

(d) Program operation**(1) In general**

The State shall conduct the program in accordance with the plan (and any amendments) approved under subsection (c) and with the requirements of this subchapter.

(2) Violations

The Secretary shall establish a process for enforcing requirements under this subchapter. Such process shall provide for the withholding of funds in the case of substantial noncompliance with such requirements. In the case of an enforcement action against a State under this paragraph, the Secretary shall provide a State with a reasonable opportunity for correction before taking financial sanctions against the State on the basis of such an action.

(e) Continued approval

An approved State child health plan shall continue in effect unless and until the State amends the plan under subsection (b) or the Secretary finds, under subsection (d), substantial noncompliance of the plan with the requirements of this subchapter.

(Aug. 14, 1935, ch. 531, title XXI, §2106, as added Pub. L. 105-33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 563.)

§ 1397gg. Strategic objectives and performance goals; plan administration**(a) Strategic objectives and performance goals****(1) Description**

A State child health plan shall include a description of—

- (A) the strategic objectives,
- (B) the performance goals, and
- (C) the performance measures,

the State has established for providing child health assistance to targeted low-income children under the plan and otherwise for maximizing health benefits coverage for other low-income children and children generally in the State.

(2) Strategic objectives

Such plan shall identify specific strategic objectives relating to increasing the extent of creditable health coverage among targeted low-income children and other low-income children.

(3) Performance goals

Such plan shall specify one or more performance goals for each such strategic objective so identified.

(4) Performance measures

Such plan shall describe how performance under the plan will be—

- (A) measured through objective, independently verifiable means, and
- (B) compared against performance goals, in order to determine the State's performance under this subchapter.

(b) Records, reports, audits, and evaluation**(1) Data collection, records, and reports**

A State child health plan shall include an assurance that the State will collect the data,

maintain the records, and furnish the reports to the Secretary, at the times and in the standardized format the Secretary may require in order to enable the Secretary to monitor State program administration and compliance and to evaluate and compare the effectiveness of State plans under this subchapter.

(2) State assessment and study

A State child health plan shall include a description of the State's plan for the annual assessments and reports under section 1397hh(a) of this title and the evaluation required by section 1397hh(b) of this title.

(3) Audits

A State child health plan shall include an assurance that the State will afford the Secretary access to any records or information relating to the plan for the purposes of review or audit.

(c) Program development process

A State child health plan shall include a description of the process used to involve the public in the design and implementation of the plan and the method for ensuring ongoing public involvement.

(d) Program budget

A State child health plan shall include a description of the budget for the plan. The description shall be updated periodically as necessary and shall include details on the planned use of funds and the sources of the non-Federal share of plan expenditures, including any requirements for cost-sharing by beneficiaries.

(e) Application of certain general provisions

The following sections of this chapter shall apply to States under this subchapter in the same manner as they apply to a State under subchapter XIX:

(1) Subchapter XIX provisions

(A) Section 1396a(a)(4)(C) of this title (relating to conflict of interest standards).

(B) Section 1396a(a)(39) of this title (relating to termination of participation of certain providers).

(C) Section 1396a(a)(78) of this title (relating to enrollment of providers participating in State plans providing medical assistance on a fee-for-service basis).

(D) Section 1396a(a)(72) of this title (relating to limiting FQHC contracting for provision of dental services).

(E) Section 1396a(a)(73) of this title (relating to requiring certain States to seek advice from designees of Indian Health Programs and Urban Indian Organizations).

(F) Subsections (a)(77) and (kk) of section 1396a of this title (relating to provider and supplier screening, oversight, and reporting requirements).

(G) Section 1396a(e)(13) of this title (relating to the State option to rely on findings from an Express Lane agency to help evaluate a child's eligibility for medical assistance).

(H) Section 1396a(e)(14) of this title (relating to income determined using modified adjusted gross income and household income).

(I) Section 1396a(bb) of this title (relating to payment for services provided by Federally-

qualified health centers and rural health clinics).

(J) Section 1396a(ff) of this title (relating to disregard of certain property for purposes of making eligibility determinations).

(K) Paragraphs (2), (16), and (17) of section 1396b(i) of this title (relating to limitations on payment).

(L) Section 1396b(m)(3) of this title (relating to limitation on payment with respect to managed care).

