

with not more than one physician from any particular field;

- Two representatives of patients;
- Two staff persons involved in EMTALA investigations from different CMS regional offices;
- One representative from a State survey agency involved in EMTALA investigations and one representative from a Quality Improvement Organization (QIO), both of whom shall be from areas other than the regions represented by the CMS regional offices.

### III. Response to May 28, 2004 Notice and Second Request for Nominations for Patient Representatives and State Survey Agency Representative

In response to our May 28, 2004 notice, we received nominations of individuals for the categories of hospital representatives, practicing physician representatives, staff persons involved in EMTALA investigations from CMS Regional Offices, and a QIO representative. Therefore, we are not seeking, and will not consider, any further nominations in any of these categories.

However, we did not receive any timely and complete nominations of individuals for two categories—(1) Patient representatives and (2) representative of a State survey agency involved in EMTALA investigations. Therefore, we are requesting nominations for membership on the EMTALA TAG in these categories. With respect to the category of patient representatives, the Secretary will consider qualified individuals who are nominated by organizations representing providers and patients. With respect to the category of State survey agency staff involved in EMTALA investigations, any interested person may nominate one or more qualified individuals (self-nominations will also be accepted). The Secretary will appoint members to serve on the EMTALA TAG from among those candidates determined to have the technical expertise required to meet specific agency needs and in a manner to ensure an appropriate balance of membership.

Each nomination must include the following:

1. A letter of nomination that contains—
  - a. Contact information for both the nominator and nominee (if not the same); and
  - b. The category, for which the nomination is being made (that is, either patient representative or representative of a State survey agency involved in EMTALA investigations).

2. A statement from the nominee that he or she is willing to serve on the EMTALA TAG for its duration (that is, at least 30 months from date of the first meeting) and an explanation of interest in serving on the EMTALA TAG. (For self-nominations, this information may be included in the nomination letter.)

3. A curriculum vitae that indicates the nominee's educational and EMTALA-related experiences.

4. Three letters of reference that support the nominee's qualifications for participation on the EMTALA TAG. (For nominations other than self-nominations, a nomination letter that includes information supporting the nominee's qualifications may be counted as one of the letters of reference.)

5. Additional information is required for representatives from a State survey agency—in your statement regarding serving on the EMTALA TAG indicate the extent of your experience with EMTALA investigations.

To ensure that a nomination is considered, we must receive all of the nomination information specified in section III of this notice by September 27, 2004.

**Authority:** Section 945 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). (Catalog of Federal Domestic Assistance Program No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 24, 2004.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS–2201–N]

RIN 0938–ZA17

### State Children's Health Insurance Program; Final Allotments to States, the District of Columbia, and U.S. Territories and Commonwealths for Fiscal Year 2005

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

**ACTION:** Notice.

**SUMMARY:** Title XXI of the Social Security Act (the Act) authorizes payment of Federal matching funds to

States, the District of Columbia, and U.S. Territories and Commonwealths to initiate and expand health insurance coverage to uninsured, low-income children under the State Children's Health Insurance Program (SCHIP). This notice sets forth the final allotments of Federal funding available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year 2005.

States may implement SCHIP through a separate State program under title XXI of the Act, an expansion of a State Medicaid program under title XIX of the Act, or a combination of both.

**DATES:** This notice is effective on September 27, 2004. Final allotments are available for expenditures after October 1, 2004.

**FOR FURTHER INFORMATION CONTACT:** Richard Strauss, (410) 786–2019.

### SUPPLEMENTARY INFORMATION:

#### I. Purpose of This Notice

This notice sets forth the allotments available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year (FY) 2005 under title XXI of the Social Security Act (the Act). Final allotments for a fiscal year are available to match expenditures under an approved State child health plan for 3 fiscal years, including the year for which the final allotment was provided. The FY 2005 allotments will be available to States for FY 2005, and unexpended amounts may be carried over to 2006 and 2007. Federal funds appropriated for title XXI are limited, and the law specifies a formula to divide the total annual appropriation into individual allotments available for each State, the District of Columbia, and each U.S. Territory and Commonwealth with an approved child health plan.

Section 2104(b) of the Act requires States, the District of Columbia, and U.S. Territories and Commonwealths to have an approved child health plan for the fiscal year in order for the Secretary to provide an allotment for that fiscal year. All States, the District of Columbia, and U.S. Territories and Commonwealths have approved plans for FY 2005. Therefore, the FY 2005 allotments contained in this notice pertain to all States, the District of Columbia, and U.S. Territories and Commonwealths.

