

The CAP Physician Election Agreement is used annually by physicians to elect to participate in the CAP or to make changes to the previous year's selections. The information collected by these documents is used by CMS, its Medicare contractor, and the approved CAP vendor to meet programmatic requirements pertaining to physician election as established by the MMA. *Form Number:* CMS-10167 (OMB# 0938-0955); *Frequency:* Yearly; *Affected Public:* Business or other for-profits; *Number of Respondents:* 3,800; *Total Annual Responses:* 3,800; *Total Annual Hours:* 7,600.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Use of Restraint and Seclusion in Psychiatric Residential Treatment Facilities (PRTFs) for Individuals Under Age 21; *Use:* PRTFs are required to report deaths, serious injuries and attempted suicides to the State Medicaid Agency and the Protection and Advocacy Organization. They are also required to provide residents the restraint and seclusion policy in writing, and to document in the residents' records all activities involving the use of restraint and seclusion. *Form Number:* CMS-R-306 (OMB# 0938-0833); *Frequency:* Annually; *Affected Public:* Private Sector: Business or other for-profits; *Number of Respondents:* 500; *Total Annual Responses:* 329,500; *Total Annual Hours:* 501,750.

4. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Health Insurance Flexibility and Accountability (HIFA) Evaluation; *Use:* The HIFA initiative sought to increase health coverage of uninsured populations through a flexible waiver process emphasizing public subsidy of Employer-Sponsored Insurance (ESI). Testing whether that approach reduces the rate/number of uninsured is critically important to CMS. The proposed survey of HIFA enrollees in New Mexico and Oregon would provide the only data available to test certain fundamental HIFA effects, especially with reference to reduction of the uninsured population, the effectiveness of premium assistance for ESI and the possibility of crowd-out of private coverage. *Form Number:* CMS-10262 (OMB# 0938-NEW); *Frequency:* Once; *Affected Public:* Individuals or households; *Number of Respondents:* 800; *Total Annual Responses:* 800; *Total Annual Hours:* 400.

5. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of*

*Information Collection:* Monthly State File of Medicaid/Medicare Dual Eligible Enrollees; *Use:* The monthly file of dual eligible enrollees will be used to determine those duals with drug benefits for the phased down State contribution process required by the Medicare Modernization Act of 2003. These data are also used to support Part D subsidy determinations and auto-assignment of individuals to Part D plans. *Form Number:* CMS-10143 (OMB# 0938-0958); *Frequency:* Monthly; *Affected Public:* State, Local or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 612; *Total Annual Hours:* 6,120.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web site address at <http://www.cms.hhs.gov/PaperworkReductionActof1995>, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@cms.hhs.gov](mailto:Paperwork@cms.hhs.gov), or call the Reports Clearance Office on (410) 786-1326.

In commenting on the proposed information collections please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in one of the following ways by June 2, 2008.

1. *Electronically.* You may submit your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

Dated: March 21, 2008.

**Michelle Shortt,**

*Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-2231-N]

RIN 0938-AP23

### Medicaid Program; Final State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals for Federal Fiscal Year 2007

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice.

**SUMMARY:** This Notice sets forth the methodology and process used to compute and issue each State's final allotment for fiscal year (FY) 2007 that is available to pay Medicare Part B premiums for qualifying individuals.

**DATES:** *Effective date:* Final allotments for payment of Medicare Part B premiums for FY 2007 are effective October 1, 2006, through September 30, 2007.

**FOR FURTHER INFORMATION CONTACT:** Deborah Abshire, (410) 786-9291.

#### SUPPLEMENTARY INFORMATION:

#### I. Background

##### A. Allotments Prior to FY 2005

Section 1902 of the Social Security Act (the Act) sets forth the requirements for State plans for medical assistance. Before August 5, 1997, section 1902(a)(10)(E) of the Act specified that the State Medicaid plan must provide for some or all types of Medicare cost sharing for three eligibility groups of low-income Medicare beneficiaries. These three groups included qualified Medicare beneficiaries (QMBs), specified low-income Medicare beneficiaries (SLMBs), and qualified disabled and working individuals (QDWI).

