

5. *Type of Information Collection Request*: Revision of a currently approved collection; *Title of Information Collection*: Physicians' Referrals to Health Care Entities With Which They Have Financial Relationships and Supporting Regulations in 42 CFR, Sections 411.352 through 411.361; *Form No.*: CMS-10047 (OMB #0938-0846); *Use*: The final rule (HCFA-1809) incorporated into regulations the provisions in paragraphs (a), (b), (c), (d), and (h) of section 1877 of the Social Security Act. Under section 1877, if a physician or a member of a physician's immediate family has a financial relationship with a health care entity, the physician may not refer Medicare patients to that entity for the furnishing of 11 designated health services, unless an exception applies. In addition, section 1877 prohibits an entity from presenting or causing to be presented a Medicare claim or bill to any individual, third party payer, or other entity for designated health services furnished under a prohibited referral. Also, Medicare does not pay for a designated health service furnished under a prohibited referral.; *Frequency*: Annually and Other: whenever financial arrangements between entities that furnish designated health services and physicians change.; *Affected Public*: Business or other for-profit, Not-for-profit institutions, and Individuals or Households; *Number or Respondents*: 62,824; *Total Annual Responses*: 62,824; *Total Annual Hours*: 1,561,633.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web site address at <http://www.cms.hhs.gov/regulations/pra/>, or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to [Paperwork@hcfa.gov](mailto:Paperwork@hcfa.gov), or call the Reports Clearance Office on (410) 786-1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Christopher Martin, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: July 14, 2004.

**John P. Burke, III,**

*Paperwork Reduction Act Team Leader, CMS Reports Clearance Officer, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development and Issuances.* [FR Doc. 04-16661 Filed 7-22-04; 8:45 am]

**BILLING CODE 4120-03-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-2187-N]

#### State Children's Health Insurance Program (SCHIP); Extended Availability of Unexpended SCHIP Funds From the Appropriation for Fiscal Years 1998 Through 2001; and Provision of Authority for Qualifying States To Use a Portion of SCHIP Funds for Medicaid Expenditures

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

**ACTION**: Notice.

**SUMMARY**: This notice describes the extension of availability to the end of Federal fiscal year (FY) 2004 of the amounts of States' unexpended FY 1998 and FY 1999 allotment funds. Additionally, this notice sets forth the amounts of States' unexpended FY 2000 allotments that remained at the end of FY 2002 that will be available under a statutory formula for each of the 50 States, the District of Columbia, and the Commonwealths and Territories through the end of a subsequent period of availability ending September 30, 2004. This notice also sets forth the amounts of States' unexpended FY 2001 allotments that remained at the end of FY 2003 that will be available under a statutory formula for each of the 50 States, the District of Columbia, and the Commonwealths and Territories through the end of a subsequent period of availability ending September 30, 2005.

Finally, this notice permits "Qualifying States" to elect to receive a portion of their available SCHIP allotments as increased Federal matching funding for certain expenditures in their Medicaid programs.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Background

*A. Extension of Availability and Redistribution of State Children's Health Insurance Program (SCHIP) Fiscal Year 1998 Through 2001 Allotments*

Title XXI of the Social Security Act (the Act) sets forth the State Children's Health Insurance Program (SCHIP) to enable States, the District of Columbia, and specified Commonwealths and Territories to initiate and expand health insurance coverage to uninsured, low-

income children. In this notice, unless otherwise indicated, the terms "State" and "States" refer to any or all of the 50 States, the District of Columbia, and the Commonwealths and Territories. States may implement SCHIP through a separate child health program under title XXI of the Act, an expanded program under title XIX of the Act, or a combination of both. Under section 2104 of the Act, the SCHIP allotments for a Federal fiscal year (FY) are available to match expenditures under an approved State child health plan for an initial 3-fiscal year "period of availability," including the fiscal year for which the allotment was provided. After the initial period of availability, the amount of unspent allotments is subject to a subsequent period of availability. With the exception described below for the allotments made in FYs 1998 through 2001, allotments unspent in the initial 3-year period of availability would be redistributed from States that did not fully spend these allotments to States that fully spent their allotments for that fiscal year.

The Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) enacted as part of Pub. L. 106-554 on December 21, 2000, amended title XXI of the Act, in part by establishing new requirements for a subsequent extended period of availability with respect to the amounts of States' FY 1998 and FY 1999 allotments that were unspent during the initial 3-year period of availability. Under the BIPA amendments, the subsequent period of availability for States' unspent FY 1998 and 1999 allotments was extended to the end of FY 2002.

Section 1 of Pub. L. 108-74, enacted on August 15, 2003, amended title XXI of the Act to establish new requirements for the subsequent period of availability associated with the unexpended amounts of States' FYs 1998, 1999, 2000, and 2001 allotments that were unspent during the initial 3-year period of availability relating to those fiscal years. Specifically, section 2104(g) of the Act extends the subsequent period of availability associated with the allotments and redistribution of allotments for FYs 1998 through 2000 through the end of fiscal year 2004, and through the end of fiscal year 2005 for the redistributed and extended FY 2001 allotments.

The requirements of section 2104(g) of the Act prescribe a methodology and process which includes the retention of certain amounts of unspent FY 2000 and FY 2001 allotments that would remain available to the States that did not fully expend their FY 2000 or FY 2001

allotments (retained allotments), and the redistribution of unspent FY 2000 or FY 2001 allotments that would not be retained but which would be redistributed to those other States that fully spent their FY 2000 or FY 2001 allotments (redistributed allotments).

*B. Authority for Qualifying States To Use Available SCHIP Allotments for Medicaid Expenditures*

Under section 2105(a)(1)(A) through (D) of the Act and before enactment of Pub. L. 108–74, only Federal payments for the following Medicaid and SCHIP expenditures were applied against States' available SCHIP allotments: (1) Medical assistance provided under title XIX (Medicaid) at the SCHIP enhanced Federal medical assistance percentage (FMAP) matching rate with respect to the States' Medicaid SCHIP expansion population; (2) medical assistance provided on behalf of a child during presumptive eligibility under section 1920A of the Act (these funds are matched at the regular Medicaid FMAP rate); (3) child health assistance to targeted low income children that meets minimum benefit requirements under SCHIP; and (4) certain expenditures in the SCHIP that are subject to the 10-Percent Limit on non-primary expenditures (including other child health assistance for targeted low-income children, health services initiatives, outreach, and administrative costs).

However, section 1(b) of Pub. L. 108–74, as amended by Pub. L. 108–127 also adds a new section 2105(g) to the Act under which “Qualifying States” that meet prescribed criteria may elect to use up to 20 percent of their available FYs 1998 through 2001 SCHIP allotments as additional Federal financial participation (FFP) in certain expenditures under their Medicaid programs.

## II. Provisions of This Notice

### *A. Extension of Availability and Redistribution of SCHIP Fiscal Year 1998 Through 2001 Allotments*

#### 1. Extension of Availability of FY 1998 Through 2001 SCHIP Allotments

Section 2104 of the Act provides an allotment for each fiscal year for Federal matching payments for an initial 3-year period for the States. Section 2104(g) of the Act, as added by BIPA, provided for a methodology to redistribute or continue availability of all unexpended amounts for FYs 1998 and 1999 at the end of the initial 3-year period. Furthermore, under BIPA, the unexpended FY 1998 and 1999 reallotments were available to States

until the end of FY 2002. However, section 2104(g) of the Act, as amended by BIPA, provided for a methodology for the redistribution and retention of unexpended allotment amounts only for the FYs 1998 and 1999. Section 2104(g), as amended by BIPA, did not prescribe a methodology for the redistribution or retention of the amounts of the FY 2000 or FY 2001 allotments that were unexpended at the end of the initial 3-year period of availability. Furthermore, there was no provision for States that did not fully expend their FY 2000 or FY 2001 allotment to retain any portion of their unexpended FY 2000 or FY 2001 allotment amounts.

Section 2104(g), as amended by Pub. L. 108–74, extended the subsequent period of availability for reallotted FY 1998 and FY 1999 allotments through the end of fiscal year 2004. Furthermore, section 2104(g) of the Act was amended to specify a methodology for the redistribution and retention of the amounts of unexpended FY 2000 and FY 2001 allotments. Section 2104 of the Act requires the Secretary to calculate allotments for each State with an approved State child health plan based on available appropriated funds for each fiscal year. All States had approved plans in order to have access to their final FY 2000 and FY 2001 SCHIP allotments, which were published on May 24, 2000 and January 22, 2001, respectively, in the **Federal Register** (65 FR 33638) and in the **Federal Register** (66 FR 6630). The final rule setting forth the methodologies and procedures to determine the allotment of Federal funds for each fiscal year and the grant award and payment process was also published on May 24, 2000 in the **Federal Register** (65 FR 33616).

