

years prior to the date of enactment of this section [Dec. 31, 1975] and which has in effect a contract with such State (or an agency thereof), entered into prior to the date on which the grant is approved by the Secretary, under which such association will, for a period which begins before and ends after the date such grant is so approved, provide health care services for individuals entitled to care and services under the State plan of such State which is approved under title XIX of the Social Security Act [42 U.S.C. 1396 et seq.].

“(3) the purpose of the inclusion of the project of such association is to test the utility of a particular rate-setting methodology, designed to be employed in prepaid health plans, in an individual practice association operation, and

“(4) the applicant for such grant affirms that the use of moneys from such grant to make such payments to such individual practice association is necessary or useful in assuring that such association will be able to continue in operation and carry out the project described in clause (3).”

EXPERIMENTS AND DEMONSTRATION PROJECTS TO DETERMINE METHODS FOR PROSPECTIVE PAYMENTS TO HOSPITALS, SKILLED NURSING FACILITIES, AND OTHER PROVIDERS OF SERVICES FOR CARE AND SERVICES FURNISHED; SCOPE; WAIVER OF PAYMENT REQUIREMENTS; SOURCE AND MANNER OF PAYMENTS FOR GRANTS, ETC.; REPORTS TO CONGRESS

Pub. L. 92-603, title II, §222(a), Oct. 30, 1972, 86 Stat. 1390, as amended by Pub. L. 97-35, title XXI, §2193(e), Aug. 13, 1981, 95 Stat. 828, provided that:

“(1) The Secretary of Health, Education, and Welfare [now Health and Human Services], directly or through contracts with, or grants to, public or private agencies or organizations, shall develop and carry out experiments and demonstration projects designed to determine the relative advantages and disadvantages of various alternative methods of making payment on a prospective basis to hospitals, skilled nursing facilities, and other providers of services for care and services provided by them under title XVIII of the Social Security Act [42 U.S.C. 1395 et seq.] and under State plans approved under title XIX of such Act [42 U.S.C. 1396 et seq.], including alternative methods for classifying providers, for establishing prospective rates of payment, and for implementing on a gradual, selective, or other basis the establishment of a prospective payment system, in order to stimulate such providers through positive (or negative) financial incentives to use their facilities and personnel more efficiently and thereby to reduce the total costs of the health programs involved without adversely affecting the quality of services by containing or lowering the rate of increase in provider costs that has been and is being experienced under the existing system of retroactive cost reimbursement.

“(2) The experiments and demonstration projects developed under paragraph (1) shall be of sufficient scope and shall be carried out on a wide enough scale to permit a thorough evaluation of the alternative methods of prospective payment under consideration while giving assurance that the results derived from the experiments and projects will obtain generally in the operation of the programs involved (without committing such programs to the adoption of any prospective payment system either locally or nationally).

“(3) In the case of any experiment or demonstration project under paragraph (1), the Secretary may waive compliance with the requirements of titles XVIII and XIX of the Social Security Act [42 U.S.C. 1395 et seq., 1396 et seq.] insofar as such requirements relate to methods of payment for services provided; and costs incurred in such experiment or project in excess of those which would otherwise be reimbursed or paid under such titles [subchapters] may be reimbursed or paid to the extent that such waiver applies to them (with such excess being borne by the Secretary). No experiment or demonstration project shall be developed or carried out under paragraph (1) until the Secretary obtains the ad-

vice and recommendations of specialists who are competent to evaluate the proposed experiment or project as to the soundness of its objectives, the possibilities of securing productive results, the adequacy of resources to conduct it, and its relationship to other similar experiments or projects already completed or in process; and no such experiment or project shall be actually placed in operation unless at least 30 days prior thereto a written report, prepared for purposes of notification and information only, containing a full and complete description thereof has been transmitted to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate.

