

## EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-603 applicable with respect to providers of services for fiscal years beginning after the fifth month following October 1972, see section 234(i) of Pub. L. 92-603, set out as a note under section 1395x of this title.

## TERMINATION OF ADVISORY COUNCILS

Advisory councils in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a council established by the President or an officer of the Federal Government, such council is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a council established by the Congress, its duration is otherwise provided by law. See sections 1001(2) and 1013 of Title 5, Government Organization and Employees.

**§ 1395aa. Agreements with States****(a) Use of State agencies to determine compliance by providers of services with conditions of participation**

The Secretary shall make an agreement with any State which is able and willing to do so under which the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by him for the purpose of determining whether an institution therein is a hospital or skilled nursing facility, or whether an agency therein is a home health agency, or whether an agency is a hospice program or whether a facility therein is a rural health clinic as defined in section 1395x(aa)(2) of this title, a critical access hospital, as defined in section 1395x(mm)(1) of this title, or a comprehensive outpatient rehabilitation facility as defined in section 1395x(cc)(2) of this title, or whether a laboratory meets the requirements of paragraphs (16) and (17) of section 1395x(s) of this title, or whether a clinic, rehabilitation agency or public health agency meets the requirements of subparagraph (A) or (B), as the case may be, of section 1395x(p)(4) of this title, or whether an ambulatory surgical center meets the standards specified under section 1395k(a)(2)(F)(i) of this title, or whether a facility is a rural emergency hospital as defined in section 1395x(kkk)(2) of this title. To the extent that the Secretary finds it appropriate, an institution or agency which such a State (or local) agency certifies is a hospital, skilled nursing facility, rural health clinic, comprehensive outpatient rehabilitation facility, home health agency, or hospice program (as those terms are defined in section 1395x of this title) may be treated as such by the Secretary. Any State agency which has such an agreement may (subject to approval of the Secretary) furnish to a skilled nursing facility, after proper request by such facility, such specialized consultative services (which such agency is able and willing to furnish in a manner satisfactory to the Secretary) as such facility may need to meet one or more of the conditions specified in section 1395i-3(a) of this title. Any such services furnished by a State agency shall be deemed to have been furnished pursuant to such agreement. Within 90 days following the completion of each survey of any health care facility, ambulatory surgical center, rural health clinic, comprehensive outpatient rehabilitation facility,

laboratory, clinic, agency, or organization by the appropriate State or local agency described in the first sentence of this subsection, the Secretary shall make public in readily available form and place, and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients' representatives), the pertinent findings of each such survey relating to the compliance of each such health care facility, ambulatory surgical center, rural health clinic, comprehensive outpatient rehabilitation facility, laboratory, clinic, agency, or organization with (1) the statutory conditions of participation imposed under this subchapter and (2) the major additional conditions which the Secretary finds necessary in the interest of health and safety of individuals who are furnished care or services by any such health care facility, ambulatory surgical center, rural health clinic, comprehensive outpatient rehabilitation facility, laboratory, clinic, agency, or organization. Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies and hospice programs located in the State or locality that are certified to participate in the program established under this subchapter (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted by a State agency or accreditation survey conducted by a private accreditation agency under section 1395bb of this title with respect to the home health agency or the hospice program, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this subchapter with respect to the agency or the hospice program) and (2) to receive complaints (and answer questions) with respect to home health agencies and hospice programs in the State or locality. Any such agreement shall provide for such State or local agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency utilized by the Secretary under section 1395bb of this title, and consumer medical records (but only with the consent of the consumer or his or her legal representative).

**(b) Payment in advance or by way of reimbursement to State for performance of functions of subsection (a)**

The Secretary shall pay any such State, in advance or by way of reimbursement, as may be provided in the agreement with it (and may make adjustments in such payments on account of overpayments or underpayments previously made), for the reasonable cost of performing the functions specified in subsection (a), and for the Federal Hospital Insurance Trust Fund's fair share of the costs attributable to the planning and other efforts directed toward coordination of activities in carrying out its agreement and other activities related to the provision of services similar to those for which payment may be made under part A, or related to the facilities

and personnel required for the provision of such services, or related to improving the quality of such services.