Sections 2104(e) and (f) of the Act require the Secretary to develop an appropriate procedure for the redistribution of States' unexpended SCHIP fiscal year allotments only for those States that have fully expended such allotments during the initial 3-year period of availability. With respect to these provisions, in March 2003, in order to provide States access to funding pending adoption of a final redistribution procedure, we redistributed a portion of the unexpended FY 2000 funds on an interim basis (subject to redistribution in accordance with the final redistribution procedure that would be adopted). The interim redistribution was limited to one-half of the unexpended FY 2000 allotments and was made only to those States (including the Commonwealths and Territories) that fully expended such allotments by the end of FY 2002.

Pub. L. 108–74 amended section 2104(g) of the Act, in accordance with a specified formula, to provide for the retention of certain amounts of States' unexpended FY 2000 allotments and the redistribution of the remaining amounts of such unexpended FY 2000 allotments to States that fully expended their allotments in the initial 3-year period of availability. This notice sets forth the results of the statutory formula to the unexpended allotments for FY 2000 and FY 2001 and describes the methodology for the redistribution and retention of unexpended SCHIP allotments.

Section 2104(e) of the Act requires that the amount of a State's allotment for a fiscal year be available to the State for matching allowable State expenditures for a 3-year initial period of availability; the fiscal year for which the funds are allotted, and the two following fiscal years. For FY 2000, the 3-year initial period of availability was October 1, 1999 through September 30, 2002, and For FY 2001, the 3-year initial period of availability was October 1, 2000 through September 30, 2003. Section 2104(f) of the Act requires redistribution of the entire amount of unspent allotments after the initial period of availability has expired.

Neither BIPA nor the recently enacted Pub. L. 108–74 repealed or deleted sections 2104(e) and (f) of the Act. Referencing sections 2104(e) and (f) of the Act, BIPA added section 2104(g) of the Act which established a formula for redistributing and continuing the availability of unexpended allotments for FYs 1998 and 1999. Pub. L. 108–74 further amended section 2104(g) of the Act to provide for the redistribution and retention of unexpended FY 2000 and FY 2001 allotments under a prescribed methodology that differs from the methodology provided under the BIPA amendments for the FY 1998 and FY 1999 unexpended allotments. The FY 2000 and FY 2001 allotment redistribution/retention formula provided for under section 2104(g) of the Act, as amended by Pub. L. 108–74, replaces the redistribution that otherwise would have been required under section 2104(f) of the Act. This FY 2000 and FY 2001 redistribution and retained allotment is described in the next section of this notice.

Section 2104(g) of the Act, as amended by Pub. L. 108–74, requires the Secretary to redistribute and continue availability of States' unexpended FYs 1998, 1999, and 2000 allotments until the end of FY 2004. Before enactment of Pub. L. 108–74, section 2104(g) of the Act provided that the redistributed and retained allotment amounts for FYs 1998 and 1999 was

available only until the end of FY 2002. Similarly, under section 2104(e) of the Act, the redistributed FY 2000 allotments would only be available until the end of FY 2003. Finally, under section 2104(g) of the Act, as amended by Pub. L. 108-74, the redistributed and retained allotment amounts for FY 2001 will continue to be available to States until the end of FY 2005.

## 2. Ordering of Expenditures

The availability of retained allotment funds is determined in accordance with requirements related to the ordering of expenditures. Specifically, a State's expenditures are applied against the State's available fiscal year SCHIP allotment amounts in the following order:

- (1) Title XIX SCHIP-related expenditures for which payment is made at the enhanced Federal medical assistance percentage (FMAP) (section 2105(a)(1)(A) of the Act);
- (2) Title XIX expenditures for medical assistance provided during a presumptive eligibility period under section 1920A of the Act (section 2105(a)(1)(B) of the Act);
- (3) Child health assistance for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 2103 (section 2105(a)(1)(C) of the Act);
- (4) Other child health assistance for targeted low-income children and health services initiatives under the plan for improving the health of children (including targeted low-income children and other low-income children) (sections 2105(a)(1)(D)(i) and (ii) of the Act);
- (5) Outreach expenditures (section 2105(a)(1)(D)(iii) of the Act); and
- (6) Administration expenditures (section 2105(a)(1)(D)(iv) of the Act).

In general, States' expenditures will be applied against the FY 2000 and FY 2001 redistribution amounts in accordance with existing SCHIP regulations on allotments (42 CFR part 457). This notice permits States the option to decide the order of application of expenditures against the redistribution amounts and other available fiscal year allotment amounts.

**Ordering Election for FY 2000 Redistributed Amounts.** A redistribution State, that is, a State that has fully expended its allotment, may have a maximum of four possible choices for the order of the application of FY 2000 redistribution funds in FY 2003, depending on what other fiscal year allotments are available to the State in FY 2003: (1) Before FY 2001 allotments; (2) after FY 2001 and before FY 2002 allotments; (3) after FY 2002 and before

FY 2003 allotments; and (4) after FY 2003 allotments. Furthermore, if a FY 1998 and/or FY 1999 redistribution State also has FY 1998 and/or FY 1999 redistribution funds available in FY 2003, it can choose whether the FY 2000 redistribution funds will be used before or after the FY 1998 and/or FY 1999 redistribution funds.

In addition, with the enactment of Pub. L. 108-74, the FY 1998 and FY 1999 redistributed amounts are extended to the end of FY 2004; therefore, the States have the option to choose their ordering election for the FY 1998 and FY 1999 redistribution allotment amounts.

We believe that States should be afforded the flexibility to decide whether redistributed funds would be used before or after other available allotment funds to allow them to optimize the use of the funds. Therefore, during the interim and final redistribution, we offered States that will receive FY 2000 *redistributed amounts* the option of choosing the order of when the funds would be expended during FY 2003 among the other available allotments during FY 2003.

Both the redistributed amounts and the retained amounts for FY 2000 will be available for allowable SCHIP expenditures reported for the period of October 1, 2002 through September 30, 2004.

**Ordering Election for FY 2001 Redistributed Amounts.** A redistribution State, that is, a State that has fully expended its allotment, may have a maximum of four possible choices for the order of the application of FY 2001 redistribution funds in FY 2004, depending on what other fiscal year allotments are available to the State in FY 2004: (1) Before FY 2002 allotments; (2) after FY 2002 and before FY 2003 allotments; (3) after FY 2003 and before FY 2004 allotments; and (4) after FY 2004 allotments. Furthermore, if a FY 1998, FY 1999, and/or FY 2000 redistribution State also has FY 1998, FY 1999, and/or FY 2000 redistribution funds available in FY 2004, it can choose whether the FY 2001 redistribution funds will be used before or after the FY 1998, FY 1999, and/or FY 2000 redistribution funds, based on their ordering election for those funds.

Both the redistributed amounts and the retained amounts for FY 2001 will be available for allowable SCHIP expenditures reported for the period of October 1, 2003 through September 30, 2005.

All of the redistribution States have responded to us with their decision regarding this option for their ordering

elections for the FY 2001 redistributed allotments. Under the final redistribution methodology, *once a State chooses the order of the FY 1998, FY 1999, FY 2000, and FY 2001 redistribution amounts, it cannot change that order at a later date.* We have made provisions to include the States' FY 2000 and FY 2001 redistributed amounts on Form CMS-21C (Allocation of Title XIX and Title XXI Expenditures to the SCHIP Fiscal Year Allotment). Form CMS-21C is used for tracking States' expenditures against their allotments, to include the States' FY 2000 and FY 2001 redistributed amounts. The redistributed allotment amounts will be automatically entered on this form, and the Medicaid and SCHIP expenditure system will automatically apply expenditures reported on the quarterly expenditure reports for the period of October 1, 2002 through September 30, 2004 to the FY 2000 redistributed amounts available through September 30, 2004. Similarly, the system will automatically apply expenditures reported on the quarterly expenditure reports for the period of October 1, 2003 through September 30, 2005 to the FY 2001 redistributed amounts available through September 30, 2005.

## 3. Determination of Redistribution Amounts or Continued Availability of Unexpended FY 2000 and FY 2001 Allotments

In Table 1 and Table 2 of this notice, we set forth the amount of States' unexpended FY 2000/2001 allotments as of November 30, 2002, or November 30, 2003, respectively, as specified in section 2104(g) of the Act. We also set forth the retained amounts that, under statutory formula, are subject to continued availability by States that did not fully expend their FY 2000/2001 allotments, and the amounts that are redistributed for availability to States that fully expended their FY 2000/2001 allotments. The formula for determining the redistributed and retained amounts of the FY 2000/2001 SCHIP allotments are described below.

**Establishing the Amount of Unexpended FY 2000/2001 Allotments.** Under section 2104(g)(3) of the Act, the amount of States' unexpended FY 2000 allotments at the end of the initial 3-year period of availability is established based on the SCHIP-related expenditures, as reported and certified by States to us on the quarterly expenditure reports (Form CMS-64 or CMS-21) through November 30, 2002 (for the FY 2000 allotments), or through November 30, 2003 (for the FY 2001 allotments), as approved by the

Secretary. These expenditures are applied and tracked against the States' FY 2000 allotments (as published on May 24, 2000 in the **Federal Register** (65 FR 33638)), and the States' FY 2001 allotments (as published on January 22, 2001 in the **Federal Register** (66 FR 6630)), and other available allotments, on Form CMS-21C, Allocation of the Title XIX and Title XXI Expenditures to SCHIP Fiscal Year Allotment.