#### II. Methodology for Determining Final Allotments for States, the District of Columbia, and U.S. Territories and Commonwealths

This notice specifies, in the Table under section III, the final FY 2005

allotments available to individual States, the District of Columbia, and U.S. Territories and Commonwealths for either child health assistance expenditures under approved State child health plans or for claiming an enhanced Federal medical assistance percentage rate for certain SCHIP-related Medicaid expenditures. As discussed below, the FY 2005 final allotments have been calculated to reflect the methodology for determining an allotment amount for each State, the District of Columbia, and each U.S. Territory and Commonwealth as prescribed by section 2104(b) of the Act.

Section 2104(a) of the Act provides that, for purposes of providing allotments to the 50 States and the District of Columbia, the following amounts are appropriated: \$4,295,000,000 for FY 1998; \$4,275,000,000 for each FY 1999 through FY 2001; \$3,150,000,000 for each FY 2002 through FY 2004; \$4,050,000,000 for each FY 2005 through FY 2006; and \$5,000,000,000 for FY 2007. However, under section 2104(c) of the Act, 0.25 percent of the total amount appropriated each year is available for allotment to the U.S. Territories and Commonwealths of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands. The total amounts are allotted to the U.S. Territories and Commonwealths according to the following percentages: Puerto Rico, 91.6 percent; Guam, 3.5 percent; the Virgin Islands, 2.6 percent; American Samoa, 1.2 percent; and the Northern Mariana Islands, 1.1 percent.

Section 2104(c)(4)(B) of the Act provides for additional amounts for allotment to the Territories and Commonwealths: \$34,200,000 for each FY 2000 through FY 2001; \$25,200,000 for each FY 2002 through FY 2004; \$32,400,000 for each FY 2005 through FY 2006; and \$40,000,000 for FY 2007. Since, for FY 2005, title XXI of the Act provides an additional \$32,400,000 for allotment to the U.S. Territories and Commonwealths, the total amount available for allotment to the U.S. Territories and Commonwealths in FY 2005 is \$42,525,000; that is, \$32,400,000 plus \$10,125,000 (0.25 percent of the FY 2005 appropriation of \$4,050,000,000).

Therefore, the total amount available nationally for allotment for the 50 States and the District of Columbia for FY 2005 was determined in accordance with the following formula:

$$A_T = S_{2104(a)} - T_{2104(c)}$$

$A_T$  = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year.

$S_{2104(a)}$  = Total appropriation for the fiscal year indicated in section 2104(a) of the Act. For FY 2005, this is \$4,050,000,000.

$T_{2104(c)}$  = Total amount available for allotment for the U.S. Territories and Commonwealths; determined under section 2104(c) of the Act as 0.25 percent of the total appropriation for the 50 States and the District of Columbia. For FY 2005, this is:  $.0025 \times \$4,050,000,000 = \$10,125,000$ .

Therefore, for FY 2005, the total amount available for allotment to the 50 States and the District of Columbia is \$4,039,875,000. This was determined as follows:

$$A_T (\$4,039,875,000) = S_{2104(a)} (\$4,050,000,000) - T_{2104(c)} (\$10,125,000)$$

For purposes of the following discussion, the term "State," as defined in section 2104(b)(1)(D)(ii) of the Act, "means one of the 50 States or the District of Columbia."

Under section 2104(b) of the Act, the States' SCHIP allotments for a particular fiscal year are determined based on two factors: The "number of children" and the "State cost factor." The number of children is based on the three most recent March supplements to the Current Population Survey (CPS) of the Bureau of the Census officially available before the beginning of the calendar year in which the fiscal year begins. The State cost factor is based on the annual average wages per employee in the health services industry, which is determined using the most recent 3 years of such wage data as reported and determined as final by the Bureau of Labor Statistics (BLS) of the Department of Labor to be officially available before the beginning of the calendar year in which the fiscal year begins. Since FY 2005 begins on October 1, 2004 (that is, in calendar year 2004), in determining the FY 2005 SCHIP allotments, we are using the most recent official data from the Bureau of the Census and the BLS, respectively, available before January 1 of calendar year 2004 (that is, through the end of December 31, 2003).

#### Number of Children

For FY 2005, as specified by section 2104(b)(2)(A)(iii) of the Act, the number of children is calculated as the sum of 50 percent of the number of low-income, uninsured children in the State, and 50 percent of the number of low-income children in the State. The number of children factor for each State is developed from data provided by the Bureau of the Census based on the standard methodology used to

determine official poverty status and uninsured status in the annual CPS on these topics. As part of a continuing formal process between the Centers for Medicare & Medicaid Services (CMS) and the Bureau of the Census, each fiscal year we obtain the number of children data officially from the Bureau of the Census.