**(c) Use of State or local agencies to survey hospitals**

The Secretary is authorized to enter into an agreement with any State under which the appropriate State or local agency which performs the certification function described in subsection (a) will survey, on a selective sample basis (or where the Secretary finds that a survey is appropriate because of substantial allegations of the existence of a significant deficiency or deficiencies which would, if found to be present, adversely affect health and safety of patients), provider entities that, pursuant to section 1395bb(a)(1) of this title, are treated as meeting the conditions or requirements of this subchapter. The Secretary shall pay for such services in the manner prescribed in subsection (b).

**(d) Fulfillment of requirements by States**

The Secretary may not enter an agreement under this section with a State with respect to determining whether an institution therein is a skilled nursing facility unless the State meets the requirements specified in section 1395i-3(e) of this title and section 1395i-3(g) of this title and the establishment of remedies under sections 1395i-3(h)(2)(B) and 1395i-3(h)(2)(C) of this title (relating to establishment and application of remedies).

**(e) Prohibition of user fees for survey and certification**

Notwithstanding any other provision of law, the Secretary may not impose, or require a State to impose, any fee on any facility or entity subject to a determination under subsection (a), or any renal dialysis facility subject to the requirements of section 1395rr(b)(1) of this title, for any such determination or any survey relating to determining the compliance of such facility or entity with any requirement of this subchapter (other than any fee relating to section 263a of this title).

(Aug. 14, 1935, ch. 531, title XVIII, § 1864, as added Pub. L. 89-97, title I, § 102(a), July 30, 1965, 79 Stat. 326; amended Pub. L. 90-248, title I, § 133(f), title II, § 228(b), Jan. 2, 1968, 81 Stat. 852, 904; Pub. L. 92-603, title II, §§ 244(a), 277, 278(a)(16), (b)(15), 299D(a), Oct. 30, 1972, 86 Stat. 1422, 1452-1454, 1461; Pub. L. 95-210, § 1(i), Dec. 13, 1977, 91 Stat. 1488; Pub. L. 96-499, title IX, §§ 933(g), 934(c)(2), Dec. 5, 1980, 94 Stat. 2637, 2639; Pub. L. 96-611, § 1(a)(2), Dec. 28, 1980, 94 Stat. 3566; Pub. L. 97-248, title I, § 122(g)(3), Sept. 3, 1982, 96 Stat. 362; Pub. L. 98-369, div. B, title III, § 2354(b)(17), July 18, 1984, 98 Stat. 1101; Pub. L. 99-509, title IX, § 9320(h)(3), Oct. 21, 1986, 100 Stat. 2016; Pub. L. 100-203, title IV, §§ 4025(a), 4072(d), 4201(a)(2), (d)(4), 4202(a)(1), (c), 4203(a)(1), 4212(b), Dec. 22, 1987, 101 Stat. 1330-74, 1330-117, 1330-160, 1330-174, 1330-179, 1330-212, as amended Pub. L. 100-360, title IV, § 411(7)(1)(C), (6)(B), July 1, 1988, 102 Stat. 804, as amended Pub. L. 100-485, title VI, § 608(d)(27)(B), Oct. 13, 1988, 102 Stat. 2422; Pub. L. 100-360, title II, §§ 203(e)(3), 204(c)(2), (d)(3), title IV, § 411(d)(4)(A), July 1, 1988, 102 Stat. 725, 728, 729, 774, as amended Pub. L. 100-485, title VI, § 608(d)(20)(B), (C), Oct. 13, 1988, 102 Stat. 2419,