By November 30, 2002, all States reported and certified their FY 2002 fourth quarter expenditure reports (representing the last quarter of the 3-year period of availability for FY 2000). Similarly, by November 30, 2003, all States reported and certified their FY 2003 fourth quarter expenditure reports (representing the last quarter of the 3-year period of availability for FY 2001). Expenditures reflected in Table 1 and Table 2 below were taken from our MBES/CBES "masterfile," which represents the State's official certified SCHIP and Medicaid expenditure reporting system records related to FY 2000 and FY 2001 allotments, respectively.

Based on States' expenditure reports submitted and certified through November 30, 2002, the total amounts of States' FY 2000 SCHIP allotments that were unexpended at the end of the 3-year period ending September 30, 2002, is \$2,206,440,396. Based on States' expenditure reports submitted and certified through November 30, 2003, the total amounts of States' FY 2001 SCHIP allotments that were unexpended at the end of the 3-year period ending September 30, 2003, is \$1,749,021,146.

*Application of the Maintenance of Effort Provision.* The \$2,206,440,396 in unexpended FY 2000 allotments includes the amounts of reduction to the States' FY 2000 allotments based on the application of the "maintenance of effort" (MOE) provisions specified in the SCHIP statute at section 2105(d)(2) of the Act. Under section 2105(d)(2) of the Act, the amount of a State allotment in a fiscal year, beginning with fiscal year 1999, is reduced if the State does not meet specified spending levels on children's health insurance. The application of this provision resulted in the reduction of one State's FY 2000 allotment by \$7,893,711. Because this amount was originally allotted to the State but was not expended by the State, it is subject to redistribution. This amount is not subject to continued availability because it is not available to the State to which it was originally allotted. There were no MOE reductions necessary with respect to the FY 2001 allotments.

*Continued Availability of Unexpended FY 2000/2001 Allotments.* Section 2104(g)(2)(A)(iii) of the Act specifies the formula for determining the amounts of the FY 2000 allotments that were unexpended at the end of FY 2002 and that will remain available for each retained allotment State. Specifically, the FY 2000 retained allotment amount is calculated for each affected State by multiplying the State's unexpended FY 2000 allotment amount remaining at the end of the 3-year period of availability (that is, at the end of FY 2002) by 50 percent; the result is the FY 2000 retained allotment amount for that State.

Similarly, section 2104(g)(2)(A)(iv) of the Act specifies the same formula for determining the amounts of the FY 2001 allotments that were unexpended at the end of FY 2003 and that will remain available for each retained allotment State. Specifically, the FY 2001 retained allotment amount is calculated for each affected State by multiplying the State's unexpended FY 2001 allotment amount remaining at the end of the 3-year period of availability (that is, at the end of FY 2003) by 50 percent; the result is the FY 2001 retained allotment amount for that State.

*Redistribution for the Commonwealths and Territories.* Section 2104(g)(1)(A)(ii) of the Act specifies the FY 2000 and FY 2001 redistribution for the Commonwealths and Territories that have fully expended their FY 2000 and/or FY 2001 allotments. First, under this provision, the total Commonwealths and Territories redistribution amount is calculated by multiplying the total amount of the unexpended FY 2000 or FY 2001 allotments available for redistribution and continued availability by 1.05 percent. For the FY 2000 redistribution calculation, this amount is \$23,167,624 (1.05 percent of \$2,206,440,396). For the FY 2001 redistribution calculation, this amount is \$18,364,722 (1.05 percent of \$1,749,021,146). Second, only those Commonwealths and Territories that have fully expended their FY 2000 and/or FY 2001 allotments will receive an allocation of this amount, equal to a specified percentage of the 1.05 percent amount. This percentage is determined by dividing the respective SCHIP fiscal year allotment (FY 2000 or FY 2001) for each Commonwealth or Territory that has fully expended its FY 2000 and/or FY 2001 allotment by the total of all the FY 2000 (and/or FY 2001) allotments for those Commonwealths and Territories that fully expended their FY 2000 and/or FY 2001 allotments.

*Redistribution for the States and the District of Columbia.* As amended by Pub. L. 108-74, section 2104(g)(1)(A)(i)(III) of the Act specifies the formula for calculating the FY 2000 redistribution amounts for each of those States and the District of Columbia that have fully expended their FY 2000 allotments. Similarly, section 2104(g)(1)(A)(i)(IV) of the Act specifies the formula for calculating the FY 2001 redistribution amounts for each of those States and the District of Columbia that have fully expended their FY 2001 allotments. First, the total amount available for redistribution is determined by subtracting the total of the redistribution amounts for the Commonwealths and Territories and the total amount needed for retention by the States, Commonwealths, and Territories from the total available for redistribution. Second, the allocation of this total amount available for redistribution is determined by multiplying this amount by a percentage specific to each State. The percentage is determined for each redistribution State by dividing the difference between the State's total reported applicable expenditures for the respective 3-year period of availability, and the State's fiscal year allotment related to that period of availability, by the total of these differences for all States.

#### 4. Table of SCHIP FY 2000 Redistribution or Extended Availability of Unexpended FY 2000 Allotments

The formula used to determine the amount of the unexpended FY 2000 SCHIP allotments for redistribution or continued availability is described in detail below. The following is a description of Table 1, which presents each State's FY 2000 SCHIP allotment redistribution or retained amount.

A total of \$4,249,200,000 was allotted nationally for FY 2000, representing \$4,204,312,500 in allotments to the 50 States and the District of Columbia, and \$44,887,500 in allotments to the Commonwealths and Territories. Based on the quarterly expenditure reports, submitted and certified by November 30, 2002, 14 States fully expended their FY 2000 allotments, 37 States and the District of Columbia did not fully expend their FY 2000 allotments, and all 5 of the Commonwealths and Territories fully expended their FY 2000 allotments. For the States and the District of Columbia that did not fully expend their FY 2000 allotments, their total FY 2000 allotments were \$3,362,230,713, and the total expenditures applied against their FY 2000 allotments were \$1,163,684,028. Therefore, the total amount of

unexpended FY 2000 allotments at the end of FY 2002 equaled \$2,198,546,685 (\$3,362,230,713 minus \$1,163,684,028). In addition, \$7,893,711, related to the MOE provision described above, also remained unexpended at the end of FY 2002. Therefore, the total amount of the FY 2000 allotments unexpended at the end of FY 2002 equaled \$2,206,440,396 (\$2,198,546,685 plus \$7,893,711).

In accordance with the redistribution calculation for FY 2000 described above, \$1,099,273,343 (50 percent of \$2,198,546,685) is retained by the 37 States that did not fully expend their FY 2000 allotments, \$23,167,624 is redistributed to the five Commonwealths and Territories, and \$1,083,999,429 is redistributed to the 14 redistribution States. Both the \$1,107,167,054 redistributed allotment amounts and the \$1,099,273,343 retained allotment amounts will remain available through the end of FY 2004.

**Key to Table 1—Calculation of The SCHIP FY 2000 Redistribution of the Unexpended FY 2000 Allotments**

*Column/Description*

Column A = *STATE*. Name of State, District of Columbia, the Commonwealth or Territory.

Column B = *FY 2000 ALLOTMENT*. This column contains the FY 2000 SCHIP allotments for all States, which were published on May 24, 2000 in the **Federal Register** (65 FR 33638).

Column C = *EXPENDITURES APPLIED AGAINST FY 2000 ALLOTMENT*. This column contains the cumulative expenditures applied against the FY 2000 allotments, as reported and certified by all States through November 30, 2002.

Column D = *UNEXPENDED FY 2000 ALLOTMENTS OR "REDISTRIBUTION."* This column contains the amounts of unexpended FY 2000 SCHIP allotments for States that did not fully expend the allotments during the 3-year period of availability for FY 2000 (FYs 2000 through

2002), and is equal to the difference between the amounts in Column B and Column C. For States that did fully expend their FY 2000 allotments during the period of availability, the entry in this column is "REDISTRIBUTION." The amounts in each of the State lines in this column do not include the MOE provision amount of \$7,893,711; the MOE amount is added to the total of the amounts of the States' unexpended FY 2000 allotments in this column at the bottom of Column D. The total amount of \$2,206,440,396 (\$2,198,546,685, the total unexpended FY 2000 allotments, plus \$7,893,711, the MOE provision amounts) represents the total amount available for redistribution and continued availability for FY 2000.