Under section 2104(b)(2)(B) of the Act, the number of children for each State (provided in thousands) was determined and provided by the Bureau of the Census based on the arithmetic average of the number of low-income children and low-income children with no health insurance as calculated from the three most recent March supplements to the CPS officially available from the Bureau of the Census before the beginning of the 2004 calendar year. In particular, through December 31, 2003, the most recent official data available from the Bureau of the Census on the numbers of children were data from the three March CPSs conducted in March 2001, 2002, and 2003 (representing data for years 2000, 2001, and 2002, respectively).

#### State Cost Factor

The State cost factor is based on annual average wages in the health services industry in the State. The State cost factor for a State is equal to the sum of: 0.15 and 0.85 multiplied by the ratio of the annual average wages in the health industry per employee for the State to the annual wages per employee in the health industry for the 50 States and the District of Columbia.

Under section 2104(b)(3)(B) of the Act, the State cost factor for each State for a fiscal year is calculated based on the average of the annual wages for employees in the health industry for each State using data for each of the most recent three years as reported and determined as final by the BLS in the Department of Labor and available before the beginning of the calendar year in which the fiscal year begins. Therefore, the State cost factor for FY 2005 is based on the most recent 3 years of BLS data officially available as final before January 1, 2004 (the beginning of the calendar year in which FY 2005 begins); that is, the State cost factor is based on the BLS data available as final through December 31, 2003. In accordance with these requirements, we used the final State cost factor data available from BLS for 2000, 2001, and 2002 in calculating the FY 2005 final allotments.

The State cost factor is determined based on the calculation of the ratio of each State's average annual wages in the health industry to the national average

annual wages in the health care industry. Since BLS is required to suppress certain State-specific data in providing us with the State-specific average wages per health services industry employee due to the Privacy Act, we calculated the national average wages directly from the State-specific data provided by BLS. As part of a continuing formal process between CMS and the BLS, each fiscal year, CMS obtains these wage data officially from the BLS.

Section 2104(b)(3)(B) of the Act, as amended by the Medicare, Medicaid, and SCHIP Balanced Budget Refinement Act of 1999, refers to wage data as reported by BLS under the "Standard Industrial Classification" (SIC) system. However, in calendar year 2002, BLS phased-out the SIC wage and employment reporting system and replaced it with the "North American Industry Classification System" (NAICS). In accordance with section 2104(b)(3)(B) of the Act, for purposes of calculating the FY 2005 allotments, BLS would need to provide wage data for the 3 most recent years as available through December 31, 2003; in this case, the three years of wage data are 2000, 2001, and 2002. However, because of the change from the SIC system to NAICS, wage data for 2001 and 2002 are not available under the SIC reporting system. Wage data for 2000 under the SIC reporting system is available from BLS. Therefore, the BLS wage data used in calculating the FY 2005 SCHIP allotments necessarily reflect 1 year of SIC system data (2000) and 2 years of NAICS data (2001 and 2002) to obtain the 3-year average required for the allotments.

Under the SIC system, BLS provided CMS with wage data for each State under the SIC Code 80 for year 2000. However, the wage data codes under the SIC system do not map exactly to the wage data codes under the NAICS. As a result, for the years 2001 and 2002, BLS provided us with wage data using three NAICS wage data codes that represent approximately 98 percent of the wage data that would have been provided under the related SIC Code 80. Specifically, in lieu of SIC Code 80 data, for the years 2001 and 2002, BLS provided CMS data that are based on the following three NAICS codes: NAICS Code 621 (Ambulatory health care services), Code 622 (Hospitals), and Code 623 (Nursing and residential care facilities).

Under section 2104(b)(4) of the Act, each State and the District of Columbia is allotted a "proportion" of the total amount available nationally for allotment to the States. The term

"proportion" is defined in section 2104(b)(4)(D)(i) of the Act and refers to a State's share of the total amount available for allotment for any given fiscal year. In order for the entire total amount available to be allotted to the States, the sum of the proportions for all States must exactly equal one. Under the statutory definition, a State's proportion for a fiscal year is equal to the State's allotment for the fiscal year divided by the total amount available nationally for allotment for the fiscal year. In general, a State's allotment for a fiscal year is calculated by multiplying the State's proportion for the fiscal year by the national total amount available for allotment for that fiscal year in accordance with the following formula:

$$SA_i = P_i \times A_T$$

$SA_i$  = Allotment for a State or District of Columbia for a fiscal year.

$P_i$  = Proportion for a State or District of Columbia for a fiscal year.

$A_T$  = Total amount available for allotment to the 50 States and the District of Columbia for the fiscal year. For FY 2005, this is \$4,039,875,000.