2420; Pub. L. 101-234, title II, § 201(a), Dec. 13, 1989, 103 Stat. 1981; Pub. L. 101-239, title VI, §§ 6003(g)(3)(C)(iii), 6115(c), Dec. 19, 1989, 103 Stat. 2152, 2219; Pub. L. 101-508, title IV, §§ 4154(d)(1), 4163(c)(2), 4207(g), formerly 4027(g), Nov. 5, 1990, 104 Stat. 1388-85, 1388-100, 1388-123; Pub. L. 103-432, title I, §§ 145(c)(3), 160(a)(1), (d)(4), Oct. 31, 1994, 108 Stat. 4427, 4443, 4444; Pub. L. 104-134, title I, § 101(d) [title V, § 516(c)(1)], Apr. 26, 1996, 110 Stat. 1321-211, 1321-247; renumbered title I, Pub. L. 104-140, § 1(a), May 2, 1996, 110 Stat. 1327; Pub. L. 105-33, title IV, §§ 4106(c), 4201(c)(1), Aug. 5, 1997, 111 Stat. 368, 373; Pub. L. 110-275, title I, § 125(b)(3), July 15, 2008, 122 Stat. 2519; Pub. L. 116-260, div. CC, title I, § 125(d)(2), title IV, § 407(a)(3)(A), Dec. 27, 2020, 134 Stat. 2966, 3007.)

**Editorial Notes**

AMENDMENTS

2020—Subsec. (a). Pub. L. 116-260, § 407(a)(3)(A), inserted “and hospice programs” after “information on home health agencies”, “or the hospice program” after “the home health agency”, “or the hospice program” after “with respect to the agency”, and “and hospice programs” after “with respect to home health agencies”.

Pub. L. 116-260, § 125(d)(2), inserted before period at end of first sentence “, or whether a facility is a rural emergency hospital as defined in section 1395x(kkk)(2) of this title”. Amendment was executed as if closing quotation marks preceded the period in the directory language, to reflect the probable intent of Congress.

2008—Subsec. (c). Pub. L. 110-275 substituted “pursuant to section 1395bb(a)(1)” for “pursuant to subsection (a) or (b)(1) of section 1395bb”.

1997—Subsec. (a). Pub. L. 105-33, § 4201(c)(1), substituted “critical access” for “rural primary care”.

Pub. L. 105-33, § 4106(c), substituted “paragraphs (16) and (17)” for “paragraphs (15) and (16)”.

1996—Subsec. (c). Pub. L. 104-134, in first sentence, substituted at end “provider entities that, pursuant to subsection (a) or (b)(1) of section 1395bb of this title, are treated as meeting the conditions or requirements of this subchapter.” for “hospitals which have an agreement with the Secretary under section 1395cc of this title and which are accredited by the Joint Commission on Accreditation of Hospitals.”

1994—Subsec. (a). Pub. L. 103-432, § 160(a)(1)(B), struck out “or (in the case of a laboratory that does not participate or seek to participate in the medicare program) the requirements of section 263a of this title” after “section 1395x(s) of this title” in first sentence.

Pub. L. 103-432, § 145(c)(3), struck out “, or whether screening mammography meets the standards established under section 1395m(c)(3) of this title” after “section 1395k(a)(2)(F)(i) of this title” in first sentence.

Subsec. (e). Pub. L. 103-432, § 160(a)(1)(A), inserted before period at end “(other than any fee relating to section 263a of this title)”.

1990—Subsec. (a). Pub. L. 101-508, § 4163(c)(2), inserted before period at end of first sentence “, or whether screening mammography meets the standards established under section 1395m(c)(3) of this title”.

Pub. L. 101-508, § 4154(d)(1), substituted “section 1395x(s) of this title or (in the case of a laboratory that does not participate or seek to participate in the medicare program) the requirements of section 263a of this title,” for “section 1395x(s) of this title,” in first sentence.

Subsec. (e). Pub. L. 101-508, § 4207(g), formerly § 4027(g), as renumbered by Pub. L. 103-432, § 160(d)(4), added subsec. (e).