(M) Paragraph (4) of section 1396b(v) of this title (relating to optional coverage of categories of lawfully residing immigrant children or pregnant women), but only if the State has elected to apply such paragraph with respect to such category of children or pregnant women under subchapter XIX.

(N) Section 1396b(w) of this title (relating to limitations on provider taxes and donations).

(O) Section 1396r-1a of this title (relating to presumptive eligibility for children).

(P) Subsections (a)(2)(C) (relating to Indian enrollment), (d)(5) (relating to contract requirement for managed care entities), (d)(6) (relating to enrollment of providers participating with a managed care entity), and (h) (relating to special rules with respect to Indian enrollees, Indian health care providers, and Indian managed care entities) of section 1396u-2 of this title.

(Q) Section 1396w-2 of this title (relating to authorization to receive data directly relevant to eligibility determinations).

(R) Section 1396w-3(b) of this title (relating to coordination with State Exchanges and the State Medicaid agency).

(2) Subchapter XI provisions

(A) Section 1315 of this title (relating to waiver authority).

(B) Section 1316 of this title (relating to administrative and judicial review), but only insofar as consistent with this subchapter.

(C) Section 1320a-3 of this title (relating to disclosure of ownership and related information).

(D) Section 1320a-5 of this title (relating to disclosure of information about certain convicted individuals).

(E) Section 1320a-7a of this title (relating to civil monetary penalties).

(F) Section 1320a-7b(d) of this title (relating to criminal penalties for certain additional charges).

(G) Section 1320b-2 of this title (relating to periods within which claims must be filed).

(f) Limitation of waiver authority

Notwithstanding subsection (e)(2)(A) and section 1315(a) of this title:

(1) The Secretary may not approve a waiver, experimental, pilot, or demonstration project that would allow funds made available under this subchapter to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult or a parent (as defined in section 1397kk(c)(2)(A) of this title), who is not pregnant, of a targeted low-income child.

(2) The Secretary may not approve, extend, renew, or amend a waiver, experimental, pilot,

or demonstration project with respect to a State after February 4, 2009, that would waive or modify the requirements of section 1397kk of this title.

(Aug. 14, 1935, ch. 531, title XXI, §2107, as added Pub. L. 105-33, title IV, §4901(a), Aug. 5, 1997, 111 Stat. 565; amended Pub. L. 106-554, §1(a)(6) [title VIII, §803], Dec. 21, 2000, 114 Stat. 2763, 2763A-582; Pub. L. 109-171, title VI, §6102(a), Feb. 8, 2006, 120 Stat. 131; Pub. L. 111-3, title I, §112(a)(2)(A), title II, §§203(a)(2), (d)(2), 214(b), title V, §§501(d)(2), 503(a)(1), Feb. 4, 2009, 123 Stat. 33, 46, 49, 57, 87, 89; Pub. L. 111-5, div. B, title V, §5006(b)(2), (d)(2), (e)(2)(B), Feb. 17, 2009, 123 Stat. 506, 510; Pub. L. 111-148, title II, §2101(d)(2), (e), title VI, §6401(c), Mar. 23, 2010, 124 Stat. 287, 753; Pub. L. 111-152, title I, §1004(b)(2)(B), Mar. 30, 2010, 124 Stat. 1034; Pub. L. 111-309, title II, §205(f)(2), Dec. 15, 2010, 124 Stat. 3291; Pub. L. 114-255, div. A, title V, §5005(c)(1), Dec. 13, 2016, 130 Stat. 1194.)

CODIFICATION

Amendment by section 501(d)(2) of Pub. L. 111-3 executed after amendment by section 214(b) of Pub. L. 111-3 to reflect the probable intent of Congress, notwithstanding section 501(d)(3) of Pub. L. 111-3, set out as an Effective Date of 2009 Amendment note under section 1396a of this title.

AMENDMENTS

2016—Subsec. (e)(1)(B) to (R). Pub. L. 114-255 added subpars. (B), (C), and (L), redesignated former subpars. (B) to (I) as (D) to (K) and (J) to (O) as (M) to (R), respectively, and in subpar. (P), as so redesignated, substituted “(a)(2)(C) (relating to Indian enrollment), (d)(5) (relating to contract requirement for managed care entities), (d)(6) (relating to enrollment of providers participating with a managed care entity), and (h) (relating to special rules with respect to Indian enrollees, Indian health care providers, and Indian managed care entities)” for “(a)(2)(C) and (h)”.