In accordance with the statutory formula for determining allotments, the State proportions are determined under two steps, which are described in detail below.

#### *Determination of Preadjusted Proportion*

Under the first step, each State's proportion is calculated by multiplying the State's Number of Children and the State Cost Factor to determine a "product" for each State. The products for all States are then summed. Finally, the product for a State is divided by the sum of the products for all States, thereby yielding the State's preadjusted proportion.

#### *Application of Floors and Ceilings*

Under the second step, the preadjusted proportions are subject to the application of proportion floors, ceilings, and a reconciliation process, as appropriate. The SCHIP statute specifies three proportion floors, or minimum proportions, that apply in determining States' allotments. The first proportion floor is equal to \$2,000,000 divided by the total of the amount available nationally for the fiscal year. This proportion ensures that a State's minimum allotment would be \$2,000,000. For FY 2005, no State's preadjusted proportion is below this floor. The second proportion floor is equal to 90 percent of the allotment proportion for the State for the previous fiscal year; that is, a State's proportion

for a fiscal year must not be lower than 10 percent below the previous fiscal year's proportion. The third proportion floor is equal to 70 percent of the allotment proportion for the State for FY 1999; that is, the proportion for a fiscal year must not be lower than 30 percent below the FY 1999 proportion.

Each State's allotment proportion for a fiscal year is also limited by a maximum ceiling amount, equal to 145 percent of the State's proportion for FY 1999, that is, a State's proportion for a fiscal year must be no higher than 45 percent above the State's proportion for FY 1999. The floors and ceilings are intended to minimize the fluctuation of State allotments from year to year and over the life of the program as compared to FY 1999. The floors and ceilings on proportions are not applicable in determining the allotments of the U.S. Territories and Commonwealths; they receive a fixed percentage specified in the statute of the total allotment available to the U.S. Territories and Commonwealths.

As determined under the first step for determining the States' preadjusted proportions, which is applied before the application of any floors or ceilings, the sum of the proportions for all the States and the District of Columbia will be equal to exactly one. However, the application of the floors and ceilings under the second step may change the proportions for certain States; that is, some States' proportions may need to be raised to the floors, while other States' proportions may need to be lowered to the maximum ceiling. If this occurs, the sum of the proportions for all States and the District of Columbia may not exactly equal one. In that case, the statute requires the proportions to be adjusted, under a method that is determined by whether the sum of the proportions is greater or less than one.

The sum of the proportions would be greater than one if the application of the floors and ceilings resulted in raising the proportions of some States (due to the application of the floors) to a greater degree than the proportions of other States were lowered (due to the application of the ceiling). If, after application of the floors and ceiling, the sum of the proportions is greater than one, the statute requires the Secretary to determine a maximum percentage increase limit, which, when applied to the State proportions, would result in the sum of the proportions being exactly one.

If, after the application of the floors and ceiling, the sum of the proportions is less than one, the statute requires the States' proportions to be increased in a "pro rata" manner so that the sum of the

proportions again equals one. Finally, it is also possible, although unlikely, that the sum of the proportions (after the application of the floors and ceiling) will be exactly one; in that case, the proportions would require no further adjustment.

#### *Determination of Preadjusted Proportions*

The following is an explanation of how we applied the two State-related factors specified in the statute to determine the States' "preadjusted" proportions for FY 2005. The term "preadjusted," as used here, refers to the States' proportions before the application of the floors and ceiling and adjustments, as specified in the SCHIP statute. The determination of each State and the District of Columbia's preadjusted proportion for FY 2005 is in accordance with the following formula:

$$PP_i = (C_i \times SCF_i) / \Sigma(C_i \times SCF_i)$$

$PP_i$  = Preadjusted proportion for a State or District of Columbia for a fiscal year.

$C_i$  = Number of children in a State (section 2104(b)(1)(A)(i) of the Act) for a fiscal year. This number is based on the number of low-income children for a State for a fiscal year and the number of low-income uninsured children for a State for a fiscal year determined on the basis of the arithmetic average of the number of such children as reported and defined in the three most recent March supplements to the CPS of the Bureau of the Census, officially available before the beginning of the calendar year in which the fiscal year begins. (See section 2104(b)(2)(B) of the Act.)

For fiscal year 2005, the number of children is equal to the sum of 50 percent of the number of low-income uninsured children in the State for the fiscal year and 50 percent of the number of low-income children in the State for the fiscal year. (See section 2104(b)(2)(A)(iii) of the Act.)

$SCF_i$  = State Cost Factor for a State (section 2104(b)(1)(A)(ii) of the Act). For a fiscal year, this is equal to:  $0.15 + 0.85 \times (W_i/W_N)$

$W_i$  = The annual average wages per employee for a State for such year (section 2104(b)(3)(A)(ii)(I) of the Act).