1989—Subsec. (a). Pub. L. 101-239, § 6115(c), substituted “paragraphs (15) and (16)” for “paragraphs (14) and (15)”.

Pub. L. 101-239, § 6003(g)(3)(C)(iii), inserted “, a rural primary care hospital, as defined in section

1395x(mm)(1) of this title,” after “1395x(aa)(2) of this title”.

Pub. L. 101-234 repealed Pub. L. 100-360, §§ 203(e)(3), 204(c)(2), (d)(3), and provided that the provisions of law amended or repealed by such sections are restored or revived as if such sections had not been enacted, see 1988 and 1989 Amendment notes.

1988—Subsec. (a). Pub. L. 100-360, § 411(l)(6)(B), amended Pub. L. 100-203, § 4212(b), see 1987 Amendment note below.

Pub. L. 100-360, § 411(l)(1)(C), as added by Pub. L. 100-485, § 608(d)(27)(B), added Pub. L. 100-203, § 4201(d)(4), see 1987 Amendment note below.

Pub. L. 100-360, § 411(d)(4)(A)(i), as amended by Pub. L. 100-485, § 608(d)(20)(B)(i), substituted “most recent certification survey conducted by a State agency or accreditation survey conducted by a private accreditation agency under section 1395bb of this title with respect to the home health agency,” for “most recent certification survey conducted with respect to the agency.”

Pub. L. 100-360, § 411(d)(4)(A)(ii)(I), as amended by Pub. L. 100-485, § 608(d)(20)(C), substituted “such State or local agency to maintain a unit” for “such agency to maintain a unit”.

Pub. L. 100-360, § 411(d)(4)(A)(ii)(II), as amended by Pub. L. 100-485, § 608(d)(20)(B)(ii), substituted “utilized by the Secretary under section 1395bb of this title” for “pursuant to an agreement with the Secretary under this section”.

Pub. L. 100-360, § 204(d)(3), substituted “paragraphs (14) and (15)” for “paragraphs (13) and (14)”.

Pub. L. 100-360, § 204(c)(2), inserted “, or whether screening mammography meets the standards established under section 1395m(e)(3) of this title” after “section 1395k(a)(2)(F)(i) of this title”.

Pub. L. 100-360, § 203(e)(3), inserted “or a home intravenous drug therapy provider,” after “hospice program” and substituted “hospice program, or home intravenous drug therapy provider” for “or hospice program”.

1987—Subsec. (a). Pub. L. 100-203, § 4212(b), which directed an amendment of subsec. (a) identical to Pub. L. 100-203, § 4202(c), was amended generally by Pub. L. 100-360, § 411(l)(6)(B), so that it does not amend this section but rather section 1396r of this title.

Pub. L. 100-203, § 4202(c), inserted “, and require (in the case of skilled nursing facilities) the posting in a place readily accessible to patients (and patients’ representatives),” after “place” in fifth sentence.

Pub. L. 100-203, § 4201(d)(4), as added by Pub. L. 100-360, § 411(l)(1)(C), as added by Pub. L. 100-485, § 608(d)(27)(B), substituted “conditions specified in section 1395i-3(a) of this title” for “conditions specified in section 1395x(j) of this title”.

Pub. L. 100-203, § 4072(d), substituted “paragraphs (13) and (14)” for “paragraphs (12) and (13)” in first sentence.

Pub. L. 100-203, § 4025(a), inserted at end “Any agreement under this subsection shall provide for the appropriate State or local agency to maintain a toll-free hotline (1) to collect, maintain, and continually update information on home health agencies located in the State or locality that are certified to participate in the program established under this subchapter (which information shall include any significant deficiencies found with respect to patient care in the most recent certification survey conducted with respect to the agency, when that survey was completed, whether corrective actions have been taken or are planned, and the sanctions, if any, imposed under this subchapter with respect to the agency) and (2) to receive complaints (and answer questions) with respect to home health agencies in the State or locality. Any such agreement shall provide for such agency to maintain a unit for investigating such complaints that possesses enforcement authority and has access to survey and certification reports, information gathered by any private accreditation agency pursuant to an agreement with the Secretary under this section, and consumer medical

records (but only with the consent of the consumer or his or her legal representative).”

