

(f)(1) Notwithstanding any other provision of law unless enacted in express limitation of this paragraph, the amount of any home energy assistance payments or allowances provided directly to, or indirectly for the benefit of, an eligible household under this title shall not be considered income or resources of such household (or any member thereof) for any purpose under any Federal or State law, including any law relating to taxation, food stamps, public assistance, or welfare programs.

(2) For purposes of paragraph (1) of this subsection and for purposes of determining any excess shelter expense deduction under section 5(e) of the Food Stamp Act of 1977 (7 U.S.C. 2014(e))—

(A) the full amount of such payments or allowances shall be deemed to be expended by such household for heating or cooling expenses, without regard to whether such payments or allowances are provided directly to, or indirectly for the benefit of, such household; and

(B) no distinction may be made among households on the basis of whether such payments or allowances are provided directly to, or indirectly for the benefit of, any of such households.

(g) The State shall repay to the United States amounts found not to have been expended in accordance with this title or the Secretary may offset such amounts against any other amount to which the State is or may become entitled under this title.

(h) The Comptroller General of the United States shall, from time to time (but not less frequently than every three years), evaluate the expenditures by States of grant under this title in order to assure that expenditures are consistent with the provisions of this title and to determine the effectiveness of the State in accomplishing the purposes of this title.

(i) A household which is described in subsection (b)(2)(A) solely by reason of clause (ii) thereof shall not be treated as a household described in subsection (b)(2) if the eligibility of the household is dependent upon—

(1) an individual whose annual supplemental security income benefit rate is reduced pursuant to section 1611(e)(1) of the Social Security Act by reason of being in an institution receiving payments under title XIX of the Social Security Act with respect to such individual;

(2) an individual to whom the reduction specified in section 1612(a)(2)(A)(i) of the Social Security Act applies; or

(3) a child described in section 1614(f)(2) of the Social Security Act who is living together with a parent, or the spouse of a parent, of the child.

(j) In verifying income eligibility for purposes of subsection (b)(2)(B), the State may apply procedures and policies consistent with procedures and policies used by the State agency administering programs under part A of title IV of the Social Security Act, under title XX of the Social Security Act, under subtitle B of title VI of this Act (relating to community services block grant program), under any other provision of law which carries out programs which were

administered under the Economic Opportunity Act of 1964 before the date of the enactment of this Act, or under other income assistance or service programs (as determined by the State).

NONDISCRIMINATION PROVISIONS

Sec. 2606.

(a) No person shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 also shall apply to any such program or activity.

(b) Whenever the Secretary determines that a State that has received a payment under this title has failed to comply with subsection (a) or an applicable regulation, he shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed 60 days, the chief executive officer fails or refuses to secure compliance, the Secretary is authorized to (1) refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted; (2) exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable; or (3) take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to subsection (b), or whenever he has reason to believe that the State is engaged in a pattern or practice in violation of the provisions of this section, the Attorney General may bring a civil action in any appropriate United States district court for such relief as may be appropriate, including injunctive relief.

(42 U.S.C. 8625)

Attachment L

Residential Energy Assistance Challenge Option (REACH) Program

Applicable Regulations

The following DHHS regulations codified in Title 45 of the Code of Federal Regulations are applicable to the Residential Energy Assistance Challenge Option (REACH) Program:

Part 16—Department Grant Appeals Board.

Part 30—Claims Collection.

Part 75—Informal Grant Appeals Procedure.

Part 76—Debarment and Suspension from Eligibility for Financial Assistance.

Subpart F. Drug-Free Workplace.

Part 80—Nondiscrimination under programs receiving Federal assistance through the Department of Health and Human Services effectuation of Title VI of the Civil Rights Act of 1964.

Part 81—Practice and Procedure for hearings under Part 80 of this title.

Part 84—Nondiscrimination on the basis of handicap in programs and activities receiving Federal financial assistance.

Part 86—Nondiscrimination on the basis of sex in education programs and activities receiving Federal financial assistance.

Part 91—Nondiscrimination on the basis of age in HHS programs or activities receiving Federal financial assistance.

Part 93—New restrictions on lobbying.

Part 96—Block grants.

Attachment M

Residential Energy Assistance Challenge Option (REACH) Program

Statement of Assurances and Demonstration

In accordance with the applicable program statute and the FY 1997 REACH Program Announcement, the undersigned certifies that the REACH Plan/Application submitted herewith meets all of the legislative requirements listed in Part III Section A of the FY 1997 REACH Program Announcement.

Signature of Authorized Certifying Official

Title

Date

[FR Doc. 97-11515 Filed 5-2-97; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Statement of Organization, Functions, and Delegations of Authority

Part D, Chapter DE, Office of External Affairs (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, and 60 FR 56605, November 9, 1995, and in pertinent part at 56 FR 29484, June 27, 1991) is amended to reflect the title change of the Office of AIDS and Special Health Issues. The title is being changed to more accurately reflect the expanding constituency base of the office. The Office of AIDS and Special Health Issues will be retitled as the Office of Special Health Issues. The title change does not affect the functions of the office.