Column E = *FOR REDISTRIBUTION STATES ONLY FY 2000 through 2002 EXPENDITURES*. For those States that have fully expended their FY 2000 allotments, this column contains the total amounts of the States' reported SCHIP related expenditures for each of the years FY 2000 through FY 2002, representing the FY 2000 3-year period of availability. For those States, Commonwealths, and Territories that did not fully expend their FY 2000 allotments during the period of availability, the entry in Column E is "NA."

Column F = *REDISTRIBUTION STATES ONLY FYs 2000 Through 2002 EXPENDITURES MINUS FY 2000 ALLOTMENT*. This column contains the amounts of States' reported SCHIP-related expenditures for each of the years FY 2000 through FY 2002 (Column E), minus the FY 2000 allotment (Column B).

Column G = *FOR REDISTRIBUTION STATES PERCENT OF TOTAL REDISTRIBUTION*. This column contains each State's redistribution percentage of the total amount available for redistribution, calculated as the entry in Column F divided by the total (for States only) in Column F.

Column H = *FY 2000 REDISTRIBUTED ALLOTMENT AMOUNTS*. This column contains the amounts of States' unexpended FY 2000 SCHIP allotments that are being redistributed to those States

that have fully expended their FY 2000 allotments. For the States that have fully expended their FY 2000 SCHIP allotments, the amount in Column H is equal to the percentage in Column G multiplied by the total amount available for redistribution (\$1,083,999,429). For the 14 States that have fully expended their FY 2000 allotments, the FY 2000 redistribution amounts total \$1,083,999,429. For the Commonwealths and Territories that have fully expended their FY 2000 allotments, the amounts in Column H represents their respective proportionate shares (based on their FY 2000 allotments) of \$23,167,624 (representing 1.05 percent of the total amount for redistribution and continued availability of \$2,206,440,396). For those States, Commonwealths, and Territories that did not fully expend their FY 2000 allotments during the period of availability, the entry in Column H is "NA."

Column I = *FY 2000 RETAINED ALLOTMENT AMOUNTS*. For the States that did not fully expend their FY 2000 allotments, this column contains the amounts of the States' FY 2000 unexpended allotments in Column D multiplied by 50 percent, the result is the amount of these States' unexpended FY 2000 allotments that the States will retain. As indicated at the bottom of Column I, the total FY 2000 retained allotment amounts are \$1,099,273,343.

Column J = *UNEXPENDED FY 2000 ALLOTMENT AMOUNTS USED IN REDISTRIBUTION*. For the States that did not fully expend their FY 2000 allotments, this column reflects the amounts of such States' FY 2000 unexpended allotments (not including the MOE reduction amount) that were used in the redistribution in Column H; these amounts are no longer available to these States. The amount in Column J is equal to the difference between Column D, the unexpended FY 2000 Allotments, and Column I, the FY 2000 Retained Allotment Amounts. For States that did fully expend their FY 2000 allotments, the entry in Column J is "NA."

TABLE 1.—CALCULATION OF THE SCHIP FY 2000 REDISTRIBUTION AND CONTINUED AVAILABILITY OF THE UNEXPENDED FY 2000 ALLOTMENTS

State	FY 2000 Allotment	Expenditures applied against FY 2000 allotment	Unexpended FY 2000 allotments or "redistribution"	For redistribution states only FY 2000–2002 expenditures	Redist States only FY 2000–2002 expenditures minus FY 2000 allotment (col E–B)	For redist states percent of total redistribution (col F/sum of col F)	FY 2000 redistributed allotment amounts (col G x amount available for redistribution)	FY 2000 retained allotment amounts (col D x retained %)	Unexpended FY 2000 allotment amounts used in redistribution (col D–I)
A	B	C	D	E	F	G	H	I	J
Alabama .....	\$77,012,259	\$28,818,937	\$48,193,322	NA	NA	NA	NA	\$24,096,661	\$24,096,661
Alaska .....	\$7,730,025	\$7,730,025	REDISTRIBUTION	\$62,676,041	\$54,946,016	2.5527%	\$27,454,002	NA	NA
Arizona .....	\$130,213,077	\$75,293,441	\$54,919,636	NA	NA	NA	NA	\$27,459,818	\$27,459,818
Arkansas .....	\$53,754,360	\$0	\$53,754,360	NA	NA	NA	NA	\$26,877,180	\$26,877,180
California .....	\$765,547,705	\$23,061,375	\$742,486,330	NA	NA	NA	NA	\$371,243,165	\$371,243,165
Colorado .....	\$46,890,416	\$17,691,235	\$29,199,181	NA	NA	NA	NA	\$14,599,591	\$14,599,591
Connecticut .....	\$39,225,273	\$4,426,705	\$34,798,568	NA	NA	NA	NA	\$17,399,284	\$17,399,284
Delaware .....	\$9,036,260	\$0	\$9,036,260	NA	NA	NA	NA	\$4,518,130	\$4,518,130
District of Columbia .....	\$10,817,074	\$1,068,733	\$9,748,341	NA	NA	NA	NA	\$4,874,171	\$4,874,171
Florida .....	\$242,044,718	\$215,487,253	\$26,557,465	NA	NA	NA	NA	\$13,278,732	\$13,278,732
Georgia .....	\$132,381,325	\$67,636,544	\$64,744,781	NA	NA	NA	NA	\$32,372,391	\$32,372,391
Hawaii .....	\$10,036,935	\$0	\$10,036,935	NA	NA	NA	NA	\$5,018,468	\$5,018,468
Idaho .....	\$17,817,572	\$12,328,159	\$5,489,413	NA	NA	NA	NA	\$2,744,707	\$2,744,707
Illinois .....	\$137,481,231	\$0	\$137,481,231	NA	NA	NA	NA	\$68,740,615	\$68,740,615
Indiana .....	\$63,161,480	\$50,187,036	\$12,974,444	NA	NA	NA	NA	\$6,487,222	\$6,487,222
Iowa .....	\$32,382,884	\$23,937,736	\$8,445,148	NA	NA	NA	NA	\$4,222,574	\$4,222,574
Kansas .....	\$30,320,974	\$30,320,974	REDISTRIBUTION	\$73,313,596	\$42,992,622	1.9817%	\$21,481,440	NA	NA
Kentucky .....	\$56,025,995	\$56,025,995	REDISTRIBUTION	\$200,069,782	\$144,063,787	6.6404%	\$71,982,061	NA	NA
Louisiana .....	\$91,130,730	\$19,652,547	\$71,478,183	NA	NA	NA	NA	\$35,739,091	\$35,739,091
Maine .....	\$13,978,005	\$13,978,005	REDISTRIBUTION	\$43,339,164	\$29,361,159	1.3534%	\$14,670,423	NA	NA
Maryland .....	\$56,869,698	\$56,869,698	REDISTRIBUTION	\$304,236,730	\$247,367,032	11.4020%	\$123,597,951	NA	NA
Massachusetts .....	\$48,063,710	\$48,063,710	REDISTRIBUTION	\$154,330,787	\$106,267,077	4.8982%	\$53,096,780	NA	NA
Michigan .....	\$102,762,059	\$6,288,727	\$96,473,332	NA	NA	NA	NA	\$48,236,666	\$48,236,666
Minnesota .....	\$31,861,256	\$31,861,256	REDISTRIBUTION	\$65,415,500	\$33,554,244	1.5466%	\$16,765,516	NA	NA
Mississippi .....	\$58,036,226	\$58,036,226	REDISTRIBUTION	\$139,819,869	\$81,783,643	3.7697%	\$40,863,532	NA	NA
Missouri .....	\$57,979,004	\$1,278,214	\$56,700,790	NA	NA	NA	NA	\$28,350,395	\$28,350,395
Montana .....	\$13,173,122	\$11,149,994	\$2,023,128	NA	NA	NA	NA	\$1,011,564	\$1,011,564
Nebraska .....	\$16,576,269	\$8,218,671	\$8,357,598	NA	NA	NA	NA	\$4,178,799	\$4,178,799
Nevada .....	\$30,526,393	\$9,119,551	\$21,406,842	NA	NA	NA	NA	\$10,703,421	\$10,703,421
New Hampshire .....	\$10,263,860	\$0	\$10,263,860	NA	NA	NA	NA	\$5,131,930	\$5,131,930
New Jersey .....	\$96,858,666	\$96,858,666	REDISTRIBUTION	\$428,241,575	\$331,382,909	15.2746%	\$165,576,828	NA	NA
New Mexico .....	\$56,407,772	\$0	\$56,407,772	NA	NA	NA	NA	\$28,203,886	\$28,203,886
New York .....	\$286,821,535	\$286,821,535	REDISTRIBUTION	\$1,116,326,169	\$829,504,634	38.2348%	\$414,465,389	NA	NA
North Carolina .....	\$89,211,202	\$77,768,983	\$11,442,219	NA	NA	NA	NA	\$5,721,110	\$5,721,110
North Dakota .....	\$5,655,883	\$1,900,044	\$3,755,839	NA	NA	NA	NA	\$1,877,920	\$1,877,920
Ohio .....	\$129,857,897	\$117,814,672	\$12,043,225	NA	NA	NA	NA	\$6,021,613	\$6,021,613
Oklahoma .....	\$76,764,895	\$0	\$76,764,895	NA	NA	NA	NA	\$38,382,447	\$38,382,447
Oregon .....	\$43,895,837	\$1,026,305	\$42,869,532	NA	NA	NA	NA	\$21,434,766	\$21,434,766
Pennsylvania* .....	\$121,062,524	\$90,688,050	\$30,374,474	NA	NA	NA	NA	\$15,187,237	\$15,187,237
Rhode Island .....	\$9,570,566	\$9,570,566	REDISTRIBUTION	\$63,200,408	\$53,629,842	2.4720%	\$26,796,370	NA	NA
South Carolina .....	\$71,314,037	\$71,314,037	REDISTRIBUTION	\$136,657,369	\$65,343,332	3.0119%	\$32,649,064	NA	NA
South Dakota .....	\$7,951,348	\$0	\$7,951,348	NA	NA	NA	NA	\$858,784	\$858,784
Tennessee .....	\$74,226,011	\$0	\$74,226,011	NA	NA	NA	NA	\$37,113,006	\$37,113,006
Texas .....	\$502,812,459	\$255,483,677	\$247,328,782	NA	NA	NA	NA	\$123,664,391	\$123,664,391
Utah .....	\$27,199,406	\$24,258,592	\$2,940,814	NA	NA	NA	NA	\$1,470,407	\$1,470,407
Vermont .....	\$3,966,889	\$1,630,776	\$2,336,113	NA	NA	NA	NA	\$1,168,057	\$1,168,057
Virginia .....	\$73,580,365	\$11,234,290	\$62,346,075	NA	NA	NA	NA	\$31,173,037	\$31,173,037
Washington .....	\$52,355,470	\$0	\$52,355,470	NA	NA	NA	NA	\$26,177,735	\$26,177,735
West Virginia .....	\$21,145,730	\$21,145,730	REDISTRIBUTION	\$58,760,823	\$37,635,093	1.7347%	\$18,804,528	NA	NA
Wisconsin .....	\$45,591,653	\$45,591,653	REDISTRIBUTION	\$157,259,996	\$111,668,343	5.1472%	\$55,795,545	NA	NA
Wyoming .....	\$7,068,749	\$0	\$7,068,749	NA	NA	NA	NA	\$3,534,375	\$3,534,375
Total States Only .....	\$4,196,418,789	\$1,997,872,104	\$2,198,546,685	\$3,003,687,809	\$2,169,499,733	100.0000%	\$1,083,999,429	\$1,099,273,343	\$1,099,273,343