$W_N$  = The annual average wages per employee for the 50 States and the District of Columbia (section 2104(b)(3)(A)(ii)(II) of the Act).

The annual average wages per employee for a State or for all States and the District of Columbia for a fiscal year is equal to the average of

such wages for employees in the health services industry, as reported and determined as final by the BLS of the Department of Labor for each of the most recent 3 years officially available before the beginning of the calendar year in which the fiscal year begins. (See section 2104(b)(3)(B) of the Act).

$\Sigma(C_i \times SCF_i)$  = The sum of the products of  $(C_i \times SCF_i)$  for each State (section 2104(b)(1)(B) of the Act).

The resulting proportions would then be subject to the application of the floors and ceilings specified in the SCHIP statute and reconciled, as necessary, to eliminate any deficit or surplus of the allotments because the sum of the proportions was either greater than or less than one.

Section 2104(e) of the Act requires that the amounts allotted to a State for a fiscal year be available to the State for a total of 3 years; the fiscal year for which the amounts are allotted, and the 2 following fiscal years.

### **III. Table of State Children's Health Insurance Program Final Allotments for FY 2005**

#### *Key to Table*

#### *Column/Description*

Column A = *State*. Name of State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *Number of Children*. The number of children for each State (provided in thousands) was determined and provided by the Bureau of the Census based on the arithmetic average of the number of low-income children and low-income uninsured children, and is based on the three most recent March supplements to the CPS of the Bureau of the Census officially available before the beginning of the calendar year in which the fiscal year begins. The FY 2005 allotments were based on the 2001, 2002, and 2003 March supplements to the CPS. These data represent the number of people in each State under 19 years of age whose family income is at or below 200 percent of the poverty threshold appropriate for that family, and who are reported to be without health insurance coverage. The number of children for each State was developed by the Bureau of the Census based on the standard methodology used to determine official poverty status and uninsured status in its annual March CPS on these topics.

For FY 2005, the number of children is equal to the sum of 50 percent of the number of low-income uninsured children in the State and 50 percent of the number of low-income children in the State.

Column C = *State Cost Factor*. The State cost factor for a State is equal to the sum of: 0.15, and 0.85 multiplied by the ratio of the annual average wages in the health industry per employee for the State to the annual wages per employee in the health industry for the 50 States and the District of Columbia. The State cost factor for each State was calculated based on such wage data for each State as reported and determined as final by the BLS in the Department of Labor for each of the most recent 3 years and available before the beginning of the calendar year in which the fiscal year begins. The FY 2005 allotments were based on final BLS wage data for 2000, 2001, and 2002.

Column D = *Product*. The Product for each State was calculated by multiplying the Number of Children in Column B by the State Cost Factor in Column C. The sum of the Products for all 50 States and the District of Columbia is below the Products for each State in Column D. The Product for each State and the sum of the Products for all States provides the basis for allotment to States and the District of Columbia.

Column E = *Proportion of Total*. This is the calculated percentage share for each State of the total allotment available to the 50 States and the District of Columbia. The Percent Share of Total is calculated as the ratio of the Product for each State in Column D to the sum of the Products for all 50 States and the District of Columbia below the Products for each State in Column D.

Column F = *Adjusted Proportion of Total*. This is the calculated percentage share for each State of the total allotment available after the application of the floors and ceilings and after any further reconciliation needed to ensure that the sum of the State proportions is equal to one. The three floors specified in the statute are: (1) The percentage calculated by dividing \$2,000,000 by the total of the amount available for all allotments for the fiscal year; (2) an annual floor of 90 percent of (that is, 10 percent below) the preceding fiscal year's allotment proportion; and (3) a cumulative floor of 70 percent of (that is, 30 percent below) the FY 1999 allotment proportion. There is also a cumulative ceiling of 145 percent of (that is, 45 percent above) the FY 1999 allotment proportion.

Column G = *Allotment*. This is the SCHIP allotment for each State, Commonwealth, or Territory for the fiscal year. For each of the 50 States and the District of Columbia, this is determined as the Adjusted Proportion of Total in Column F for the State multiplied by the total amount available

for allotment for the 50 States and the District of Columbia for the fiscal year.

For each of the U.S. Territory and Commonwealths, the allotment is determined as the Proportion of Total in Column E multiplied by the total amount available for allotment to the U.S. Territories and Commonwealths. For the U.S. Territories and

Commonwealths, the Proportion of Total in Column E is specified in section 2104(c) of the Act. The total amount is then allotted to the U.S. Territories and Commonwealths according to the percentages specified in section 2104 of the Act. There is no adjustment made to the allotments of

the U.S. Territories and Commonwealths as they are not subject to the application of the floors and ceiling. As a result, Column F in the table, the Adjusted Proportion of Total, is empty for the U.S. Territories and Commonwealths.