A QMB is an individual entitled to Medicare Part A with income at or below the Federal poverty line (FPL) and resources below \$4,000 for an individual and \$6,000 for a couple. A SLMB is an individual who meets the QMB criteria, except that his or her income is above 100 percent of the FPL and does not exceed 120 percent of the FPL. A QDWI is a disabled individual who is entitled to enroll in Medicare Part A under section 1818A of the Act, whose income does not exceed 200 percent of the FPL for a family of the size involved, whose resources do not exceed twice the amount allowed under the Supplementary Security Income

(SSI) program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

Section 4732 of the Balanced Budget Act of 1997 (BBA), enacted on August 5, 1997, amended section 1902(a)(10)(E) of the Act to require States to provide for Medicaid payment of the Medicare Part B premiums for two additional eligibility groups of low-income Medicare beneficiaries, referred to as qualifying individuals (QIs).

Specifically, a new section 1902(a)(10)(E)(iv)(I) of the Act was added, under which States must pay the full amount of the Medicare Part B premium for qualifying individuals who are eligible QMBs but their income level is at least 120 percent of the FPL but less than 135 percent of the FPL for a family of the size involved. These individuals cannot otherwise be eligible for medical assistance under the approved State Medicaid plan. The second group of QIs added under section 1902(a)(10)(E)(iv)(II) of the Act includes Medicare beneficiaries who would be QMBs except that their income is at least 135 percent but less than 175 percent of the FPL for a family of the size involved, who are not otherwise eligible for Medicaid under the approved State plan. These QIs were eligible for only a portion of Medicare cost-sharing consisting of a percentage of the increase in the Medicare Part B premium attributable to the shift of Medicare home health coverage from Part A to Part B (as provided in section 4611 of the BBA).

Coverage of the second group of QIs ended on December 31, 2002, and in 2003, section 401 of the Welfare Reform Bill (Pub. L. 108-89), enacted on October 1, 2003, eliminated reference to the second QI benefit (for the Medicare beneficiaries who would be QMBs except that their income is at least 135 percent but less than 175 percent of the FPL for a family of the size involved, who are not otherwise eligible for Medicaid under the approved State plan). In 2002 and 2003, continuing resolutions extended the coverage of the first group of QIs (whose income is at least 120 percent but less than 135 percent of the Federal poverty line) through the following fiscal year, but maintained the annual funding at the FY 2002 level. The Act was amended by Extension of Medicare Cost-Sharing for the Medicare Part B Premium for Qualifying Individuals, (Pub. L. 108-448), enacted December 8, 2004, which continued coverage of this group of QIs (whose income is at least 120 percent but less than 135 percent of the Federal

poverty line) through September 30, 2005, again with no change in funding.

The BBA also added a new section 1933 to the Act to provide for Medicaid payment of Medicare Part B premiums for QIs. (The previous section 1933 was re-designated as section 1934.) Section 1933(a) of the Act specifies that a State plan must provide, through a State plan amendment, for medical assistance to pay for the cost of Medicare cost-sharing on behalf of QIs who are selected to receive assistance. Section 1933(b) of the Act sets forth the rules that States must follow in selecting QIs and providing payment for Medicare Part B premiums. Specifically, the State must permit all qualifying individuals to apply for assistance and must select individuals on a first-come, first-served basis (that is, the State must select QIs in the order in which they apply). Further, under section 1933(b)(2)(B) of the Act, in selecting persons who will receive assistance in years after 1998, States must give preference to those individuals who received assistance as QIs, QMBs, SLMBs, or QDWIs in the last month of the previous year and who continue to be (or become) QIs.

Under section 1933(b)(4) of the Act, persons selected to receive assistance in a calendar year are entitled to receive assistance for the remainder of the year, but not beyond, as long as they continue to qualify. The fact that an individual is selected to receive assistance at any time during the year does not entitle the individual to continued assistance for any succeeding year. Because the State's allotment is limited by law, section 1933(b)(3) of the Act provides that the State must limit the number of QIs so that the amount of assistance provided during the year is approximately equal to the allotment for that year.

Section 1933(c) of the Act limits the total amount of Federal funds available for payment of Part B premiums for QIs each fiscal year and specifies the formula that is to be used to determine an allotment for each State from this total amount. For States that executed a State plan amendment in accordance with section 1933(a) of the Act, a total of \$1.5 billion was allocated over 5 years as follows: \$200 million in FY 1998; \$250 million in FY 1999; \$300 million in FY 2000; \$350 million in FY 2001; and \$400 million in FY 2002.