TABLE 1.—CALCULATION OF THE SCHIP FY 2000 REDISTRIBUTION AND CONTINUED AVAILABILITY OF THE UNEXPENDED FY 2000 ALLOTMENTS

State	FY 2000 Allotment	Expenditures applied against FY 2000 allotment	Unexpended FY 2000 allotments, or "redistribution"	For redistribution states only FY 2000–2002 expenditures	Redist States only FY 2000–2002 expenditures minus FY 2000 allotment (col E–B)	For redist states percent of total redistribution (col F/sum of col F)	FY 2000 redistributed allotment amounts (col G x amount available for redistribution)	FY 2000 retained allotment amounts (col D x retained %)	Unexpended FY 2000 allotment amounts used in redistribution (col D–I)
Commonwealths and Territories:									
Puerto Rico .....	\$41,116,950	\$41,116,950	REDISTRIBUTION	NA	NA	NA	\$21,221,544	NA	NA
Guam .....	\$1,571,063	\$1,571,063	REDISTRIBUTION	NA	NA	NA	\$810,867	NA	NA
Virgin Islands .....	\$1,167,075	\$1,167,075	REDISTRIBUTION	NA	NA	NA	\$602,358	NA	NA
American Samoa .....	\$538,650	\$538,650	REDISTRIBUTION	NA	NA	NA	\$278,011	NA	NA
N. Mariana Islands .....	\$493,762	\$493,762	REDISTRIBUTION	NA	NA	NA	\$254,844	NA	NA
Total .....	\$44,887,500	\$44,887,500	\$0	NA	NA	.....	\$23,167,624	\$0	\$0
(Totals to "1.05%" Amount)									
National Total .....	\$4,241,306,289	\$2,042,759,604	\$2,198,546,685				\$1,107,167,053	\$1,099,273,343	\$1,099,273,343
*FY 2000 MOE Amount .....	\$7,893,711		\$7,893,711				Total FY 2000 Redistributed Amounts	Total FY 2000 Retained Amounts	
Total With MOE Amount .....	\$4,249,200,000	\$2,042,759,604	\$2,206,440,396						
Total Unexpended FY 2000 Allotments (not including MOE):							\$2,198,546,685		
FY 2000 MOE Amount:							\$7,893,711		
Total Unexpended FY 2000 Allotments (including MOE): <sup>1</sup>							\$2,206,440,396		
Total Needed for Retained Allotments: <sup>2</sup>							\$1,099,273,343		
Total Needed for Redistribution for Territories: <sup>3</sup>							\$23,167,624		
Total:							\$1,122,440,967		
Total Available for Redistribution to States: <sup>4</sup>							\$1,083,999,429		
Retained allotment percentage: 50%									

**Footnotes:**

<sup>1</sup> The total unexpended FY 2000 allotments are \$2,206,440,396, calculated as \$2,198,546,685 (the total unexpended FY 2000 allotments, not including the maintenance of effort (MOE) amount) plus \$7,893,711 (the MOE amount).

<sup>2</sup> \$1,099,273,343 is the total needed for retained allotments, calculated as \$2,198,546,685 (the total unexpended FY 2000 allotments, not including \$7,893,711 (the MOE amount)), multiplied by 50 percent.

<sup>3</sup> \$23,167,624 is the total amount needed for redistribution to the commonwealths and territories, calculated as \$2,206,440,396 (the total unexpended FY 2000 allotments, including the MOE amount) multiplied by 1.05 percent.

<sup>4</sup> \$1,083,999,429 is the total redistribution to the states, calculated as \$2,206,440,396 (total unexpended FY 2000 allotments including the MOE amount) reduced by \$1,099,273,343 (the total FY 2000 retained allotments) and \$23,167,624 (total redistribution for the commonwealths and territories).

# 5. Table of SCHIP FY 2001 Redistribution or Extended Availability of Unexpended FY 2001 Allotments

The formula used to determine the amount of the unexpended FY 2001 SCHIP allotments for redistribution or continued availability is described in detail below. The following is a description of Table 2, which presents each State's FY 2001 SCHIP allotment redistribution or retained amount.

A total of \$4,249,200,000 was allotted nationally for FY 2001, representing \$4,204,312,500 in allotments to the 50 States and the District of Columbia, and \$44,887,500 in allotments to the Commonwealths and Territories. Based on the quarterly expenditure reports, submitted and certified by November 30, 2003, 19 States fully expended their FY 2001 allotments, 32 States and the District of Columbia did not fully expend their FY 2001 allotments, and all 5 of the Commonwealths and Territories fully expended their FY 2001 allotments. For the States and the District of Columbia, that did not fully expend their FY 2001 allotments, their total FY 2001 allotments were \$2,784,606,938, and the total expenditures applied against their FY 2001 allotments were \$1,035,585,792. Therefore, the total amount of unexpended FY 2001 allotments at the end of FY 2003 equaled \$1,749,021,146 (\$2,784,606,938 minus \$1,035,585,792).

In accordance with the redistribution calculation for FY 2001 described above, \$874,510,573 (50 percent of \$1,749,021,146) is retained by the 32 States that did not fully expend their FY 2001 allotments, \$18,364,722 is redistributed to the five Commonwealths and Territories, and \$856,145,851 is redistributed to the 19 redistribution States. Both the \$856,145,851 redistributed allotment amounts and the \$874,510,573 retained allotment amounts will remain available through the end of FY 2005.

## **Key to Table 2—CALCULATION OF THE SCHIP FY 2001 REDISTRIBUTION OF THE UNEXPENDED FY 2001 ALLOTMENTS**

### *Column/Description*

Column A = *STATE*. Name of State, District of Columbia, the Commonwealth or Territory.

Column B = *FY 2001 ALLOTMENT*. This column contains the FY 2001 SCHIP allotments for all States, which were published on January 22, 2001 in the **Federal Register** (66 FR 6630).

Column C = *EXPENDITURES APPLIED AGAINST FY 2001 ALLOTMENT*. This column contains the cumulative expenditures applied against the FY 2001 allotments, as reported and certified by all States through November 30, 2003.