Subsec. (d). Pub. L. 100-203, § 4203(a)(1), inserted before period at end “and the establishment of remedies under sections 1395i-3(h)(2)(B) and 1395i-3(h)(2)(C) of this title (relating to establishment and application of remedies)”.

Pub. L. 100-203, § 4202(a)(1), inserted “and section 1395i-3(g) of this title” before period at end.

Pub. L. 100-203, § 4201(a)(2), added subsec. (d).

1986—Subsec. (a). Pub. L. 99-509 substituted “paragraphs (12) and (13)” for “paragraphs (11) and (12)”.

1984—Subsec. (c). Pub. L. 98-369 struck out “the” after “Joint Commission on”.

1982—Subsec. (a). Pub. L. 97-248 inserted “or whether an agency is a hospice program” and substituted “home health agency, or hospice program” for “or home health agency”.

1980—Subsec. (a). Pub. L. 96-611 substituted “requirements of paragraphs (11) and (12) of section 1395x(s) of this title” for “requirements of paragraphs (10) and (11) of section 1395x(s) of this title”.

Pub. L. 96-499, § 933(g), inserted “or a comprehensive outpatient rehabilitation facility as defined in section 1395x(cc)(2) of this title” after “section 1395x(aa)(2) of this title” and “comprehensive outpatient rehabilitation facility,” after “rural health clinic,” in four places.

Pub. L. 96-499, § 934(c)(2), inserted “, or whether an ambulatory surgical center meets the standards specified under section 1395k(a)(2)(F) of this title” after “section 1395x(p)(4) of this title” and “ambulatory surgical center,” after “health care facility,” in three places.

1977—Subsec. (a). Pub. L. 95-210 expanded enumeration of institutions and agencies included under coverage of this subsection by inserting references to rural health clinics in five places.

1972—Subsec. (a). Pub. L. 92-603, §§ 277, 278(a)(16), (b)(15), 299D(a), provided for the furnishing of specialized consultative services to skilled nursing facilities, authorized the Secretary to make public the pertinent findings of each survey within 90 days following the completion of each survey of any health care facility, etc., and substituted “skilled nursing facility” for “extended care facility”.

Subsec. (c). Pub. L. 92-603, § 244(a), added subsec. (c).

1968—Subsec. (a). Pub. L. 90-248, § 133(f), inserted clause at end of first sentence for determining whether a clinic, rehabilitation agency, or public health agency meets the requirements of section 1395x(p)(4)(A) or (B) of this title.

Pub. L. 90-248, § 228(b), struck out last sentence providing for utilization of State facilities to provide consultative services to institutions furnishing medical care, covered in section 1396a(a)(24) of this title.

### Statutory Notes and Related Subsidiaries

#### EFFECTIVE DATE OF 2020 AMENDMENT

Amendment by section 125(d)(2) of Pub. L. 116-260 applicable to items and services furnished on or after Jan. 1, 2023, see section 125(g) of Pub. L. 116-260, set out as a note under section 1395l of this title.

Pub. L. 116-260, div. CC, title IV, § 407(a)(3)(B), Dec. 27, 2020, 134 Stat. 3008, provided that: “The amendments made by subparagraph (A) [amending this section] shall apply with respect to agreements entered into on or after, or in effect as of, the date that is 1 year after the date of the enactment of this Act [Dec. 27, 2020].”