2010—Subsec. (e)(1)(D). Pub. L. 111-309, §205(f)(2)(A), substituted “(kk)” for “(ii)”.

Pub. L. 111-148, §6401(c)(2), added subpar. (D). Former subpar. (D) redesignated (E).

Subsec. (e)(1)(E). Pub. L. 111-148, §6401(c)(1), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 111-148, §2101(d)(2)(B), added subpar. (E). Former subpar. (E) redesignated (F).

Subsec. (e)(1)(F). Pub. L. 111-152, which directed the substitution of “modified adjusted gross income” for “modified gross income” in subpar. (E), as added by section 2101(d)(2) of Pub. L. 111-148, was executed to subpar. (F) to reflect the probable intent of Congress and the redesignation of subpar. (E) as (F) by Pub. L. 111-148, §6401(c)(1). See below.

Pub. L. 111-148, §6401(c)(1), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111-148, §2101(d)(2)(A), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Subsec. (e)(1)(G) to (M). Pub. L. 111-148, §6401(c)(1), redesignated subpars. (F) to (L) as (G) to (M), respectively. Former subpar. (M) redesignated (N).

Pub. L. 111-148, §2101(d)(2)(A), redesignated subpars. (F) to (L) as (G) to (M), respectively.

Subsec. (e)(1)(N). Pub. L. 111-309 redesignated subpar. (N) relating to section 1396w-3 of this title as (O).

Pub. L. 111-148, §6401(c)(1), redesignated subpar. (M), relating to section 1396w-2 of this title, as (N).

Pub. L. 111-148, §2101(e), added subpar. (N) relating to section 1396w-3(b) of this title.

Subsec. (e)(1)(O). Pub. L. 111-309 redesignated subpar. (N) relating to section 1396w-3 of this title as (O).

2009—Subsec. (e)(1). Pub. L. 111-5, §5006(e)(2)(B)(ii), rearranged subpars. into alphabetical order.

Subsec. (e)(1)(B). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (D) as (B). Former subpar. (B) redesignated (D).

Pub. L. 111-3, § 203(a)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (e)(1)(C). Pub. L. 111-5, § 5006(e)(2)(B)(iii), added subpar. (C). Former subpar. (C) redesignated (F).

Pub. L. 111-5, § 5006(b)(2)(B), added subpar. (C). Former subpar. (C) redesignated (D).

Pub. L. 111-3, § 501(d)(2), added subpar. (C). Former subpar. (C) redesignated (D).

Pub. L. 111-3, § 203(a)(2), redesignated subpar. (B) as (C). Former subpar. (C) redesignated (D).

Subsec. (e)(1)(D). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (B) as (D). Former subpar. (D) redesignated (B).

Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111-3, § 503(a)(1), added subpar. (D). Former subpar. (D) redesignated (E).

Pub. L. 111-3, § 501(d)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Pub. L. 111-3, § 203(a)(2), redesignated subpar. (C) as (D). Former subpar. (D) redesignated (E).

Subsec. (e)(1)(E). Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 111-3, § 503(a)(1), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 111-3, § 501(d)(2), redesignated subpar. (D) as (E). Former subpar. (E) redesignated (F).

Pub. L. 111-3, § 214(b), added subpar. (E). Former subpar. (E) redesignated (F).

Pub. L. 111-3, § 203(a)(2), redesignated subpar. (D) as (E).

Subsec. (e)(1)(F). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (C) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111-3, § 503(a)(1), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111-3, § 501(d)(2), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Pub. L. 111-3, § 214(b), redesignated subpar. (E) as (F). Former subpar. (F) redesignated (G).

Subsec. (e)(1)(G). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (I).

Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 111-3, § 503(a)(1), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 111-3, § 501(d)(2), redesignated subpar. (F) as (G). Former subpar. (G) redesignated (H).

Pub. L. 111-3, § 214(b), redesignated subpar. (F) as (G).

Subsec. (e)(1)(H). Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Pub. L. 111-3, § 503(a)(1), redesignated subpar. (G) as (H). Former subpar. (H) redesignated (I).

Pub. L. 111-3, § 501(d)(2), redesignated subpar. (G) as (H).