On March 29, 1999, the Department of Health and Human Services published a notice in the **Federal Register** (64 FR 14931) to advise States of the methodology used to calculate allotments and each State's specific allotment for that year. Following that notice, there was no change in methodology and States have been

notified annually of their allotments. We did not include the methodology for computing the allocation in our regulations. Although the BBA originally provided coverage of QIs through FY 2002, through several continuing resolutions, coverage has been continued through fiscal year 2007, but without any increase in total allocation over the FY 2002 level.

The Federal medical assistance percentage for Medicaid payment of Medicare Part B premiums for qualifying individuals is 100 percent for expenditures up to the amount of the State's allotment. No Federal funds are available for expenditures in excess of the State allotment amount. The Federal matching rate for administrative expenses associated with the payment of Medicare Part B premiums for QIs remains at the 50 percent matching level. Federal financial participation in the administrative expenses is not counted against the State's allotment.

The amount available for each fiscal year is to be allocated among States according to the formula set forth in section 1933(c)(2) of the Act. The formula provides for an amount to each State that is to be based on each State's share of the Secretary's estimate of the ratio of: (a) An amount equal to the total number of individuals in the State who meet all but the income requirements for QMBs, whose incomes are at least 120 percent but less than 135 percent of the Federal poverty line, and who are not otherwise eligible for Medicaid, to (b) the sum of all those individuals for all eligible States.

#### *B. Allotments for FY 2005*

In FY 2005, some States exhausted their FY 2005 allotments before the end of the fiscal year, which caused them to deny benefits to eligible persons under section 1933(b)(3) of the Act, while other States projected a surplus in their allotments. We asked those States that exhausted or expected to exhaust their FY 2005 allotments before the end of the fiscal year to project the amount of funds that would be required to grant eligibility to all eligible persons in their State, that is, their need. We also asked those States that did not expect to use their full allotments in FY 2005 to project the difference between the amount they expected to spend and their allotment, that is, their surplus. After all States reported these figures, it was evident that the total surplus exceeded the total need. In spite of there being adequate overall funding for the QI benefit, some eligible individuals would have been denied benefits due to the allocation methodology initially

used to determine the FY 2005 allotments.

We believed that it was the clear intent of the statute to provide benefits to eligible persons up to the full amount of funds made available for the program. We attributed the difference between the surplus in available QI allotments for some States and the need in other States in FY 2005 as due to the imprecision in the data that we used to provide States with their initial allocations under section 1933 of the Act. Therefore, on August 26, 2005 we published an interim final rule in the **Federal Register** (70 FR 50214) under which we compensated for this imprecision in order to enable States to enroll those QIs whom they would have been able to enroll had the data been more precise.

The interim final rule amended 42 CFR 433.10(c) to specify the formula and the data to be used to determine States' allotments and to revise, under certain circumstances, individual State allotments for a Federal fiscal year for the Medicaid payment of Medicare Part B premiums for qualifying individuals identified under section 1902(a)(10)(E)(iv) of the Act. Section 433.10(c)(5)(iv) states that CMS will notify States of any changes in allotments resulting from any reallocations.

The FY 2005 allotments were determined by applying the U.S. Census Bureau data to the formula set forth in section 1933(c)(2) of the Act. However, the statute requires that the allocation of the fiscal year allotment be based upon a ratio of the amount of "total number of individuals described in section 1902(a)(10)(E)(iv) in the State" to the sum of these amounts for all States. Because this formula requires an estimate of an unknown number, that is, the number of individuals who could be QIs (rather than the number of individuals who were QIs in a previous period), our use of the Census Bureau data in the formula represented a rough proxy to attain the statutory number. Actual expenditure data, however, revealed that the Census Bureau data yielded an inappropriate distribution of the total appropriated fund as evidenced by the fact that several States projected significant shortfalls in their allotments, while many other States projected a significant surplus by the end of the fiscal year 2005. Census Bureau data were not accurate for the purpose of projecting States' needs because the data could not take into consideration all variables that contribute to QI eligibility and enrollment, such as resource levels and the application process itself. While section 1933 of the Act requires the

Secretary to estimate the allocation of the allotments among the States, it did not preclude a subsequent readjustment of that allocation, when it became clear that the data used for that estimate did not effectuate the statutory objective. The interim final rule published in the **Federal Register** on August 26, 2005 permitted in this specific circumstance a redistribution of surplus funds, as it was demonstrated that the States' projections and estimates resulted in an inequitable initial allocation for FY 2005, such that some States were granted an allocation in excess of their total projected need, while the allocation granted to other States proved insufficient to meet their projected QI expenditures.