Column D = *UNEXPENDED FY 2001 ALLOTMENTS OR "REDISTRIBUTION."* This column contains the amounts of unexpended FY 2001 SCHIP allotments for States that did not fully expend the allotments during the 3-year period of availability for FY 2001 (FYs 2001 through 2003), and is equal to the difference between the amounts in Column B and Column C. For States that did fully expend their FY 2001 allotments during the period of availability, the entry in this column is "REDISTRIBUTION." The total amount of \$1,749,021,146 represents the total amount available for redistribution and continued availability for FY 2001.

Column E = *FOR REDISTRIBUTION STATES ONLY FY 2001 Through 2003 EXPENDITURES*. For those States that have fully expended their FY 2001 allotments, this column contains the total amounts of the States' reported SCHIP related expenditures for each of the years FY 2001 through FY 2003, representing the FY 2001 3-year period of availability. For those States, Commonwealths, and Territories that did not fully expend their FY 2001 allotments during the period of availability, the entry in Column E is "NA."

Column F = *REDISTRIBUTION STATES ONLY FYs 2001 Through 2003 EXPENDITURES MINUS FY 2001 ALLOTMENT*. This column contains the amounts of States' reported SCHIP-related expenditures for each of the years FY 2001 through FY 2003 (Column E), minus the FY 2001 allotment (Column B).

Column G = *FOR REDISTRIBUTION STATES PERCENT OF TOTAL REDISTRIBUTION*. This column contains each State's redistribution percentage of the total

amount available for redistribution, calculated as the entry in Column F divided by the total (for States only) in Column F.

Column H = *FY 2001 REDISTRIBUTED ALLOTMENT AMOUNTS*. This column contains the amounts of States' unexpended FY 2001 SCHIP allotments that are being redistributed to those States that have fully expended their FY 2001 allotments. For the States that have fully expended their FY 2001 SCHIP allotments, the amount in Column H is equal to the percentage in Column G multiplied by the total amount available for redistribution (\$856,145,851). Therefore, for the 19 States that have fully expended their FY 2001 allotments, the FY 2001 redistribution amounts total \$856,145,851. For the Commonwealths and Territories that have fully expended their FY 2001 allotments, the amounts in Column H represents their respective proportionate shares (based on their FY 2001 allotments) of \$18,364,722 (representing 1.05 percent of the total amount for redistribution and continued availability of \$1,749,021,146). For those States, Commonwealths, and Territories that did not fully expend their FY 2001 allotments during the period of availability, the entry in Column H is "NA."

Column I = *FY 2001 RETAINED ALLOTMENT AMOUNTS*. For the States that did not fully expend their FY 2001 allotments, this column contains the amounts of the States' FY 2001 unexpended allotments in Column D multiplied by 50 percent, the result is the amount of these States' unexpended FY 2001 allotments that the States will retain. As indicated at the bottom of Column I, the total FY 2001 retained allotment amounts are \$874,510,573.

Column J = *UNEXPENDED FY 2001 ALLOTMENT AMOUNTS USED IN REDISTRIBUTION*. For the States that did not fully expend their FY 2001 allotments, this column reflects the amounts of such States' FY 2001 unexpended allotments (not including the MOE reduction amount) that were used in the redistribution in Column H; these amounts are no longer available to these States. The amount in Column J is equal to the difference between Column D, the unexpended FY 2001 Allotments, and Column I, the FY 2001 Retained Allotment Amounts. For States that did fully expend their FY 2001 allotments, the entry in Column J is "NA."



TABLE 2.—CALCULATION OF THE SCHIP FY 2001 REDISTRIBUTION AND CONTINUED AVAILABILITY OF THE UNEXPENDED FY 2001 ALLOTMENTS

State	FY 2001 Allotment	Expenditures applied against FY 2001 allotment	Unexpended FY 2001 allotments, or "redistribution"	For redistribution states only FY 2001–FY 2003 expenditures	Redist States only FY 2001–2003 expenditures minus FY 2001 allotment (col E–B)	For redist states percent of total redistribution (col F/sum of col F)	FY 2001 redistributed allotment amounts (col G x amount available for redistribution)	FY 2001 retained allotment amounts (col D x retained %)	Unexpended FY 2001 allotment amounts used in redistribution (col D–I)
A	B	C	D	E	F	G	H	I	J
Alabama .....	\$69,311,033	\$47,221,655	\$22,089,378	NA	NA	NA	NA	\$11,044,689	\$11,044,689
Alaska .....	\$8,987,100	\$8,987,100	REDISTRIBUTION	\$68,549,034	\$59,561,934	1.5308%	\$13,106,151	NA	NA
Arizona .....	\$124,519,004	\$124,519,004	REDISTRIBUTION	\$361,415,726	\$236,896,722	6.0886%	\$52,127,325	NA	NA
Arkansas .....	\$53,957,231	\$0	\$53,957,231	NA	NA	NA	NA	\$26,978,616	\$26,978,616
California .....	\$704,930,926	\$193,778,325	\$511,152,601	NA	NA	NA	NA	\$255,576,301	\$255,576,301
Colorado .....	\$44,648,559	\$25,998,147	\$18,650,412	NA	NA	NA	NA	\$9,325,205	\$9,325,205
Connecticut .....	\$39,398,021	\$0	\$39,398,021	NA	NA	NA	NA	\$19,699,011	\$19,699,011
Delaware .....	\$10,505,758	\$0	\$10,505,758	NA	NA	NA	NA	\$5,252,879	\$5,252,879
District of Columbia .....	\$11,751,544	\$1,142,796	\$10,608,748	NA	NA	15.4901%	\$132,618,160	\$5,304,374	\$5,304,374
Florida .....	\$220,217,905	\$220,217,905	REDISTRIBUTION	\$822,911,546	\$602,693,641	5.8496%	\$50,080,828	NA	NA
Georgia .....	\$135,053,332	\$135,053,332	REDISTRIBUTION	\$362,649,585	\$227,596,253	NA	NA	\$5,834,583	\$5,834,583
Hawaii .....	\$11,669,166	\$0	\$11,669,166	NA	NA	NA	NA	\$5,651,819	\$5,651,819
Idaho .....	\$20,715,109	\$9,411,471	\$11,303,638	NA	NA	NA	NA	\$79,919,379	\$79,919,379
Illinois .....	\$159,838,759	\$0	\$159,838,759	NA	NA	NA	NA	\$30,011,896	\$30,011,896
Indiana .....	\$60,023,791	\$0	\$60,023,791	NA	NA	NA	NA	\$2,138,741	\$2,138,741
Iowa .....	\$32,940,215	\$28,662,733	\$4,277,482	\$97,424,891	\$68,087,172	1.7499%	\$14,982,065	NA	NA
Kansas .....	\$29,337,719	\$29,337,719	REDISTRIBUTION	\$209,288,363	\$153,348,391	3.9413%	\$33,743,149	NA	NA
Kentucky .....	\$55,939,972	\$55,939,972	REDISTRIBUTION	\$39,391,852	NA	NA	NA	\$19,695,925	\$19,695,925
Louisiana .....	\$82,017,657	\$42,625,805	\$39,391,852	\$53,010,358	\$39,565,667	1.0169%	\$8,706,125	NA	NA
Maine .....	\$13,444,691	\$51,422,315	REDISTRIBUTION	\$349,768,834	\$298,346,519	7.6680%	\$65,648,887	NA	NA
Maryland .....	\$51,422,315	\$55,879,946	REDISTRIBUTION	\$181,800,684	\$125,920,738	3.2364%	\$27,707,902	NA	NA
Massachusetts .....	\$55,879,946	\$12,588,968	\$106,884,504	NA	NA	NA	NA	\$53,442,252	\$53,442,252
Michigan .....	\$119,473,472	\$37,042,610	REDISTRIBUTION	\$129,651,820	\$92,609,210	2.3802%	\$20,377,955	NA	NA
Minnesota .....	\$55,967,988	\$55,967,988	REDISTRIBUTION	\$207,438,300	\$151,450,312	3.8925%	\$33,325,491	NA	NA
Mississippi .....	\$65,460,374	\$11,031,111	\$22,240,898	NA	NA	NA	NA	\$11,120,449	\$11,120,449
Missouri .....	\$15,169,315	\$19,084,374	\$4,138,204	\$46,196,710	\$27,112,336	0.6968%	\$5,965,864	\$2,069,102	\$2,069,102
Montana .....	\$19,084,374	\$11,595,386	REDISTRIBUTION	\$19,748,814	NA	NA	NA	\$9,874,407	\$9,874,407
Nebraska .....	\$31,344,200	\$11,595,386	\$19,748,814	NA	NA	NA	NA	\$5,966,497	\$5,966,497
Nevada .....	\$11,932,994	\$98,823,044	REDISTRIBUTION	\$643,980,744	\$545,157,700	14.0114%	\$119,957,813	NA	NA
New Hampshire .....	\$98,823,044	\$0	REDISTRIBUTION	\$1,067,477,303	\$745,451,484	NA	\$164,030,940	NA	NA
New Jersey .....	\$50,766,995	\$322,025,819	REDISTRIBUTION	\$287,610,824	\$183,891,882	4.7263%	\$40,464,013	NA	NA
New Mexico .....	\$322,025,819	\$103,718,942	REDISTRIBUTION	NA	NA	NA	NA	\$1,676,441	\$1,676,441
New York .....	\$103,718,942	\$3,222,774	REDISTRIBUTION	NA	NA	NA	NA	\$4,858,666	\$4,858,666
North Carolina .....	\$6,575,656	\$132,497,208	\$9,717,332	NA	NA	NA	NA	\$34,544,202	\$34,544,202
North Dakota .....	\$142,214,540	\$0	\$69,088,406	NA	NA	NA	NA	\$25,067,050	\$25,067,050
Ohio .....	\$69,088,406	\$0	\$50,134,100	NA	NA	NA	NA	\$16,925,692	\$16,925,692
Oklahoma .....	\$50,134,100	\$0	\$33,851,383	NA	NA	NA	NA	NA	NA
Oregon .....	\$138,968,854	\$105,117,471	REDISTRIBUTION	\$91,503,795	\$82,202,992	2.1127%	\$18,088,144	NA	NA
Pennsylvania* .....	\$9,300,803	\$44,893,470	REDISTRIBUTION	\$23,025,033	\$14,847,994	0.3816%	\$3,267,188	\$9,848,882	\$9,848,882
Rhode Island .....	\$64,591,234	\$8,177,039	REDISTRIBUTION	NA	NA	NA	NA	NA	NA
South Carolina .....	\$8,177,039	\$86,296,823	\$86,296,823	NA	NA	NA	NA	\$43,148,411	\$43,148,411
South Dakota .....	\$86,296,823	\$281,964,250	\$170,566,963	NA	NA	NA	NA	\$85,283,482	\$85,283,482
Texas .....	\$452,531,213	\$18,619,845	\$11,564,556	NA	NA	NA	NA	\$5,782,278	\$5,782,278
Utah .....	\$30,184,401	\$18,619,845	\$2,696,153	NA	NA	NA	NA	\$1,348,077	\$1,348,077
Vermont .....	\$4,611,995	\$1,915,842	\$55,412,231	NA	NA	NA	NA	\$27,706,116	\$27,706,116
Virginia .....	\$75,481,290	\$20,079,059	\$60,869,643	NA	NA	NA	NA	\$30,434,822	\$30,434,822
Washington .....	\$60,869,643	\$0	\$60,869,643	NA	NA	1.4111%	\$12,081,320	NA	NA
West Virginia .....	\$21,144,989	\$21,144,989	REDISTRIBUTION	\$76,049,494	\$54,904,505	4.6565%	\$39,866,531	NA	NA
Wisconsin .....	\$49,597,970	\$49,597,970	REDISTRIBUTION	\$230,774,551	\$181,176,581	NA	NA	\$3,596,832	\$3,596,832
Wyoming .....	\$7,193,664	\$0	\$7,193,664	NA	NA	NA	NA	NA	NA
Total States Only .....	\$4,204,312,500	\$2,455,291,354	\$1,749,021,146	\$5,310,527,595	\$3,890,822,033	100.0000%	\$856,145,851	\$874,510,573	\$874,510,573
Commonwealths and Territories:									
Puerto Rico .....	\$41,116,950	\$41,116,950	REDISTRIBUTION	NA	NA	NA	\$16,822,085	NA	NA
Guam .....	\$1,571,062	\$1,571,062	REDISTRIBUTION	NA	NA	NA	\$642,765	NA	NA
Virgin Islands .....	\$1,167,075	\$1,167,075	REDISTRIBUTION	NA	NA	NA	\$477,483	NA	NA
American Samoa .....	\$538,650	\$538,650	REDISTRIBUTION	NA	NA	NA	\$220,377	NA	NA
N. Mariana Islands .....	\$493,763	\$493,763	REDISTRIBUTION	NA	NA	NA	\$202,012	NA	NA
Total .....	\$44,887,500	\$44,887,500	\$0	NA	NA		\$18,364,722	\$0	\$0
							(Totals to "1.05%" Amount)		