**BILLING CODE 4120-01-P**

| STATE CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FEDERAL FISCAL YEAR:   |                          |                   |             |                         |                                  | 2005            |
|---|--------------------------|-------------------|-------------|-------------------------|----------------------------------|-----------------|
| A   | B                        | C                 | D           | E                       | F                                | G               |
| STATE   | NUMBER OF CHILDREN (000) | STATE COST FACTOR | PRODUCT     | PROPORTION OF TOTAL (3) | ADJUSTED PROPORTION OF TOTAL (3) | ALLOTMENT (1)   |
| ALABAMA   | 300                      | 0.9846            | 294.8732    | 1.6761%                 | 1.6842%                          | \$68,041,101    |
| ALASKA  | 37                       | 1.0710            | 39.0924     | 0.2222%                 | 0.2233%                          | \$9,020,449     |
| ARIZONA   | 424                      | 1.0883            | 461.4297    | 2.6229%                 | 2.6356%                          | \$106,473,496   |
| ARKANSAS  | 221                      | 0.9564            | 210.8872    | 1.1987%                 | 1.2045%                          | \$48,661,587    |
| CALIFORNIA  | 2,597                    | 1.1138            | 2,892.5351  | 16.4419%                | 16.5214%                         | \$667,443,669   |
| COLORADO  | 246                      | 1.0477            | 257.2136    | 1.4621%                 | 1.4345%                          | \$57,951,287    |
| CONNECTICUT   | 141                      | 1.1237            | 158.4445    | 0.9006%                 | 0.9050%                          | \$36,560,595    |
| DELAWARE  | 33                       | 1.1403            | 37.0593     | 0.2107%                 | 0.2239%                          | \$9,045,920     |
| DISTRICT OF COLUMBIA  | 34                       | 1.2281            | 41.7561     | 0.2374%                 | 0.2385%                          | \$9,635,097     |
| FLORIDA   | 1,044                    | 1.0351            | 1,080.1735  | 6.1400%                 | 6.1697%                          | \$249,246,758   |
| GEORGIA   | 553                      | 1.0269            | 567.3532    | 3.2250%                 | 3.2406%                          | \$130,915,014   |
| HAWAII  | 64                       | 1.1256            | 71.4771     | 0.4063%                 | 0.3071%                          | \$12,404,524    |
| IDAHO   | 100                      | 0.8991            | 89.9147     | 0.5111%                 | 0.5136%                          | \$20,747,545    |
| ILLINOIS  | 690                      | 1.0359            | 714.7913    | 4.0631%                 | 4.0827%                          | \$164,935,925   |
| INDIANA   | 334                      | 0.9541            | 318.1907    | 1.8087%                 | 1.8174%                          | \$73,421,543    |
| IOWA  | 132                      | 0.9280            | 122.4987    | 0.6963%                 | 0.6997%                          | \$28,266,206    |
| KANSAS  | 136                      | 0.9075            | 123.4217    | 0.7016%                 | 0.7050%                          | \$28,479,189    |
| KENTUCKY  | 246                      | 0.9543            | 234.2860    | 1.3317%                 | 1.3382%                          | \$54,060,786    |
| LOUISIANA   | 377                      | 0.8918            | 335.7691    | 1.9086%                 | 1.9178%                          | \$77,477,697    |
| MAINE   | 58                       | 0.9312            | 54.0081     | 0.3070%                 | 0.3085%                          | \$12,462,201    |
| MARYLAND  | 191                      | 1.0970            | 209.5324    | 1.1910%                 | 1.1968%                          | \$48,348,957    |
| MASSACHUSETTS   | 249                      | 1.0772            | 268.2311    | 1.5247%                 | 1.4704%                          | \$59,401,346    |
| MICHIGAN  | 474                      | 1.0191            | 482.5440    | 2.7429%                 | 2.7562%                          | \$111,345,557   |
| MINNESOTA   | 163                      | 1.0298            | 167.3460    | 0.9512%                 | 0.9558%                          | \$38,614,589    |
| MISSISSIPPI   | 231                      | 0.9036            | 208.7374    | 1.1865%                 | 1.1923%                          | \$48,165,511    |
| MISSOURI  | 248                      | 0.9448            | 233.8414    | 1.3292%                 | 1.3356%                          | \$53,958,180    |
| MONTANA   | 61                       | 0.8800            | 53.2371     | 0.3026%                 | 0.3041%                          | \$12,284,292    |
| NEBRASKA  | 82                       | 0.9091            | 74.0905     | 0.4211%                 | 0.4232%                          | \$17,096,147    |
| NEVADA  | 148                      | 1.1866            | 175.0283    | 0.9949%                 | 0.9997%                          | \$40,387,249    |
| NEW HAMPSHIRE   | 39                       | 1.0429            | 40.1528     | 0.2282%                 | 0.2295%                          | \$9,272,609     |
| NEW JERSEY  | 324                      | 1.1351            | 367.2209    | 2.0874%                 | 2.0975%                          | \$84,735,099    |
| NEW MEXICO  | 162                      | 0.9579            | 155.1784    | 0.8821%                 | 1.0435%                          | \$42,156,779    |
| NEW YORK  | 1,085                    | 1.0790            | 1,170.7287  | 6.6547%                 | 6.6869%                          | \$270,142,080   |
