

Subsec. (a). Pub. L. 100-203, § 4211(h)(9)(B), substituted “nursing facility services” for “skilled nursing facility services and intermediate care facility services” and inserted “and which, with respect to the provision of such services, meets the requirements of subsections (b) through (d) of section 1396r of this title” before period at end.

Subsec. (b)(1). Pub. L. 100-203, § 4211(h)(9)(C), substituted “nursing facility services” for “skilled nursing or intermediate care facility services” and “nursing facilities” for “skilled nursing and intermediate care facilities”.

Subsec. (b)(3). Pub. L. 100-203, § 4211(h)(9)(D), substituted “nursing facility services” for “skilled nursing or intermediate care facility services”.

1984—Subsec. (b)(1). Pub. L. 98-369, § 2369(a)(1), substituted “Except as provided in paragraph (3), payment” for “Payment”.

Subsec. (b)(3). Pub. L. 98-369, § 2369(a)(2), added par. (3).

#### EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to nursing facility services furnished on or after Oct. 1, 1990, without regard to whether regulations implementing such amendment are promulgated by such date, except as otherwise specifically provided in section 1396r of this title, with transitional rule, see section 4214(a), (b)(2) of Pub. L. 100-203, as amended, set out as an Effective Date note under section 1396r of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. B, title III, § 2369(b), July 18, 1984, 98 Stat. 1110, provided that: “The amendments made by this section [amending this section] shall apply to payments for services furnished after the date of the enactment of this Act [July 18, 1984].”

#### EFFECTIVE DATE

Section effective on date on which final regulations to implement the section are first issued, see section 904(d) of Pub. L. 96-499, set out as an Effective Date note under section 1395tt of this title.

### § 1396m. Withholding of Federal share of payments for certain medicare providers

#### (a) Adjustment of Federal matching payments

The Secretary may adjust, in accordance with this section, the Federal matching payment to a State with respect to expenditures for medical assistance for care or services furnished in any quarter by—

(1) an institution (A) which has or previously had in effect an agreement with the Secretary under section 1395cc of this title; and (B)(i) from which the Secretary has been unable to recover overpayments made under subchapter XVIII, or (ii) from which the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such institution under subchapter XVIII; and

(2) any person (A) who (i) has previously accepted payment on the basis of an assignment under section 1395u(b)(3)(B)(ii) of this title, and (ii) during the annual period immediately preceding such quarter submitted no claims for payment under subchapter XVIII, or submitted claims for payment under subchapter XVIII which aggregated less than the amount of overpayments made to him, and (B)(i) from whom the Secretary has been unable to recover overpayments received in violation of the terms of such assignment, or (ii) from

whom the Secretary has been unable to collect the information necessary to enable him to determine the amount (if any) of the overpayments made to such person under subchapter XVIII.

#### (b) Reductions in payments to and by States

The Secretary may (subject to the remaining provisions of this section) reduce payment to a State under this subchapter for any quarter by an amount equal to the lesser of the Federal matching share of payments to any institution or person specified in subsection (a), or the total overpayments to such institution or person under subchapter XVIII, and may require the State to reduce its payment to such institution or person by such amount.

#### (c) Notice

The Secretary shall not make any adjustment in the payment to a State, nor require any adjustment in the payment to an institution or person, pursuant to subsection (b) until after he has provided adequate notice (which shall be not less than 60 days) to the State agency and the institution or person.

#### (d) Regulations

The Secretary shall by regulation provide procedures for implementation of this section, which procedures shall (1) determine the amount of the Federal payment to which the institution or person would otherwise be entitled under this section which shall be treated as a setoff against overpayments under subchapter XVIII, and (2) assure the restoration to the institution or person of amounts withheld under this section which are ultimately determined to be in excess of overpayments under subchapter XVIII and to which the institution or person would otherwise be entitled under this subchapter.

#### (e) Restoration to trust funds of recovered amounts

The Secretary shall restore to the trust funds established under sections 1395i and 1395t of this title, as appropriate, amounts recovered under this section as setoffs against overpayments under subchapter XVIII.

#### (f) Liability of States for withheld payments

Notwithstanding any other provision of this subchapter, an institution or person shall not be entitled to recover from any State any amount in payment for medical care and services under this subchapter which is withheld by the State agency pursuant to an order by the Secretary under subsection (b).

(Aug. 14, 1935, ch. 531, title XIX, § 1914, as added Pub. L. 96-499, title IX, § 905(d), Dec. 5, 1980, 94 Stat. 2618.)

### § 1396n. Compliance with State plan and payment provisions

#### (a) Activities deemed as compliance

A State shall not be deemed to be out of compliance with the requirements of paragraphs (1), (10), or (23) of section 1396a(a) of this title solely by reason of the fact that the State (or any political subdivision thereof)—

(1) has entered into—

(A) a contract with an organization which has agreed to provide care and services in