In the August 26, 2005 interim final rule, we codified the methodology we have been using to approximate the statutory formula for determining State allotments. However, since certain States projected a deficit in their allotment before the end of fiscal year 2005, the rule permitted fiscal year 2005 funds to be reallocated from the surplus States to the need States. The regulation specified the methodology for computing the annual allotments, and for reallocating funds in this circumstance. The formula used to reallocate funds was intended to minimize the impact on surplus States, to equitably distribute the total needed amount among those surplus States, and to meet the immediate needs for those States projecting deficits. At the time of the publication of the interim final rule on August 26, 2005, the authorization for the QI benefit expired at the end of calendar year 2005, and no additional funds were appropriated for the QI benefit beyond September 30, 2005; therefore, the regulation specified a sunset at the end of calendar year 2005.

#### *C. Allotments for FY 2006 and FY 2007*

On October 20, 2005 the "QI, TMA, and Abstinence Programs Extension and Hurricane Katrina Unemployment Relief Act of 2005" was enacted by the Congress (Pub. L. 109-91) (QI, TMA, and Abstinence Act of 2005). Section 101 of the QI, TMA, and Abstinence Act extended the QI program through September 30, 2007 with no change in funding, that is, under this legislation \$400 million per fiscal year was appropriated for each of FY 2006 and FY 2007. The provisions of section 101 of the QI, TMA, and Abstinence Act of 2005 were effective as of September 30, 2005.

On October 16, 2006 we published a final rule in the **Federal Register** (71 FR 60663), which implemented the provisions of section 101 of the QI,

TMA, and Abstinence Act relating the QI allotments for final FY 2006 allotments and preliminary FY 2007 allotments. As indicated in that final rule, we believe that the clear intent of the statute is to provide benefits to eligible persons up to the full amount of funds made available for the program in each fiscal year. We recognized that because of the imprecision in data for computing the States' QI allotments for a fiscal year, some States would experience either surpluses or shortages in their FY 2006 and FY 2007 allotments. In accordance with section 433.10(c), the FY 2006 and FY 2007 QI allotments were designed to compensate for the imprecision in data to permit shortage States to enroll more QIs than otherwise would have been possible.

#### *D. Allotments for FY 2008 and Thereafter*

On September 29, 2007, the President signed the "TMA, Abstinence Education, and QI Program Extension Act of 2007" (QI, TMA, and Abstinence Act of 2007) (Pub. L. 110-90). Section 3 of the QI, TMA, and Abstinence Act of 2007 extends the QI program through December 31, 2007 and allocates \$100 million for such period. We will address this allocation and extend the allocation methodology's regulatory sunset in a subsequent rulemaking. If additional funding is authorized to extend the QI Program for some or all of the calendar year 2008 or beyond, we will also issue a notice in the **Federal Register** to announce the QI allotments to be provided in accordance with the extending legislation.

## **II. Provisions of the Notice**

This notice sets forth the final QI allotments for FY 2007.

In the final rule published on October 16, 2006 (71 FR 60663), we set forth a two step/two phase methodology/process for determining States' QI allotments for FY 2007, and that regulation implemented phase one of the process. Under the first step of phase one, an "initial" allocation was determined for each State under the formula specified in section 1933 of the Act and based only on the data obtained from the Census Bureau (the 3-year average of the number of Medicare beneficiaries in the State who are not enrolled in the Medicaid program but whose incomes are at least 120 percent of the FPL and less than 135 percent of the FPL). However, we further obtained States' projected QI expenditures for the fiscal year. We then compared the initial allocations for the fiscal year to the States' projected QI expenditures for the fiscal year to determine those States

with a projected need (that is, those States whose initial allocation is less than their projected expenditures) or a projected surplus (that is, those States whose initial allocation is greater than the projected expenditures) for FY 2007.