“(4) Grants, payments under contracts, and other expenditures made for experiments and demonstration projects under this subsection shall be made in appropriate part from the Federal Hospital Insurance Trust Fund (established by section 1817 of the Social Security Act [42 U.S.C. 1395i]) and the Federal Supplementary Medical Insurance Trust Fund (established by section 1841 of the Social Security Act [42 U.S.C. 1395t]) and from funds appropriated under title XIX of such Act [42 U.S.C. 1396 et seq.]. Grants and payments under contracts may be made either in advance or by way of reimbursement, as may be determined by the Secretary, and shall be made in such installments and on such conditions as the Secretary finds necessary to carry out the purpose of this subsection. With respect to any such grant, payment, or other expenditure, the amount to be paid from each of such trust funds (and from funds appropriated under such title XIX) shall be determined by the Secretary, giving due regard to the purposes of the experiment or project involved.

“(5) The Secretary shall submit to the Congress no later than July 1, 1974, a full report on the experiments and demonstration projects carried out under this subsection and on the experience of other programs with respect to prospective reimbursement together with any related data and materials which he may consider appropriate. Such report shall include detailed recommendations with respect to the specific methods which could be used in the full implementation of a system of prospective payment to providers of services under the programs involved.”

§ 1395b-2. Notice of medicare benefits; medicare and medigap information

(a) Notice of medicare benefits

The Secretary shall prepare (in consultation with groups representing the elderly and with health insurers) and provide for distribution of a notice containing—

(1) a clear, simple explanation of the benefits available under this subchapter and the major categories of health care for which benefits are not available under this subchapter,

(2) the limitations on payment (including deductibles and coinsurance amounts) that are imposed under this subchapter, and

(3) a description of the limited benefits for long-term care services available under this subchapter and generally available under State plans approved under subchapter XIX.

Such notice shall be mailed annually to individuals entitled to benefits under part A or part B of this subchapter and when an individual applies for benefits under part A or enrolls under part B.

(b) Medicare and medigap information

The Secretary shall provide information via a toll-free telephone number on the programs under this subchapter. The Secretary shall provide, through the toll-free telephone number 1-800-MEDICARE, for a means by which individ-

uals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.

(c) Contents of notice

The notice provided under subsection (a) shall include—

(1) a statement which indicates that because errors do occur and because medicare fraud, waste, and abuse is a significant problem, beneficiaries should carefully check any explanation of benefits or itemized statement furnished pursuant to section 1395b-7 of this title for accuracy and report any errors or questionable charges by calling the toll-free phone number described in paragraph (4);

(2) a statement of the beneficiary's right to request an itemized statement for medicare items and services (as provided in section 1395b-7(b) of this title);

(3) a description of the program to collect information on medicare fraud and abuse established under section 1395b-5(b) of this title; and

(4) a toll-free telephone number maintained by the Inspector General in the Department of Health and Human Services for the receipt of complaints and information about waste, fraud, and abuse in the provision or billing of services under this subchapter.

(d) Medicare opioid safety education

The notice provided under subsection (a) shall include—

(1) references to educational resources regarding opioid use and pain management;

(2) a description of categories of alternative, non-opioid pain management treatments covered under this subchapter; and

(3) a suggestion for the beneficiary to talk to a physician regarding opioid use and pain management.

(Aug. 14, 1935, ch. 531, title XVIII, § 1804, as added Pub. L. 100-360, title II, § 223(a), July 1, 1988, 102 Stat. 747; amended Pub. L. 103-432, title I, § 171(j)(1), Oct. 31, 1994, 108 Stat. 4450; Pub. L. 105-33, title IV, § 4311(a)(1), Aug. 5, 1997, 111 Stat. 384; Pub. L. 108-173, title IX, § 923(d)(1), Dec. 8, 2003, 117 Stat. 2394; Pub. L. 115-271, title VI, § 6021(a), Oct. 24, 2018, 132 Stat. 3977.)

AMENDMENTS

2018—Subsec. (d). Pub. L. 115-271 added subsec. (d).

2003—Subsec. (b). Pub. L. 108-173 inserted at end “The Secretary shall provide, through the toll-free telephone number 1-800-MEDICARE, for a means by which individuals seeking information about, or assistance with, such programs who phone such toll-free number are transferred (without charge) to appropriate entities for the provision of such information or assistance. Such toll-free number shall be the toll-free number listed for general information and assistance in the annual notice under subsection (a) instead of the listing of numbers of individual contractors.”