Subsec. (e)(1)(I). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (G) as (I). Former subpar. (I) redesignated (J).

Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (H) as (I). Former subpar. (I) redesignated (J).

Pub. L. 111-3, § 503(a)(1), redesignated subpar. (H) as (I).

Subsec. (e)(1)(J). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (I) as (J). Former subpar. (J) redesignated (K).

Pub. L. 111-5, § 5006(d)(2)(B), added subpar. (J).

Pub. L. 111-5, § 5006(b)(2)(A), redesignated subpar. (I) as (J).

Subsec. (e)(1)(K). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (J) as (K). Former subpar. (K) redesignated (L).

Pub. L. 111-5, § 5006(d)(2)(A), redesignated subpar. (J) as (K).

Subsec. (e)(1)(L). Pub. L. 111-5, § 5006(e)(2)(B)(i), redesignated subpar. (K) as (L).

Subsec. (f). Pub. L. 111-3, § 112(a)(2)(A)(i), substituted “section 1315(a) of this title:” for “section 1315(a) of this title, the Secretary” and inserted par. (1) designation and “The Secretary” before “may not approve a waiver.”

Subsec. (f)(1). Pub. L. 111-3, § 112(a)(2)(A)(ii), (iii), inserted “or a parent (as defined in section 1397kk(c)(2)(A) of this title), who is not pregnant, of a targeted low-income child” after “nonpregnant childless adult” and struck out last sentence which read as follows: “For purposes of the preceding sentence, a caretaker relative (as such term is defined for purposes of carrying out section 1396u-1 of this title) shall not be considered a childless adult.”

Subsec. (f)(2). Pub. L. 111-3, § 112(a)(2)(A)(iv), added par. (2).

2006—Subsec. (f). Pub. L. 109-171 added subsec. (f).

2000—Subsec. (e)(1)(D). Pub. L. 106-554 added subpar. (D).

EFFECTIVE DATE OF 2009 AMENDMENT

Amendment by Pub. L. 111-5 effective July 1, 2009, see section 5006(f) of Pub. L. 111-5, set out as a note under section 1396a of this title.

Except as otherwise provided, 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, see section 3 of Pub. L. 111-3, set out as a note under section 1396 of this title.

Amendment by section 203(a)(2), (d)(2) of Pub. L. 111-3 effective Feb. 4, 2009, see section 203(f) of Pub. L. 111-3, set out as a note under section 1396a of this title.

Amendment by section 501(d)(2) of Pub. L. 111-3 effective Jan. 1, 2009, see section 501(d)(3) of Pub. L. 111-3, set out as a note under section 1396a of this title.

Pub. L. 111-3, title V, § 503(a)(2), Feb. 4, 2009, 123 Stat. 89, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to services provided on or after October 1, 2009.”

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-171, title VI, § 6102(d), Feb. 8, 2006, 120 Stat. 132, provided that: “This section [amending this section and section 1397ee of this title and enacting provisions set out as a note below] and the amendments made by this section shall take effect as if enacted on October 1, 2005, and shall apply to any waiver, experimental, pilot, or demonstration project that is approved on or after that date.”

CONSTRUCTION OF 2016 AMENDMENT

Nothing in amendment by Pub. L. 114-255 to be construed as changing or limiting the appeal rights of providers or the process for appeals of States under the Social Security Act, see section 5005(d) of Pub. L. 114-255, set out as a note under section 1396a of this title.

CONSTRUCTION OF 2006 AMENDMENT

Pub. L. 109-171, title VI, § 6102(c), Feb. 8, 2006, 120 Stat. 131, as amended by Pub. L. 111-3, title I, § 112(a)(2)(B), Feb. 4, 2009, 123 Stat. 33, provided that: “Subject to section 2111 of the Social Security Act [42 U.S.C. 1397kk], as added by section 112 of the Children’s Health Insurance Program Reauthorization Act of 2009 [Pub. L. 111-3], nothing in this section [amending this section and section 1397ee of this title and enacting provisions set out as a note above] or the amendments made by this section shall be construed to—

“(1) authorize the waiver of any provision of title XIX or XXI of the Social Security Act (42 U.S.C. 1396 et seq., 1397aa et seq.) that is not otherwise authorized to be waived under such titles or under title XI of such Act (42 U.S.C. 1301 et seq.) as of the date of enactment of this Act [Feb. 8, 2006];