Under the second step of the process, implemented now through this notice, we adjusted the States' initial allocations by considering the States' projected QI expenditures for FY 2007. This was done by proportionately reducing the QI allotments of States with surpluses for the fiscal year by the amount of the total need for States that do not have sufficient QI allotments for the fiscal year. We are thus completing the two phase methodology/process for the fiscal year. This notice accounts for the fact that at the beginning of the fiscal year, we determined the initial allocations based on the Census Bureau data, obtained States' projections of QI expenditures for the fiscal year, and made any adjustments based on the projected surpluses/needs for the fiscal year. The amounts of the States' QI allotments determined under this first phase at the beginning of the fiscal year were considered the States' "initial" QI allotments for the fiscal year and are shown on the table below. Now, under phase two of the process, during the fourth quarter of the fiscal year we obtained States' updated projected QI expenditures for the fiscal year. We then established the "final" QI allotments for the fiscal year based on these updated projections.

As indicated in this notice and as shown on the table below, the States' final QI allotments for FY 2007 are determined by comparing the initial QI allotments for the fiscal year (again which are calculated based on the Census Bureau data) to the States' updated projections of QI expenditures for the fiscal year; this establishes those States with a "final" projected need (the initial allocation is less than the updated projected expenditures) or a surplus (initial allocation is greater than the updated projected expenditures) for the fiscal year. Using the updated projected QI expenditures, we adjusted the States' initial allocations by reducing the surplus States' initial allotments proportionately to meet the need States' deficits. This is the same methodology we used for determining the FY 2005 allotments as published in the interim final rule published on August 26, 2005, in the **Federal Register**; the only change was that in

computing the FY 2007 allotments, we determined the preliminary allotments at the beginning of the fiscal year using States' preliminary projected QI expenditures, and then we determined the final QI allotments later in the fiscal year using States' updated projected QI expenditures. The formula used to reallocate the available funds to need States is intended to minimize the impact on surplus States, to equitably distribute the total needed amount among those surplus States, and to meet the needs for those States projecting deficits.

Since under the QI, TMA, and Abstinence Act of 2005, the authorization for the QI benefit expires at the end of calendar year 2007, the QI regulation will sunset at the end of calendar year 2007. We will amend the sunset date in the regulation to take into account the extension set out in the QI, TMA, and Abstinence Act of 2007 in a subsequent rulemaking.

Based on the process described above, the resulting final allotments for FY 2007 are shown by State in the table below. In this table each column contains data defined as follows:

**Column A—State.** Column A shows the name of each State. Columns B through D show the determination of the States' Final FY 2007 QI Allotments, based only on Census Bureau data.

**Column B—Number of Individuals.** Column B contains the estimated average number of Medicare beneficiaries for the years 2004 through 2006 that are not covered by Medicaid whose family income is between 120 and 135 percent of the poverty level for each State, in thousands, as obtained from the Census Bureau's Annual Social and Economic Supplement to the Current Population Survey through December 31, 2006.

**Column C—Percentage of Total.** Column C provides the percentage of total number of individuals for each State, determined as the Number of Individuals for the State in Column B divided by the sum of the Number of Individuals for all States in Column B.

**Column D—Initial QI Allotment.** Column D contains each State's Initial FY 2007 QI allotment, calculated as the State's Percentage of Total in Column C multiplied by \$400,000,000, the total amount available for FY 2007 for all States.

Columns E through J show the determination of the States' Final FY 2007 QI Allotments.

**Column E—FY 2007 Estimated QI Expenditures.** Column E contains the States' most recent estimates of their total QI expenditures for FY 2007 requested from States as of August 31, 2007.

**Column F—Need (Difference).** Column F contains the additional amount of QI allotment needed for those States whose estimated expenditures in Column E exceed their Initial FY 2007 QI allotments in Column D; for those States, Column F shows the amount in Column E minus the amount in Column D. For other States, Column F shows "NA."