| NORTH CAROLINA  | 532                      | 1.0003            | 531.6589    | 3.0221%                 | 2.7292%                          | \$110,255,024   |
| NORTH DAKOTA  | 32                       | 0.8784            | 27.6698     | 0.1573%                 | 0.1580%                          | \$6,384,719     |
| OHIO  | 562                      | 0.9713            | 545.3688    | 3.1000%                 | 3.1150%                          | \$125,842,184   |
| OKLAHOMA  | 266                      | 0.8792            | 233.8660    | 1.3294%                 | 1.4201%                          | \$57,370,830    |
| OREGON  | 201                      | 1.0214            | 204.7931    | 1.1641%                 | 1.1697%                          | \$47,255,380    |
| PENNSYLVANIA  | 570                      | 0.9957            | 567.5645    | 3.2262%                 | 3.2418%                          | \$130,963,777   |
| RHODE ISLAND  | 42                       | 0.9769            | 40.5407     | 0.2304%                 | 0.2316%                          | \$9,354,646     |
| SOUTH CAROLINA  | 235                      | 1.0036            | 235.3492    | 1.3378%                 | 1.3443%                          | \$54,306,115    |
| SOUTH DAKOTA  | 38                       | 0.9115            | 34.1797     | 0.1943%                 | 0.1952%                          | \$7,886,854     |
| TENNESSEE   | 335                      | 1.0223            | 341.9528    | 1.9437%                 | 1.9531%                          | \$78,904,574    |
| TEXAS   | 2,006                    | 0.9724            | 1,950.0674  | 11.0847%                | 11.1383%                         | \$449,972,119   |
| UTAH  | 152                      | 0.9038            | 137.3763    | 0.7809%                 | 0.7847%                          | \$31,699,161    |
| VERMONT   | 24                       | 0.9189            | 21.5943     | 0.1227%                 | 0.1214%                          | \$4,902,630     |
| VIRGINIA  | 328                      | 1.0075            | 330.4696    | 1.8785%                 | 1.8876%                          | \$76,254,851    |
| WASHINGTON  | 325                      | 0.9884            | 320.7442    | 1.8232%                 | 1.6017%                          | \$64,705,479    |
| WEST VIRGINIA   | 117                      | 0.9085            | 105.8420    | 0.6016%                 | 0.6045%                          | \$24,422,724    |
| WISCONSIN   | 225                      | 0.9991            | 224.7935    | 1.2778%                 | 1.2840%                          | \$51,870,414    |
| WYOMING   | 30                       | 0.9350            | 27.5823     | 0.1568%                 | 0.1575%                          | \$6,364,535     |
| TOTAL STATES ONLY   |                          |                   | 17,592.4571 | 100.0000%               | 100.0000%                        | \$4,039,875,000 |
| ALLOTMENTS FOR COMMONWEALTHS AND TERRITORIES (2)  |                          |                   |             |                         |                                  |                 |
| PUERTO RICO   |                          |                   |             | 91.6%                   |                                  | \$38,952,900    |
| GUAM  |                          |                   |             | 3.5%                    |                                  | \$1,488,375     |
| VIRGIN ISLANDS  |                          |                   |             | 2.6%                    |                                  | \$1,105,650     |
| AMERICAN SAMOA  |                          |                   |             | 1.2%                    |                                  | \$510,300       |
| N. MARIANA ISLANDS  |                          |                   |             | 1.1%                    |                                  | \$467,775       |
| TOTAL COMMONWEALTHS AND TERRITORIES ONLY  |                          |                   |             | 100.0%                  |                                  | \$42,525,000    |
| TOTAL STATES AND COMMONWEALTHS AND TERRITORIES  |                          |                   |             |                         |                                  | \$4,082,400,000 |
| FOOTNOTES   |                          |                   |             |                         |                                  |                 |
| The numbers in Columns B - F are rounded for presentation purposes; the actual numbers used in the allotment calculations are not rounded   |                          |                   |             |                         |                                  |                 |
| (1) Total amount available for allotment to the 50 States and the District of Columbia is \$4,039,875,000; determined as the fiscal year appropriation (\$4,050,000,000) reduced by the total amount available for allotment to the Commonwealths and Territories under section 2104(c) of the Act (\$10,125,000) |                          |                   |             |                         |                                  |                 |
| (2) Total amount available for allotment to the Commonwealths and Territories is \$10,125,000 (.25 percent of \$4,050,000,000, the fiscal year appropriation), plus \$32,400,000, as specified in section 2104(c)(4)(B) of the Act  |                          |                   |             |                         |                                  |                 |
| (3) Percent share of total amount available for allotment to the Commonwealths and Territories is as specified in section 2104(c) of the Act  |                          |                   |             |                         |                                  |                 |