“(2) imply congressional approval of any waiver, experimental, pilot, or demonstration project affect-

ing funds made available under the State children's health insurance program under title XXI of the Social Security Act (42 U.S.C. 1397aa et. seq.) or any amendment to such a waiver or project that has been approved as of such date of enactment; or

“(3) apply to any waiver, experimental, pilot, or demonstration project that would allow funds made available under title XXI of the Social Security Act (42 U.S.C. 1397aa et seq.) to be used to provide child health assistance or other health benefits coverage to a nonpregnant childless adult that is approved before the date of enactment of this Act or to any extension, renewal, or amendment of such a waiver or project that is approved on or after such date of enactment.”

§ 1397hh. Annual reports; evaluations

(a) Annual report

Subject to subsection (e), the State shall—

(1) assess the operation of the State plan under this subchapter in each fiscal year, including the progress made in reducing the number of uncovered low-income children; and

(2) report to the Secretary, by January 1 following the end of the fiscal year, on the result of the assessment.

(b) State evaluations

(1) In general

By March 31, 2000, each State that has a State child health plan shall submit to the Secretary an evaluation that includes each of the following:

(A) An assessment of the effectiveness of the State plan in increasing the number of children with creditable health coverage.

(B) A description and analysis of the effectiveness of elements of the State plan, including—

(i) the characteristics of the children and families assisted under the State plan including age of the children, family income, and the assisted child's access to or coverage by other health insurance prior to the State plan and after eligibility for the State plan ends,

(ii) the quality of health coverage provided including the types of benefits provided,

(iii) the amount and level (including payment of part or all of any premium) of assistance provided by the State,

(iv) the service area of the State plan,

(v) the time limits for coverage of a child under the State plan,

(vi) the State's choice of health benefits coverage and other methods used for providing child health assistance, and

(vii) the sources of non-Federal funding used in the State plan.

(C) An assessment of the effectiveness of other public and private programs in the State in increasing the availability of affordable quality individual and family health insurance for children.

(D) A review and assessment of State activities to coordinate the plan under this subchapter with other public and private programs providing health care and health care financing, including medicaid and maternal and child health services.

(E) An analysis of changes and trends in the State that affect the provision of acces-

sible, affordable, quality health insurance and health care to children.

(F) A description of any plans the State has for improving the availability of health insurance and health care for children.

(G) Recommendations for improving the program under this subchapter.

(H) Any other matters the State and the Secretary consider appropriate.

(2) Report of the Secretary

The Secretary shall submit to Congress and make available to the public by December 31, 2001, a report based on the evaluations submitted by States under paragraph (1), containing any conclusions and recommendations the Secretary considers appropriate.

(c) Federal evaluation

(1) In general

The Secretary, directly or through contracts or interagency agreements, shall conduct an independent evaluation of 10 States with approved child health plans.

(2) Selection of States

In selecting States for the evaluation conducted under this subsection, the Secretary shall choose 10 States that utilize diverse approaches to providing child health assistance, represent various geographic areas (including a mix of rural and urban areas), and contain a significant portion of uncovered children.

(3) Matters included

In addition to the elements described in subsection (b)(1), the evaluation conducted under this subsection shall include each of the following:

(A) Surveys of the target population (enrollees, disenrollees, and individuals eligible for but not enrolled in the program under this subchapter).

(B) Evaluation of effective and ineffective outreach and enrollment practices with respect to children (for both the program under this subchapter and the medicaid program under subchapter XIX), and identification of enrollment barriers and key elements of effective outreach and enrollment practices, including practices (such as through community health workers and others) that have successfully enrolled hard-to-reach populations such as children who are eligible for medical assistance under subchapter XIX but have not been enrolled previously in the medicaid program under that subchapter.

(C) Evaluation of the extent to which State medicaid eligibility practices and procedures under the medicaid program under subchapter XIX are a barrier to the enrollment of children under that program, and the extent to which coordination (or lack of coordination) between that program and the program under this subchapter affects the enrollment of children under both programs.

(D) An assessment of the effect of cost-sharing on utilization, enrollment, and coverage retention.

(E) Evaluation of disenrollment or other retention issues, such as switching to private coverage, failure to pay premiums, or barriers in the recertification process.