#### EFFECTIVE DATE OF 2008 AMENDMENT; TRANSITION RULE

Amendment by Pub. L. 110-275 applicable with respect to accreditations of hospitals granted on or after the date that is 24 months after July 15, 2008, with transition rule, see section 125(d) of Pub. L. 110-275, set out as a note under section 1395bb of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 4106(c) of Pub. L. 105-33 applicable to bone mass measurements performed on or

after July 1, 1998, see section 4106(d) of Pub. L. 105-33, set out as a note under section 1395x of this title.

Amendment by section 4201(c)(1) of 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 1994 AMENDMENT

Amendment by section 145(c)(3) of Pub. L. 103-432 applicable to mammography furnished by a facility on and after the first date that the certificate requirements of section 263b(b) of this title apply to such mammography conducted by such facility, see section 145(d) of Pub. L. 103-432, set out as a note under section 1395m of this title.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title IV, §4154(d)(2), Nov. 5, 1990, 104 Stat. 1388-85, provided that: "The amendment made by paragraph (1) [amending this section] shall take effect as if included in the enactment of the Clinical Laboratory Improvement Amendments of 1988 [Pub. L. 100-578]."

Amendment by section 4163(c)(2) of Pub. L. 101-508 applicable to screening mammography performed on or after Jan. 1, 1991, see section 4163(e) of Pub. L. 101-508, set out as a note under section 1395l of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENTS

Amendment by section 6115(c) of Pub. L. 101-239 applicable to screening pap smears performed on or after July 1, 1990, see section 6115(d) of Pub. L. 101-239, set out as a note under section 1395x of this title.

Amendment by Pub. L. 101-234 effective Jan. 1, 1990, see section 201(c) of Pub. L. 101-234, set out as a note under section 1320a-7a of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENTS

Amendment by Pub. L. 100-485 effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988, Pub. L. 100-360, see section 608(g)(1) of Pub. L. 100-485, set out as a note under section 704 of this title.

Amendment by section 203(e)(3) of Pub. L. 100-360 applicable to items and services furnished on or after Jan. 1, 1990, see section 203(g) of Pub. L. 100-360, set out as a note under section 1320c-3 of this title.

Amendment by section 204(c)(2), (d)(3) of Pub. L. 100-360 applicable to screening mammography performed on or after Jan. 1, 1990, see section 204(e) of Pub. L. 100-360, set out as a note under section 1395m of this title.

Except as specifically provided in section 411 of Pub. L. 100-360, amendment by section 411(d)(4)(A), (l)(1)(C), (6)(B) of Pub. L. 100-360, as it relates to a provision in the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100-203, effective as if included in the enactment of that provision in Pub. L. 100-203, see section 411(a) of Pub. L. 100-360, set out as a Reference to OBRA; Effective Date note under section 106 of Title 1, General Provisions.

#### EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100-203, title IV, §4025(c), formerly §4025(b), Dec. 22, 1987, 101 Stat. 1330-74, as redesignated and amended by Pub. L. 100-360, title IV, §411(d)(4)(B)(i), July 1, 1988, 102 Stat. 774, provided that: "The amendment made by this section [amending this section and section 1395bb of this title] shall apply with respect to agreements entered into or renewed on or after the date of enactment of this Act [Dec. 22, 1987]."

For effective date of amendment by section 4072(d) of Pub. L. 100-203, see section 4072(e) of Pub. L. 100-203, set out as a note under section 1395x of this title.

Amendments by sections 4201(a)(2), (d)(4) and 4202(a)(1), (c) of Pub. L. 100-203 applicable to services furnished on or after Oct. 1, 1990, without regard to whether regulations to implement such amendments are promulgated by such date, except as otherwise specifically provided in section 1395i-3 of this title, see sec-

tion 4204(a) of Pub. L. 100-203, as amended, set out as an Effective Date note under section 1395i-3 of this title.