**Column G—Reduction Pool for Non-Need States.** Column G contains the amount of the pool of surplus FY 2007 QI allotments for those States that project they will not need all of their FY 2007 QI allotments (referred to as Non-Need States). For States whose estimates of QI expenditures for FY 2007 in Column E are equal to or less than their Initial FY 2007 QI allotments in Column D, Column G shows the amount in Column D minus the amount in Column E. For the States with a need, Column G shows "Need." The pool of excess QI allotments is equal to the sum of the amounts in Column G.

**Column H—Percent of Total Non-Need States.** Column H shows the percentage of the total excess FY 2007 allotments for each Non-Need State, determined as the amount for each Non-Need State in Column G divided by the sum of the amounts for all States in Column G.

**Column I—Reduction for Non-Need States.** Column I shows the amount of reduction to Non-Need States' Initial FY 2007 QI allotments in Column D in order to provide for the total need shown in Column F. The amount in Column I is determined as the percentage in Column H for Non-Need States multiplied by the sum of the need for all States from Column F.

**Column J—Final FY 2007 QI Allotment.** Column J contains the Final FY 2007 QI allotment for each State. For States that need additional amounts based on their FY 2007 Estimated QI Expenditures in Column E, Column J is equal to the Initial FY 2007 QI Allotment in Column D plus the amount of Need Column F. For Non-Need States, Column J is equal to the Initial FY 2007 QI Allotment in Column D minus the amount in Column I.

