.S.C. 11301 et seq.], or a State or tribal office or entity involved in enrollment in the program under this subchapter, under part A of subchapter IV, under subchapter XXI, or that determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under section 8 [42 U.S.C. 1437f] or any other section of the

United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), or (IV) any other entity the State so deems, as approved by the Secretary; and

(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (2).

(B) The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

(C) Nothing in this section shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

(c) Application for medical assistance; procedure upon determination of presumptive eligibility

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

(A) such forms as are necessary for an application to be made on behalf of a child for medical assistance under the State plan, and

(B) information on how to assist parents, guardians, and other persons in completing and filing such forms.

(2) A qualified entity that determines under subsection (b)(2) that a child 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 parent or custodian of the child at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

(3) In the case of a child who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the parent, guardian, or other person shall make application on behalf of the child 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) of this title.

(d) Treatment of medical assistance

Notwithstanding any other provision of this subchapter, medical assistance for items and services described in subsection (a) that—

(1) are furnished to a child—

(A) during a presumptive eligibility period,

(B) by an entity that is eligible for payments under the State plan; and

(2) are 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.

¹ So in original. A comma probably should appear after “title”.

² See References in Text note below.

(Aug. 14, 1935, ch. 531, title XIX, § 1920A, as added Pub. L. 105-33, title IV, § 4912(a), Aug. 5, 1997, 111 Stat. 571; amended Pub. L. 106-113, div. B, § 1000(a)(6) [title VI, § 608(r)], Nov. 29, 1999, 113 Stat. 1536, 1501A-397; Pub. L. 106-554, § 1(a)(6) [title VII, § 708], Dec. 21, 2000, 114 Stat. 2763, 2763A-577.)

REFERENCES IN TEXT

The Head Start Act, referred to in subsec. (b)(3)(A)(i)(II), is subchapter B (§§ 635-657) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, Aug. 13, 1981, 95 Stat. 499, as amended, which is classified generally to subchapter II (§ 9831 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see Short Title note set out under section 9801 of this title and Tables.

The Child Care and Development Block Grant Act of 1990, referred to in subsec. (b)(3)(A)(i)(II), is subchapter C (§ 658A et seq.) of chapter 8 of subtitle A of title VI of Pub. L. 97-35, as added by Pub. L. 101-508, title V, § 5082(2), Nov. 5, 1990, 104 Stat. 1388-236, which is classified generally to subchapter II-B (§ 9857 et seq.) of chapter 105 of this title. For complete classification of this Act to the Code, see section 9857(a) of this title and Tables.

Section 8801 of title 20, referred to in subsec. (b)(3)(A)(i)(III), was repealed by Pub. L. 107-110, title X, § 1011(5)(C), Jan. 8, 2002, 115 Stat. 1986. See section 7801 of Title 20, Education.

The Stewart B. McKinney Homeless Assistance Act, referred to in subsec. (b)(3)(A)(i)(III), was Pub. L. 100-77, July 22, 1987, 101 Stat. 482, as amended. Pub. L. 100-77 was renamed the McKinney-Vento Homeless Assistance Act by Pub. L. 106-400, § 1, Oct. 30, 2000, 114 Stat. 1675, and is classified principally to chapter 119 (§ 11301 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 11301 of this title and Tables.

The United States Housing Act of 1937, referred to in subsec. (b)(3)(A)(i)(III), is act Sept. 1, 1937, ch. 896, as revised generally by Pub. L. 93-383, title II, § 201(a), Aug. 22, 1974, 88 Stat. 653, and amended, which is classified generally to chapter 8 (§ 1437 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 1437 of this title and Tables.

The Native American Housing Assistance and Self-Determination Act of 1996, referred to in subsec. (b)(3)(A)(i)(III), is Pub. L. 104-330, Oct. 26, 1996, 110 Stat. 4016, as amended, which is classified principally to chapter 43 (§ 4101 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 4101 of Title 25 and Tables.

AMENDMENTS

2000—Subsec. (b)(3)(A)(i). Pub. L. 106-554, § 1(a)(6) [title VII, § 708(b)(1)], substituted “42 U.S.C. 9831” for “42 U.S.C. 9821”.

Pub. L. 106-554, § 1(a)(6) [title VII, § 708(a)(2)], inserted before semicolon “eligibility of a child for medical assistance under the State plan under this subchapter, or eligibility of a child for child health assistance under the program funded under subchapter XXI, (II) is an elementary school or secondary school, as such terms are defined in section 8801 of title 20, an elementary or secondary school operated or supported by the Bureau of Indian Affairs, a State or tribal child support enforcement agency, an organization that is providing emergency food and shelter under a grant under the Stewart B. McKinney Homeless Assistance Act, or a State or tribal office or entity involved in enrollment in the program under this subchapter, under part A of subchapter IV, under subchapter XXI, or that determines eligibility for any assistance or benefits provided under any program of public or assisted housing that receives Federal funds, including the program under

section 8 or any other section of the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) or under the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), or (IV) any other entity the State so deems, as approved by the Secretary”.

Pub. L. 106-554, § 1(a)(6) [title VII, § 708(a)(1)], substituted “, (II)” for “or (II)”.

Subsec. (b)(3)(A)(i). Pub. L. 106-554, § 1(a)(6) [title VII, § 708(b)(2)], substituted “paragraph (2)” for “paragraph (1)(A)”.

Subsec. (c)(2). Pub. L. 106-554, § 1(a)(6) [title VII, § 708(b)(3)], substituted “subsection (b)(2)” for “subsection (b)(1)(A)” in introductory provisions.

1999—Subsec. (d)(1)(B). Pub. L. 106-113 substituted “an entity” for “a entity”.

§ 1396r-1b. Presumptive eligibility for certain breast or cervical cancer patients

(a) State option

A State plan approved under section 1396a of this title may provide for making medical assistance available to an individual described in section 1396a(aa) of this title (relating to certain breast or cervical cancer patients) during a presumptive eligibility period.

(b) Definitions

For purposes of this section:

(1) Presumptive eligibility period

The term “presumptive eligibility period” means, with respect to an individual described in subsection (a), the period that—

(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1396a(aa) of this title; and

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

(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

(2) Qualified entity

(A) In general

Subject to subparagraph (B), the term “qualified entity” means any entity that—

(i) is eligible for payments under a State plan approved under this subchapter; and

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

(B) Regulations

The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

(C) Rule of construction

Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).