

“(iv) no indebtedness to the United States, as a result of the disaffirmation by an individual, pursuant to this subparagraph, of an election made by such individual under such section 306 shall be considered to arise from the payment of pension pursuant to such an election.

“(C) The Administrator shall promptly advise the Secretary of Health, Education, and Welfare [now Health and Human Services], and provide identification of the individuals involved and other pertinent information with respect to (i) disaffirmations of elections made by individuals pursuant to subparagraph (B), (ii) individuals who, by failing to disaffirm within the 90-day period prescribed in subparagraph (B), are deemed to have reaffirmed elections previously made, and (iii) individuals who, after having disaffirmed an election under subparagraph (B), subsequently again make an election under section 306 of the Veterans’ and Survivors’ Pension Improvement Act of 1978 [Pub. L. 95-588, set out as a note under section 1521 of Title 38]. The Secretary, upon receipt of any such information with respect to an individual, shall promptly notify the appropriate agencies administering State plans approved under title I, X, XIV, XIX, and part A of title IV of the Social Security Act [42 U.S.C. 301 et seq., 1201 et seq., 1351 et seq., 1396 et seq., 601 et seq.], and State agencies making supplemental payments pursuant to section 1616 of such Act [42 U.S.C. 1382e] or an agreement entered into pursuant to section 212(a) of Public Law 93-66 [set out as a note under section 1382 of this title].”

#### § 1320b-4. Nonprofit hospital or critical access hospital philanthropy

For purposes of determining, under subchapters XVIII and XIX of this chapter, the reasonable costs of services provided by nonprofit hospitals or critical access hospitals, the following items shall not be deducted from the operating costs of such hospitals or critical access hospitals:

(1) A grant, gift, or endowment, or income therefrom, which is to or for such a hospital and which has not been designated by the donor for paying any specific operating costs.

(2) A grant or similar payment which is to such a hospital, which was made by a governmental entity, and which is not available under the terms of the grant or payment for use as operating funds.

(3) Those types of donor designated grants and gifts (including grants and similar payments which are made by a governmental entity), and income therefrom, which the Secretary determines, in the best interests of needed health care, should be encouraged.

(4) The proceeds from the sale or mortgage of any real estate or other capital asset of such a hospital, which real estate or asset the hospital acquired through gift or grant, if such proceeds are not available for use as operating funds under the terms of the gift or grant.

Paragraph (4) shall not apply to the recovery of the appropriate share of depreciation when gains or losses are realized from the disposal of depreciable assets.

(Aug. 14, 1935, ch. 531, title XI, §1134, as added Pub. L. 96-499, title IX, §901(a), Dec. 5, 1980, 94 Stat. 2611; amended Pub. L. 97-35, title XXI, §2193(c)(6), Aug. 13, 1981, 95 Stat. 827; Pub. L. 97-248, title I, §137(b)(5), Sept. 3, 1982, 96 Stat. 377; Pub. L. 101-239, title VI, §6003(g)(3)(D)(iii), Dec. 19, 1989, 103 Stat. 2153; Pub. L. 105-33, title IV, §4201(c)(1), Aug. 5, 1997, 111 Stat. 373.)

#### AMENDMENTS

1997—Pub. L. 105-33 substituted “critical access” for “rural primary care” in two places in introductory provisions.

1989—Pub. L. 101-239 substituted “hospitals or rural primary care hospitals” for “hospitals” in two places in introductory provisions.

1982—Par. (4). Pub. L. 97-248 substituted “sale” for “scale”.

1981—Pub. L. 97-35 substituted “subchapters XVIII and” for “subchapters V, XVIII, and” in provision preceding par. (1).

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-33 applicable to services furnished on or after Oct. 1, 1997, see section 4201(d) of Pub. L. 105-33, set out as a note under section 1395f of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective as if originally included as part of this section as this section was amended by the Omnibus Budget Reconciliation Act of 1981, Pub. L. 97-35, see section 137(d)(2) of Pub. L. 97-248, set out as a note under section 1396a of this title.

#### EFFECTIVE DATE OF 1981 AMENDMENT, SAVINGS, AND TRANSITIONAL PROVISIONS

For effective date, savings, and transitional provisions relating to amendment by Pub. L. 97-35, see section 2194 of Pub. L. 97-35, set out as a note under section 701 of this title.

#### EFFECTIVE DATE

Pub. L. 96-499, title IX, §901(b), Dec. 5, 1980, 94 Stat. 2611, provided that: “The amendment made by subsection (a) [enacting this section] shall apply to grants, gifts, and endowments, and income therefrom, made or established after the date of the enactment of this Act [Dec. 5, 1980].”

#### § 1320b-5. Authority to waive requirements during national emergencies

##### (a) Purpose

The purpose of this section is to enable the Secretary to ensure to the maximum extent feasible, in any emergency area and during an emergency period (as defined in subsection (g)(1))—

(1) that sufficient health care items and services are available to meet the needs of individuals in such area enrolled in the programs under subchapters XVIII, XIX, and XXI; and

(2) that health care providers (as defined in subsection (g)(2)) that furnish such items and services in good faith, but that are unable to comply with one or more requirements described in subsection (b), may be reimbursed for such items and services and exempted from sanctions for such noncompliance, absent any determination of fraud or abuse.

##### (b) Secretarial authority

To the extent necessary to accomplish the purpose specified in subsection (a), the Secretary is authorized, subject to the provisions of this section, to temporarily waive or modify the application of, with respect to health care items and services furnished by a health care provider (or classes of health care providers) in any emergency area (or portion of such an area) during any portion of an emergency period, the requirements of subchapters XVIII, XIX, or XXI, or any