1997—Subsec. (c). Pub. L. 105-33 added subsec. (c).

1994—Pub. L. 103-432 inserted “; medicare and medicare information” in section catchline, designated existing provisions as subsec. (a), and added subsec. (b).

EFFECTIVE DATE OF 2018 AMENDMENT

Pub. L. 115-271, title VI, § 6021(b), Oct. 24, 2018, 132 Stat. 3977, provided that: “The amendment made by subsection (a) [amending this section] shall apply to notices distributed prior to each Medicare open enrollment period beginning after January 1, 2019.”

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-33, title IV, § 4311(a)(2), Aug. 5, 1997, 111 Stat. 384, provided that: “The amendment made by this subsection [amending this section] shall apply to notices provided on or after January 1, 1998.”

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-432 effective as if included in the enactment of Pub. L. 101-508, see section 171(l) of Pub. L. 103-432, set out as a note under section 1395ss of this title.

EFFECTIVE DATE

Pub. L. 100-360, title II, § 223(d)(1), July 1, 1988, 102 Stat. 748, provided that: “The Secretary of Health and Human Services shall first distribute the notice required by the amendment made by subsection (a) [enacting this section] not later than January 31, 1989.”

MONITORING ACCURACY

Pub. L. 108-173, title IX, § 923(d)(2), Dec. 8, 2003, 117 Stat. 2395, provided that:

“(A) STUDY.—The Comptroller General of the United States shall conduct a study to monitor the accuracy and consistency of information provided to individuals entitled to benefits under part A [probably means part A of title XVIII of the Social Security Act which is classified to part A of this subchapter] or enrolled under part B [probably means part B of title XVIII of the Social Security Act, 42 U.S.C. 1395j et seq.], or both, through the toll-free telephone number 1-800-MEDICARE, including an assessment of whether the information provided is sufficient to answer questions of such individuals. In conducting the study, the Comptroller General shall examine the education and training of the individuals providing information through such number.

“(B) REPORT.—Not later than 1 year after the date of the enactment of this Act [Dec. 8, 2003], the Comptroller General shall submit to Congress a report on the study conducted under subparagraph (A).”

STATE REGULATORY PROGRAMS

For provisions relating to changes required to conform State regulatory programs to amendments by section 171 of Pub. L. 103-432, see section 171(m) of Pub. L. 103-432, set out as a note under section 1395ss of this title.

DEMONSTRATION PROJECTS

Pub. L. 101-508, title IV, § 4361(b), Nov. 5, 1990, 104 Stat. 1388-141, provided that: “The Secretary of Health and Human Services is authorized to conduct demonstration projects in up to 5 States for the purpose of establishing statewide toll-free telephone numbers for providing information on medicare benefits, medicare supplemental policies available in the State, and benefits under the State medicare program.”

NOTICE OF CHANGES UNDER REPEAL OF MEDICARE CATASTROPHIC COVERAGE

Pub. L. 101-234, title II, § 203(c), Dec. 13, 1989, 103 Stat. 1984, provided that: “The Secretary of Health and Human Services shall provide, in the notice of medicare benefits provided under section 1804 of the Social Security Act [42 U.S.C. 1395b-2] for 1990, for a description of the changes in benefits under title XVIII of such

Act [42 U.S.C. 1395 et seq.] made by the amendments made by this Act [see Tables for classification].”

BENEFITS COUNSELING AND ASSISTANCE DEMONSTRATION PROJECT FOR CERTAIN MEDICARE AND MEDICAID BENEFICIARIES

Pub. L. 100-360, title IV, §424, July 1, 1988, 102 Stat. 812, which directed Secretary of Health and Human Services to establish a demonstration project to demonstrate that its volunteers were adequately trained and competent to render effective benefits counseling and assistance to the elderly, was repealed by Pub. L. 101-234, title III, §301(a), Dec. 13, 1989, 103 Stat. 1985.