Amendment by section 4203(a)(1) of Pub. L. 100-203 applicable Jan. 1, 1988, except as otherwise specifically provided in section 1395i-3 of this title, without regard to whether regulations to implement such amendment are promulgated by such date, and in applying amendment by section 4203(a)(1) of Pub. L. 100-203 for services furnished by a skilled nursing facility before Oct. 1, 1990, any reference to a requirement of section 1395i-3(b), (c), or (d) of this title is deemed a reference to section 1395x(j) of this title, see section 4204(b) of Pub. L. 100-203, as added by Pub. L. 100-485, set out as an Effective Date note under section 1395i-3 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-509 applicable to services furnished on or after Jan. 1, 1989, with exceptions for hospitals located in rural areas which meet certain requirements related to certified registered nurse anesthetists, see section 9320(i), (k) of Pub. L. 99-509, as amended, set out as notes under section 1395k of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 effective July 18, 1984, but not to be construed as changing or affecting any right, liability, status, or interpretation which existed (under the provisions of law involved) before that date, see section 2354(e)(1) of Pub. L. 98-369, set out as a note under section 1320a-1 of this title.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 applicable to hospice care provided on or after Nov. 1, 1983, see section 122(h)(1) of Pub. L. 97-248, as amended, set out as a note under section 1395c of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENTS

Amendment by Pub. L. 96-611 effective July 1, 1981, and applicable to services furnished on or after that date, see section 2 of Pub. L. 96-611, set out as a note under section 1395l of this title.

For effective date of amendment by section 933(g) of Pub. L. 96-499, see section 933(h) of Pub. L. 96-499, set out as a note under section 1395k of this title.

#### EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-210 applicable to services rendered on or after first day of third calendar month which begins after Dec. 31, 1977, see section 1(j) of Pub. L. 95-210, set out as a note under section 1395k of this title.

#### EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-603, title II, §299D(c), Oct. 30, 1972, 86 Stat. 1462, provided that: "The provisions of this section [amending this section and section 1396a of this title] shall be effective beginning January 1, 1973, or within 6 months following the enactment of this Act [Oct. 30, 1972], whichever is later."

#### EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by section 133(f) of Pub. L. 90-248 applicable with respect to services furnished after June 30, 1968, see section 133(g) of Pub. L. 90-248, set out as a note under section 1395k of this title.

Pub. L. 90-248, title II, §228(b), Jan. 2, 1968, 81 Stat. 904, provided that the amendment made by such section 228(b) is effective July 1, 1969.

#### USE OF STATE OR LOCAL AGENCIES IN EVALUATING LABORATORIES

Pub. L. 103-432, title I, §160(a)(2), Oct. 31, 1994, 108 Stat. 4443, provided that: "An agreement made by the Secretary of Health and Human Services with a State under section 1864(a) of the Social Security Act [42

U.S.C. 1395aa(a)] may include an agreement that the services of the State health agency or other appropriate State agency (or the appropriate local agencies) will be utilized by the Secretary for the purpose of determining whether a laboratory meets the requirements of section 353 of the Public Health Service Act [42 U.S.C. 263a].”

NURSE AID TRAINING AND COMPETENCY EVALUATION,  
FAILURE BY STATE TO MEET GUIDELINES

Pub. L. 101-508, title IV, §4008(h)(1)(A), Nov. 5, 1990, 104 Stat. 1388-46, provided that: “The Secretary of Health and Human Services may not refuse to enter into an agreement or cancel an existing agreement with a State under section 1864 of the Social Security Act [42 U.S.C. 1395aa] on the basis that the State failed to meet the requirement of section 1819(e)(1)(A) of such Act [42 U.S.C. 1395i-3(e)(1)(A)] before the effective date of guidelines, issued by the Secretary, establishing requirements under section 1819(f)(2)(A) of such Act, if the State demonstrates to the satisfaction of the Secretary that it has made a good faith effort to meet such requirement before such effective date.”