FINAL FY 2007 QUALIFIED INDIVIDUALS ALLOTMENTS

State	Initial QI allotments for FY 2007			FY 2007 estimated QI expenditures <sup>1</sup>	Need (difference) If E>D, E-D	Reduction pool for non-need states If D>=E, D-E	Percent of total non-need states G/(Total of G)	Reduction for non-need states (Col H x Tot. Col F) \$61,713,005	Final FY 2007 QI allotment <sup>2</sup>
	Number of individuals <sup>3</sup> (000s)	Percentage of total Col B/Tot. Col B	Initial QI allotment Col C x \$400,000,000						
A	B	C	D	E	F	G	H	I	J
Alabama	27.0	1.78	\$7,114,625	\$19,850,000	\$12,735,375	(4)	(4)	(4)	\$19,850,000
Alaska	1.7	0.11	439,174	130,000	NA	\$309,174	0.3564	\$219,953	219,222
Arizona	35	2.31	9,222,661	11,466,582	2,243,921	(4)	(4)	(4)	11,466,582
Arkansas	21	1.38	5,533,597	6,190,217	656,620	(4)	(4)	(4)	6,190,217
California	118	7.80	31,181,379	12,989,337	NA	18,192,042	20.9716	12,942,175	18,239,204
Colorado	13	0.88	3,513,395	2,292,718	NA	1,220,677	1.4072	868,413	2,644,981
Connecticut	16	1.05	4,216,074	7,889,657	3,673,583	(4)	(4)	(4)	7,889,657
Delaware	4	0.26	1,054,018	257,954	NA	796,064	0.9177	566,336	487,683
District of Columbia	3	0.18	702,679	20,084	NA	682,595	0.7869	485,611	217,068
Florida	104	6.87	27,492,314	30,089,989	2,597,675	(4)	(4)	(4)	30,089,989
Georgia	45	2.96	11,857,708	18,295,552	6,437,844	(4)	(4)	(4)	18,295,552
Hawaii	5	0.31	1,229,688	538,360	NA	691,328	0.7970	491,824	737,864
Idaho	6	0.40	1,581,028	1,438,000	NA	143,028	0.1649	101,753	1,479,275
Illinois	80	5.29	21,168,204	14,400,000	NA	6,768,204	7.8023	4,815,033	16,353,171
Indiana	58	3.80	15,195,433	6,293,236	NA	8,902,197	10.2623	6,333,197	8,862,235
Iowa	15	0.97	3,864,734	2,465,061	NA	1,399,673	1.6135	995,755	2,868,979
Kansas	12	0.79	3,162,055	1,856,338	NA	1,305,717	1.5052	928,913	2,233,142
Kentucky	30	2.00	7,992,973	8,166,944	173,971	(4)	(4)	(4)	8,166,944
Louisiana	32	2.11	8,432,148	11,442,532	3,010,384	(4)	(4)	(4)	11,442,532
Maine	8	0.55	2,195,872	3,834,061	1,638,189	(4)	(4)	(4)	3,834,061
Maryland	20	1.32	5,270,092	3,634,249	NA	1,635,843	1.8858	1,163,771	4,106,321
Massachusetts	44	2.92	11,682,038	7,426,293	NA	4,255,745	4.9060	3,027,620	8,654,418
Michigan	52	3.40	13,614,405	8,552,043	NA	5,062,362	5.8358	3,601,464	10,012,941
Minnesota	14	0.94	3,776,899	3,687,449	NA	89,450	0.1031	63,637	3,713,263
Mississippi	18	1.16	4,655,248	9,000,000	4,344,752	(4)	(4)	(4)	9,000,000
Missouri	46	3.01	12,033,377	3,246,344	NA	8,787,033	10.1296	6,251,268	5,782,110
Montana	7	0.46	1,844,532	799,103	NA	1,045,429	1.2052	743,739	1,100,793
Nebraska	10	0.66	2,635,046	2,181,470	NA	453,576	0.5229	322,683	2,312,363
Nevada	10	0.68	2,722,881	2,208,927	NA	513,954	0.5925	365,637	2,357,244
New Hampshire	8	0.53	2,108,037	881,027	NA	1,227,010	1.4145	872,919	1,235,118
New Jersey	41	2.70	10,803,689	9,990,271	NA	813,418	0.9377	578,682	10,225,008
New Mexico	11	0.72	2,898,551	2,299,667	NA	598,884	0.6904	426,058	2,472,493
New York	89	5.86	23,451,910	38,375,979	14,924,069	(4)	(4)	(4)	38,375,979
North Carolina	64	4.24	16,952,130	17,598,664	646,534	(4)	(4)	(4)	17,598,664
North Dakota	5	0.33	1,317,523	441,201	NA	876,322	1.0102	623,433	694,090
Ohio	60	3.97	15,898,112	15,412,487	NA	485,625	0.5598	345,483	15,552,629
Oklahoma	18	1.21	4,830,918	7,695,103	2,864,185	(4)	(4)	(4)	7,695,103
Oregon	21	1.38	5,533,597	7,045,898	1,512,301	(4)	(4)	(4)	7,045,898
Pennsylvania	69	4.55	18,181,818	20,005,059	1,823,241	(4)	(4)	(4)	20,005,059
Rhode Island	7	0.44	1,756,697	1,933,820	177,123	(4)	(4)	(4)	1,933,820
South Carolina	27	1.76	7,026,790	7,476,000	449,210	(4)	(4)	(4)	7,476,000
South Dakota	4	0.29	1,141,853	869,000	NA	272,853	0.3145	194,113	947,740
Tennessee	32	2.09	8,344,313	369,605	NA	7,974,708	9.1931	5,673,363	2,670,949
Texas	96	6.30	25,208,608	22,907,835	NA	2,300,773	2.6523	1,636,815	23,571,793
Utah	5	0.33	1,317,523	755,851	NA	561,672	0.6475	399,585	917,939
Vermont	3	0.22	878,349	2,682,376	1,804,027	(4)	(4)	(4)	2,682,376
Virginia	33	2.17	8,695,652	6,500,000	NA	2,195,652	2.5311	1,562,030	7,133,622
Washington	26	1.73	6,938,955	5,072,243	NA	1,866,712	2.1519	1,328,015	5,610,939
West Virginia	18	1.21	4,830,918	3,568,573	NA	1,262,345	1.4552	898,057	3,932,861
Wisconsin	23	1.49	5,972,771	2,000,375	NA	3,972,396	4.5793	2,826,041	3,146,731
Wyoming	2	0.13	527,009	443,190	NA	83,819	0.0966	59,631	467,379
Total	1,518	100.00	400,000,000	374,966,724	61,713,005	86,746,281	100.0000	61,713,005	400,000,000

Footnotes:

<sup>1</sup> FY 2007 Estimates from August 2007 CMS Survey of States.

<sup>2</sup> For (4) States Final FY 2007 QI Allotment is equal to Initial QI Allotment in Column D increased by amount in Column F. For Non-(4) States Final FY 2007 QI Allotment is equal to Initial QI Allotment in Column D reduced by amount in Column I.

<sup>3</sup> Three-year average (2004–2006) of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 120 but less than 135 of FPL.