*B. Authority for Qualifying States To Elect To Receive Part of Available FY 1998 Through 2001 SCHIP Allotments for Certain Medicaid Expenditures*

Pub. L. 108–74, as amended by Pub. L. 108–127 added a new section 2105(g) of the Act, under which a “Qualifying State” may elect to use not more than 20 percent of any of the State’s available SCHIP allotments for FY 1998, 1999, 2000, or 2001 for payments under the State’s Medicaid program, instead of expenditures under the State’s SCHIP. Section 2105(g)(2) of the Act, as amended by Pub. L. 108–74 and Pub. L. 108–127, defines a “Qualifying State” as:

“a State that, on and after April 15, 1997, has an income eligibility standard that is at least 184 percent of the poverty line with respect to any 1 or more categories of children (other than infants) who are eligible for medical assistance under section 1902(a)(10)(A) or, in the case of a State that has a statewide waiver in effect under section 1115 with respect to title XIX that was first implemented on August 1, 1994, or July 1, 1995, has an income eligibility standard under such waiver for children that is at least 185 percent of the poverty line, or, in the case of a State that has a statewide waiver in effect under section 1115 with respect to title XIX that was first implemented on January 1, 1994, has an income eligibility standard under such waiver for children who lack health insurance that is at least 185 percent of the poverty line, or, in the case of a State that had a statewide waiver in effect under section 1115 with respect to title XIX that was first implemented on October 1, 1993, had an income eligibility standard under such waiver for children that was at least 185 percent of the poverty line and on and after July 1, 1998, has an income eligibility standard for children under section 1902(a)(10)(A) or a statewide waiver in effect under section 1115 with respect to title XIX that is at least 185 percent of the poverty line.”

We have determined the States that meet the definition of “Qualifying State” in accordance with these statutory criteria.

**1. Calculation of the 20 Percent Allowance Amount**

Section 2105(g)(1)(A) of the Act provides that a Qualifying State may elect to use not more than 20 percent of any allotment under section 2104 for fiscal year 1998, 1999, 2000, or 2001 (*insofar as it is available* under sections 2104(e) and (g) of the Act). In this regard, sections 2104(e) and (g) of the Act refer to the periods of availability for allotments and redistributed/retained allotments, respectively. Furthermore, section 2105(g)(1)(B)(ii) of the Act refers to the 20 percent expenditures as “expenditures made *after the date of the enactment of this*

*subsection* and during the period in which funds are available to the qualifying State \* \* \*.” (Emphasis supplied).

In this notice, we refer to the term “20 percent of any allotment,” as referenced in the statute, as the “20 percent allowance.” In accordance with section 2105(g) of the Act, a 20 percent allowance for each Qualified State must be determined with respect to each of only four fiscal year allotments, FY 1998, 1999, 2000, and 2001. Furthermore, Federal matching funds at the enhanced FMAP rate can only be available for the applicable Medicaid expenditures under the 20 percent allowances for the four fiscal years, only if the related specified fiscal year allotment amounts are “available,” and only if there are any applicable Medicaid expenditures after the date of enactment of Pub. L. 108–74.

The only applicable FY 1998 through 2001 allotment funds that are available to States in FY 2003 (the year in which Pub. L. 108–74 was enacted), for purposes of providing enhanced funding for the applicable 20 percent allowance expenditures, are the *unexpended* fiscal year allotment amounts for FYs 1998 through 2001. These unexpended allotment include allotments, redistributions, and retained allotment amounts that would be carried forward into FY 2003 for use by a Qualified State in FY 2003, and which have not been expended by the State through the date of enactment of Pub. L. 108–74. By definition, the *expended* amounts of these fiscal year allotment funds, through the date of enactment of Pub. L. 108–74, are no longer available in FY 2003 for use under the 20 percent allowance provision. That is, only the *unexpended* (remaining) amounts of these fiscal year allotment funds can be considered to be “available” in FY 2003, FY 2004, and FY 2005.

The amounts of the FY 1998 through 2001 allotments that will be available during each of the applicable fiscal years (FY 2003 through 2005) are determined in accordance with the established rules for the application of all the Federal payments for the Qualifying State’s expenditures against all of the State’s available allotments. The amounts of the relevant 20 percent fiscal year allowances that a Qualifying State may use in FY 2003, and in the subsequent fiscal years (that is, FY 2004 and FY 2005), will be limited by the amounts of the related fiscal year allotments that are actually available.

The amount of the 20 percent allowances is determined, with respect to each of the original fiscal year allotments for FYs 1998 through 2001,

under section 2105(g) of the Act. That is, we determined the 20 percent allowances for the Qualifying States for each of these fiscal years by multiplying *each* of the original fiscal year allotments for these years by 20 percent. Therefore, the 20 percent fiscal year allowances are determined and tracked individually, based on the Qualifying State expenditures that are applied against each of the related fiscal year 20 percent allowances and related fiscal year allotment amounts, as available. Note, even if there is a remaining 20 percent allowance for a particular fiscal year, the actual availability of the related fiscal year allotment amount is the ultimate determining factor as to whether any applicable Medicaid expenditures can be matched at the enhanced matching rate. That is, if the fiscal year allotment amount related to a particular fiscal year 20 percent allowance has been exhausted (is no longer available), the State would not be able to claim any expenditures against that fiscal year 20 percent allowance.