1. Delete the *Office of AIDS and Special Health Issues* (DES) in its entirety and insert the following:

Office of Special Health Issues (DES). Serves as an information resource to

FDA and provides advice to the Commissioner, Deputy Commissioners, and other senior FDA staff on matters related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

Coordinates interactions between FDA and consumer and professional groups dealing with AIDS, cancer, Alzheimer's Disease, and other special health issues.

Serves as a liaison point to coordinate contacts between FDA and other Federal agencies to ensure effective coordination and communication on AIDS, cancer, Alzheimer's Disease, and other special health issues.

Provides internal coordination on FDA activities related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

Assists in the planning, administration, development, and evaluation of FDA policies related to AIDS, cancer, Alzheimer's Disease, and other special health issues.

2. Prior Delegations of Authority.

Pending further delegations, directives, or orders by the Commissioner of Food and Drugs, all delegations of authority to positions of the affected organizations in effect prior to this date shall continue in effect in them or their successors.

Dated: April 25, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[BPD-816-N]

RIN 0938-AH14

Medicare Program; Update of the Reasonable Compensation Equivalent Limits for Services Furnished by Physicians

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth updated payment limits on the amount of allowable compensation for services furnished by physicians to providers that are not covered by the prospective payment system or per resident payments for graduate medical education. These services are paid by Medicare on a reasonable cost basis. The revised reasonable compensation equivalent limits are based on updated economic index data and replace the

limits that were published in the **Federal Register** on February 20, 1985 (50 FR 7123).

EFFECTIVE DATE: These limits are effective for cost reporting periods beginning on or after May 5, 1997.

FOR FURTHER INFORMATION CONTACT: Ward Pleines (410) 966-4528.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, payment for services furnished by a physician is made under either the Hospital Insurance Program (Part A) or the Supplementary Medical Insurance Program (Part B), depending on the type of services furnished. Physicians' charges for medical or surgical services to individual Medicare patients generally are covered under Part B on a fee-for-service basis, under the Medicare physician fee schedule, in accordance with section 1848 of the Social Security Act (the Act). On the other hand, the compensation that physicians receive from or through a provider for services that benefit patients generally (for example, administrative services, committee work, teaching, and supervision) can be covered under Part A or Part B, depending on the provider's setting.

Most hospitals are paid for inpatient hospital services under the prospective payment system. Before July 1, 1985, teaching hospitals were paid for graduate medical education (GME) costs on a reasonable cost basis. Section 9202 of the Consolidated Omnibus Budget Reconciliation Act (Public Law 99-272), enacted on April 7, 1986, added section (h) to section 1886 of the Act. That section changed the payment methodology for the direct costs of GME programs from a reasonable cost methodology to a methodology in which payment is fixed in advance based on the hospital's per resident amount. The change was effective for cost reporting periods beginning on or after July 1, 1985 (42 CFR 413.86).

The reasonable compensation equivalent (RCE) limits set forth in this notice do not apply to costs of physician compensation that are attributable to furnishing inpatient hospital services paid for under the hospital inpatient prospective payment system or that are attributable to GME costs. Further, compensation that a physician receives for activities that may not be paid for under either Part A or Part B are not considered in applying these limits. However, these limits will apply to the costs providers incur in compensating physicians for services to the provider in the following facilities:

- Hospitals and units of hospitals not subject to the prospective payment system, for both inpatient and outpatient services.

- Hospitals subject to the prospective payment system, but only for outpatient hospital services paid on a reasonable cost basis.

- Comprehensive outpatient rehabilitation facilities (CORFs).

- Skilled nursing facilities (SNFs).

As required by section 1887(a)(2)(B) of the Act, allowable compensation for services furnished by physicians to providers that are paid by Medicare on a reasonable cost basis is subject to RCE limits. Under these limits, payment is determined based on the lower of the actual cost of the services to the provider (that is, the compensation of the physician, whatever the form) or a reasonable compensation equivalent. For purposes of applying the RCE limits, physician compensation costs means monetary payments, fringe benefits, deferred compensation and any other items of value (excluding office space or billing and collection services), a provider or other organization furnishes a physician in return for the physician's services (42 CFR 405.481(a)).

If a physician receives any compensation from a provider for his or her physician services to the provider (that is, those services that benefit patients generally), payment to those affected providers for the costs of such compensation is subject to the RCE limits. The RCE limits are not applied to payment for services that are identifiable medical or surgical services to individual patients and paid for under the physician fee schedule, even if the physician agrees to accept compensation (for example, from a hospital) for those services. (However, payment to teaching hospitals that have elected to be paid for these services on a reasonable cost basis in accordance with section 1861(b)(7) of the Act is subject to the limits.) The limits apply equally to all physician services to providers that are payable on a reasonable cost basis under Medicare.

On March 2, 1983, we published in the **Federal Register** (48 FR 8902) the RCE limits (and the methodology used to calculate those limits) that were applicable to cost reporting periods beginning during calendar years 1982 and 1983. As part of that same publication, we issued regulations at § 405.482 that established a general authority to develop, publish and apply limits.

More specifically, § 405.482(f) requires that before the start of a period to which a set of limits will be applied, we will publish a notice in the **Federal**