<sup>4</sup> Need.

Source: Census Bureau Annual Social and Economic Supplement (ASEC) to the Current Population Survey (CPS) for past 3 years through March of 2006.

**III. Collection of Information Requirements**

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the

Paperwork Reduction Act of 1995 (44 U.S.C. 35).

**IV. Regulatory Impact Statement**

We have examined the impact of this notice as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19,

1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4), Executive Order 13132 on Federalism, and the Congressional Review Act (5 U.S.C. 804(2)).

Executive Order 12866 (as amended by Executive Order 13258, which merely reassigns responsibility of

duties) directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more in any 1 year). This notice sets forth the amounts of States' final FY 2007 allotments for payment of Medicare Part B premiums for qualifying individuals determined in accordance with existing statutory and regulatory provisions. Because this notice merely redistributes allotments that have already been made, it has no impact. As a result, it does not reach the economic threshold of being considered a major rule.

The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 million to \$29 million in any 1 year. Individuals and States are not included in the definition of a small entity.

As indicated previously, this notice is applicable only to States. Moreover, the total amount of Federal funds available during a Federal fiscal year and the formula for determining individual State allotments are specified in the law. We have applied the statutory formula for the State allotments. Because the data specified in the law were not initially available, we used comparable data from the U.S. Census Bureau on the number of possible qualifying individuals in the States. *The existing statute and regulations* permit, in a specific circumstance, reallocation of funds to enable enrollment of all eligible individuals to the extent of the available funding.

We believe that the final FY 2007 allotments set forth in this notice will have a positive effect on States and individuals. Federal funding at the 100 percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for qualifying individuals and, with the reallocation of the State allotments, a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid. The changes in allotments will not result in fewer individuals receiving the QI benefit in any State. The FY 2007 costs

for this provision have been included in the FY 2007 President's Budget.

Section 1102(b) of the Act requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. The analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Core-Based Statistical Area and has fewer than 100 beds.

We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined and certify that this notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (URMA) also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. This rule will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. Since this notice does not impose any costs on State or local governments, the requirements of E.O. 13132 are not applicable.

In accordance with the provisions of Executive Order 12866, this notice was reviewed by the Office of Management and Budget.

**Authority:** Sections 1902(a)(10), 1933 of the Social Security Act (42 U.S.C. 1396a), and Pub. L. 105-33. (Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: November 20, 2007.

**Kerry Weems,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: December 3, 2007.

**Michael O. Leavitt,**  
*Secretary.*

**Editorial Note:** This document was received at the Office of the Federal Register on March 18, 2008.

[FR Doc. E8-5748 Filed 3-31-08; 8:45 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

CMS-3197-N

#### Medicare Program; Meeting of the Medicare Evidence Development and Coverage Advisory Committee—May 21, 2008

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces that a public meeting of the Medicare Evidence Development & Coverage Advisory Committee (MedCAC) ("Committee") will be held on Wednesday, May 21, 2008. The Committee generally provides advice and recommendations concerning the adequacy of scientific evidence needed to determine whether certain medical items and services are reasonable and necessary under the Medicare statute. This meeting will focus on the design and methodological issues that challenge clinical research regarding innovative neurorehabilitation techniques. The meeting will discuss the various kinds of evidence that are useful to support requests for Medicare coverage in this field. This meeting is open to the public in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)).

**DATES:** *Meeting Date:* The public meeting will be held 7:30 a.m. until 4:30 p.m., d.s.t. on Wednesday, May 21, 2008.

*Deadline for Submission of Written Comments:* Written comments must be received at the address specified in the **ADDRESSES** section of this notice by 5 p.m., d.s.t. on April 21, 2008. Once submitted, comments are final.

*Deadlines for Speaker Registration and Presentation Materials:* The deadline to register to be a speaker, and to submit materials and writings that will be used in support of an oral presentation, is 5 p.m., d.s.t. on Monday, April 21, 2008. Speakers may register by phone or via e-mail by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Presentation materials must be received at the address specified in the **ADDRESSES** section of this notice.

*Deadline for All Other Attendees Registration:* Individuals may register by phone or via e-mail by contacting the person listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by 5 p.m., d.s.t. on Wednesday, May 14, 2008.