§ 1395b-3. Health insurance advisory service for medicare beneficiaries

(a) In general

The Secretary of Health and Human Services shall establish a health insurance advisory service program (in this section referred to as the “beneficiary assistance program”) to assist medicare-eligible individuals with the receipt of services under the medicare and medicaid programs and other health insurance programs.

(b) Outreach elements

The beneficiary assistance program shall provide assistance—

- (1) through operation using local Federal offices that provide information on the medicare program,
- (2) using community outreach programs, and
- (3) using a toll-free telephone information service.

(c) Assistance provided

The beneficiary assistance program shall provide for information, counseling, and assistance for medicare-eligible individuals with respect to at least the following:

- (1) With respect to the medicare program—
 - (A) eligibility,
 - (B) benefits (both covered and not covered),
 - (C) the process of payment for services,
 - (D) rights and process for appeals of determinations,
 - (E) other medicare-related entities (such as peer review organizations, fiscal intermediaries, and carriers), and
 - (F) recent legislative and administrative changes in the medicare program.
- (2) With respect to the medicaid program—
 - (A) eligibility, benefits, and the application process,
 - (B) linkages between the medicaid and medicare programs, and
 - (C) referral to appropriate State and local agencies involved in the medicaid program.
- (3) With respect to medicare supplemental policies—
 - (A) the program under section 1395ss of this title and standards required under such program,
 - (B) how to make informed decisions on whether to purchase such policies and on what criteria to use in evaluating different policies,
 - (C) appropriate Federal, State, and private agencies that provide information and assistance in obtaining benefits under such policies, and

(D) other issues deemed appropriate by the Secretary.

The beneficiary assistance program also shall provide such other services as the Secretary deems appropriate to increase beneficiary understanding of, and confidence in, the medicare program and to improve the relationship between beneficiaries and the program.

(d) Educational material

The Secretary, through the Administrator of the Centers for Medicare & Medicaid Services, shall develop appropriate educational materials and other appropriate techniques to assist employees in carrying out this section.

(e) Notice to beneficiaries

The Secretary shall take such steps as are necessary to assure that medicare-eligible beneficiaries and the general public are made aware of the beneficiary assistance program.

(f) Report

The Secretary shall include, in an annual report transmitted to the Congress, a report on the beneficiary assistance program and on other health insurance informational and counseling services made available to medicare-eligible individuals. The Secretary shall include in the report recommendations for such changes as may be desirable to improve the relationship between the medicare program and medicare-eligible individuals.

(Pub. L. 101-508, title IV, §4359, Nov. 5, 1990, 104 Stat. 1388-137; Pub. L. 108-173, title IX, §900(e)(6)(G), Dec. 8, 2003, 117 Stat. 2374.)

CODIFICATION

Section was enacted as part of the Omnibus Budget Reconciliation Act of 1990, and not as part of the Social Security Act which comprises this chapter.

AMENDMENTS

2003—Subsec. (d). Pub. L. 108-173 substituted “Centers for Medicare & Medicaid Services” for “Health Care Financing Administration”.

STATE HEALTH INSURANCE ASSISTANCE PROGRAM REPORTING REQUIREMENTS

Pub. L. 115-123, div. E, title II, §50207(b), Feb. 9, 2018, 132 Stat. 187, provided that: “Beginning not later than April 1, 2019, and biennially thereafter, the Agency for Community Living [probably means the Administration for Community Living] shall electronically post on its website the following information, with respect to grants to States for State health insurance assistance programs, (such information to be presented by State and by entity receiving funds from the State to carry out such a program funded by such grant):

“(1) The amount of Federal funding provided to each such State for such program for the period involved and the amount of Federal funding provided by each such State for such program to each such entity for the period involved.

“(2) Information as the Secretary may specify, with respect to such programs carried out through such grants, consistent with the terms and conditions for receipt of such grants.”

MEDICARE ENROLLMENT ASSISTANCE

Pub. L. 110-275, title I, §119, July 15, 2008, 122 Stat. 2508, as amended by Pub. L. 111-148, title III, §3306, Mar. 23, 2010, 124 Stat. 470; Pub. L. 112-240, title VI, §610, Jan. 2, 2013, 126 Stat. 2351; Pub. L. 113-67, div. B, title I,