**§ 1395bb. Effect of accreditation**

**(a) Accreditation by American Osteopathic Association or other national accreditation body**

(1) If the Secretary finds that accreditation of a provider entity (as defined in paragraph (4)) by the American Osteopathic Association or any other national accreditation body demonstrates that all of the applicable conditions or requirements of this subchapter (other than the requirements of section 1395m(j) of this title) are met or exceeded—

(A) in the case of a provider entity not described in paragraph (3)(B), the Secretary shall treat such entity as meeting those conditions or requirements with respect to which the Secretary made such finding; or

(B) in the case of a provider entity described in paragraph (3)(B), the Secretary may treat such entity as meeting those conditions or requirements with respect to which the Secretary made such finding.

(2) In making such a finding, the Secretary shall consider, among other factors with respect to a national accreditation body, its requirements for accreditation, its survey procedures, its ability to provide adequate resources for conducting required surveys and supplying information for use in enforcement activities, its monitoring procedures for provider entities found out of compliance with the conditions or requirements, and its ability to provide the Secretary with necessary data for validation.

(3)(A) Except as provided in subparagraph (B), not later than 60 days after the date of receipt of a written request for a finding under paragraph (1) (with any documentation necessary to make a determination on the request), the Secretary shall publish a notice identifying the national accreditation body making the request, describing the nature of the request, and providing a period of at least 30 days for the public to comment on the request. The Secretary shall approve or deny a request for such a finding, and shall publish notice of such approval or denial, not later than 210 days after the date of receipt of the request (with such documentation). Such an approval shall be effective with respect to accreditation determinations made on or after

such effective date (which may not be later than the date of publication of the approval) as the Secretary specifies in the publication notice.

(B) The 210-day and 60-day deadlines specified in subparagraph (A) shall not apply in the case of any request for a finding with respect to accreditation of a provider entity to which the conditions and requirements of sections 1395i-3 and 1395x(j) of this title apply.

(4) For purposes of this section, the term “provider entity” means a provider of services, supplier, facility (including a renal dialysis facility), clinic, agency, or laboratory.

**(b) Disclosure of accreditation survey**

The Secretary may not disclose any accreditation survey (other than a survey with respect to a home health agency or, beginning on December 27, 2020, a hospice program) made and released to the Secretary by the American Osteopathic Association or any other national accreditation body, of an entity accredited by such body, except that the Secretary may disclose such a survey and information related to such a survey to the extent such survey and information relate to an enforcement action taken by the Secretary.

**(c) Deficiencies**

Notwithstanding any other provision of this subchapter, if the Secretary finds that a provider entity has significant deficiencies (as defined in regulations pertaining to health and safety), the entity shall, after the date of notice of such finding to the entity and for such period as may be prescribed in regulations, be deemed not to meet the conditions or requirements the entity has been treated as meeting pursuant to subsection (a)(1).

**(d) State or local accreditation**

For provisions relating to validation surveys of entities that are treated as meeting applicable conditions or requirements of this subchapter pursuant to subsection (a)(1), see section 1395aa(c) of this title.

**(e) Accreditation for dialysis facilities**

With respect to an accreditation body that has received approval from the Secretary under subsection (a)(3)(A) for accreditation of provider entities that are required to meet the conditions and requirements under section 1395rr(b) of this title, in addition to review and oversight authorities otherwise applicable under this subchapter, the Secretary shall (as the Secretary determines appropriate) conduct, with respect to such accreditation body and provider entities, any or all of the following as frequently as is otherwise required to be conducted under this subchapter with respect to other accreditation bodies or other provider entities:

(1) Validation surveys referred to in subsection (d).

(2) Accreditation program reviews (as defined in section 488.8(c) of title 42 of the Code of Federal Regulations, or a successor regulation).

(3) Performance reviews (as defined in section 488.8(a) of title 42 of the Code of Federal Regulations, or a successor regulation).

(Aug. 14, 1935, ch. 531, title XVIII, §1865, as added Pub. L. 89-97, title I, §102(a), July 30, 1965, 79