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**IV. Impact Statement**

We have examined the impact of this rule as required by Executive Order

12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 16, 1980, Pub. L. 96-354), section 1102(b) of the Social Security Act, the Unfunded

Mandates Reform Act of 1995 (Pub. L. 104-4), and Executive Order 13132.

We have examined the impact of this notice as required by Executive Order 12866. Executive Order 12866 directs

agencies to assess all costs and benefits of available regulatory alternatives and, when rules are necessary, to select regulatory approaches that maximize net benefits (including potential economic environments, public health and safety, other advantages, distributive impacts, and equity). We believe that this notice is consistent with the regulatory philosophy and principles identified in the Executive Order. The formula for the allotments is specified in the statute. Since the formula is specified in the statute, we have no discretion in determining the allotments. This notice merely announces the results of our application of this formula, and therefore does not reach the economic significance threshold of \$100 million in any one year.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. 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 one year. Individuals and States are not included in the definition of a small entity; therefore, this requirement does not apply.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This 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 of a Metropolitan Statistical Area and has fewer than 100 beds.

The Unfunded Mandates Reform Act of 1995 requires that agencies prepare an assessment of anticipated costs and benefits before publishing any notice that may result in an annual expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of \$110 million or more (adjusted each year for inflation) in any one year. Since participation in the SCHIP program on the part of States is voluntary, any payments and expenditures States make or incur on behalf of the program that are not reimbursed by the Federal government are made voluntarily. This notice will not create an unfunded mandate on States, tribal, or local governments because it merely notifies States of their SCHIP allotment for FY 2005. Therefore, we are not required to perform an

assessment of the costs and benefits of this notice.

Low-income children will benefit from payments under SCHIP through increased opportunities for health insurance coverage. We believe this notice will have an overall positive impact by informing States, the District of Columbia, and U.S. Territories and Commonwealths of the extent to which they are permitted to expend funds under their child health plans using their FY 2005 allotments.

Under Executive Order 13132, we are required to adhere to certain criteria regarding Federalism. We have reviewed this notice and determined that it does not significantly affect States' rights, roles, and responsibilities because it does not set forth any new policies.

For these reasons, we are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined, and we 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.

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

(Section 1102 of the Social Security Act (42 U.S.C. 1302).) (Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program)

Dated: May 17, 2004.

**Mark B. McClellan,**

*Administrator, Centers for Medicare & Medicaid Services.*

Dated: June 14, 2004.

**Tommy G. Thompson,**

*Secretary.*

[FR Doc. 04-19573 Filed 8-26-04; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-4067-PN]

**RIN 0938-ZA53**

### Medicare and Medicaid Programs; Application by the Utilization Review Accreditation Commission (URAC) for Deeming Authority for Medicare Advantage

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

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice announces the receipt of an application from the Utilization Review Accreditation Commission for recognition as a national accreditation program for managed care organizations that wish to participate in the Medicare Advantage program. The statute requires that within 60 days of receipt of an organization's complete application, we will announce our receipt of the accreditation organization's application for approval, describe the criteria we will use in evaluating the application, and provide at least a 30-day public comment period.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on September 27, 2004.

**ADDRESSES:** In commenting, please refer to file code CMS-4067-PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of three ways (no duplicates, please):

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to <http://www.cms.hhs.gov/regulations/ecomments>. (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By mail.* You may mail written comments (one original and two copies) to the following address only: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS-4067-PN, P.O. Box 8016, Baltimore, MD 21244-8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786-3159 in advance to schedule your arrival with one of our staff members. Room 445-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244-1850.

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and