In FY 2003, representing the fiscal year in which the Qualifying State provision was enacted and the first fiscal year for which a Qualifying State may claim expenditures against its 20 percent allowances, the only fiscal year allotment amounts related to FYs 1998, 1999, and 2000 that may still be available are the redistributed and/or retained allotment amounts for those fiscal years. Furthermore, under section 2104(g) of the Act as amended by Pub. L. 108–74, these amounts will only be available to States until the end of FY 2004.

In FY 2003, the unexpended amounts of a Qualifying State’s original fiscal year 2001 allotment may also be available for expenditure by the State. Initial State FY 2001 allotments are available only until the end of FY 2003 (the end of the 3-year period of availability for the FY 2001 fiscal year allotment). In FY 2004, there will be a reallocation of any unexpended FY 2001 allotments similar to the reallocation in FY 2003 of the States’ unexpended FY 2000 allotments, which was described previously in this notice. The unexpended FY 2001 allotments reallocated in FY 2004 will only be available to States until the end of FY 2005.

The discussion in the following sections describes the determinations of the fiscal year 20 percent allowances for the Qualifying States for each of the FYs 1998 through 2001 as would be available during the FYs 2003 through 2005, and how they would be tracked through FY 2005, the last year for which

any of the related fiscal year allotment amounts are available.

*Determination and Tracking of the Fiscal Year 20 Percent Allowances in FY 2003.* In FY 2003, the 20 percent allowances for each Qualifying State would be calculated as 20 percent of each of the Qualifying State's original SCHIP allotments for FYs 1998, 1999, 2000, and 2001. Since Pub. L. 108-74 was enacted on August 15, 2003, only expenditures from August 16, 2003 on may be claimed against the related fiscal year allotment amounts that are available as of August 16. The actual availability of each Qualifying State's fiscal year allotment amounts for FYs 1998 through 2001 will be determined in accordance with the applicable requirements for the application of expenditures against the States' available allotments, which in FY 2003, include the extended availability of States' unexpended FY 1998 and 1999 allotment amounts and the redistribution and extended availability of States' unexpended FY 2000 allotments available beginning October 1, 2002. Therefore, as limited by the 20 percent allowances for each fiscal year, only to the extent that the fiscal year allotment amounts related to each of the 20 percent allowances are available to the Qualifying States can such allotment amounts be used for matching the States' applicable expenditures.

*Example.* A Qualifying State's original FY 1998 allotment was \$50 million; therefore, the FY 1998 20 percent allowance would be \$10 million (20 percent of \$50 million). However, through the application of expenditures through the years of the SCHIP, at the end of FY 2002 there was only \$16 million remaining in the State's FY 1998 "retained" allotment. Under the provisions of Pub. L. 108-74, the availability of this amount was extended until the end of FY 2004; this is the amount considered as initially available at the beginning of FY 2003. However, throughout FY 2003, the State's expenditures would be applied according to the established rules for that application; this would further limit the final availability of the FY 1998 retained allotment funds for enhanced payment in FY 2003. Although the 20 percent allowance was determined to be \$10 million, any ultimate payments to be applied and tracked against this amount would be limited by the actual availability of the FY 1998 retained allotment. In this example, if the actual application of the State's expenditures in FY 2003 resulted in only \$3 million of the FY 1998 retained allotment remaining in the fourth quarter of FY 2003, then that \$3

million amount would be the most the Qualifying State could claim against the FY 1998 20 percent allowance of \$10 million.

*Continued Tracking of the Fiscal Year 20 Percent Allowances in FY 2004.* The amounts of each Qualifying State's fiscal year 20 percent allowances, and the related fiscal year allotment amounts remaining at the end of FY 2003, will be carried over to FY 2004. However, the availability of the FY 2001 allotment amounts will differ from the availability of the FY 1998 through 2000 allotment amounts. In particular, the Qualifying States' fiscal year 20 percent allowances in FY 2004 that are carried over from FY 2003 will be limited by the actual available related fiscal year allotment amounts that are carried over from FY 2003. In FY 2003, the available fiscal years 1998, 1999, and 2000 allotment amounts are the retained allotments and/or the redistributed allotments for those fiscal years that were carried over from or reallocated in FY 2003.

In FY 2004, however, the FY 2001 reallocation process will occur. Similar to the FY 2000 reallocation process, as discussed earlier in this notice, the FY 2001 "retained allotment States" will carry-over from FY 2003 into FY 2004 only 50 percent of their unexpended FY 2001 allotments remaining at the end of FY 2003. Furthermore, the FY 2001 "redistribution States" by definition have fully expended their FY 2001 allotments by the end of FY 2003. Therefore, the FY 2001 redistribution States will not carry-over any of their own FY 2001 allotments; however, they will receive a redistribution of about 50 percent of the FY 2001 retained allotment States' unexpended FY 2001 allotments remaining at the end of FY 2003. In summary, the amounts of the available FY 2001 allotments in FY 2004 will be determined by the amounts of the FY 2001 retained or redistributed allotments a Qualifying State will receive in FY 2004.

*Example 1.* At the end of FY 2003, Qualifying State A's remaining FY 2001 20 percent allowance is \$20 million, and the State's remaining unexpended FY 2001 allotment is \$30 million. The State will carry over its FY 2001 20 percent allowance balance of \$20 million into FY 2004. However, because Qualifying State A has not fully expended its FY 2001 allotment, it will be a FY 2001 *retained* allotment State in FY 2004, and in that regard, would only retain \$15 million of its unexpended FY 2001 allotment (50 percent of \$30 million) in FY 2004. Although the FY 2001 20 percent allowance carried into FY 2004 is \$20 million, the State would only have available \$15 million of its FY

2001 allotment amount for matching any of the State's applicable 20 percent allowance expenditures in FY 2004.

*Example 2.* At the end of FY 2003, Qualifying State B's remaining FY 2001 20 percent allowance is \$20 million, and the State has fully expended its FY 2001 allotment. The State will carry over its FY 2001 20 percent allowance balance of \$20 million into FY 2004. However, because the State has fully expended its FY 2001 allotment by the end of FY 2003, it will be a FY 2001 redistribution State in FY 2004. The State receives a FY 2001 redistribution of \$25 million in FY 2004, and accordingly, it will be considered to have \$25 million available in FY 2004 related to the FY 2001 allotment. Furthermore, in FY 2004 the States' remaining FY 2001 20 percent allowance is \$20 million; this would be the limit on the States' claims for the applicable 20 percent expenditures in FY 2004.

*Continued Tracking of the Fiscal Year 20 Percent Allowances in FY 2005.* The availability of fiscal year (re)allotted amounts for FYs 1998 through 2000 was only extended until the end of FY 2004. Therefore, the only applicable fiscal year allotment amounts related to the 20 percent allowances that will be available in FY 2005 are the amounts of the unexpended FY 2001 retained or redistributed allotments that were carried over from FY 2004 into FY 2005. Furthermore, the only 20 percent allowances that will be available in FY 2005 are the amounts of the related FY 2001 20 percent allowances that remain at the end of FY 2004 and carried over into FY 2005. Therefore, in FY 2005, Qualifying States' claims for 20 percent allowance expenditures would be limited by such States' actual available FY 2001 redistributed or retained allotment amounts that remained at the end of FY 2004 and were carried over to FY 2005.

## 2. Amounts Applied Against the 20 Percent Allowance Amounts

*Additional Amount Applied Against 20 Percent Allowance Amount.* Under section 2105(g)(1)(B)(i) of the Act, as amended by Pub. L. 108-74, "subject to the availability of funds \* \* \* the Secretary shall pay the State an amount each quarter equal to the *additional* amount that would have been paid to the State under title XIX" with respect to the 20 percent allowance expenditures, if the enhanced FMAP had been substituted for the FMAP. This provision does not authorize the State to "double-bill" the SCHIP and/or the Medicaid program; rather, it allows the State with respect to an allowable

expenditure, to receive in total, a Federal share amount equal to the *enhanced* FMAP rate under title XXI instead of the (lower) FMAP rate that would otherwise have been applied under title XIX. However, only a portion of this total Federal share at the enhanced FMAP rate, equal to the difference between the enhanced FMAP rate under title XXI and the “regular” FMAP rate under title XIX, will be applied against the Qualifying States’ available 20 percent allowance SCHIP fiscal year allotments. As indicated in the next paragraph and following example, for purposes of this calculation, the regular FMAP rate is equal to the “increased FMAP.”

*Relationship to the “Increased FMAP”.* With the passage of the Jobs and Growth Tax Relief Reconciliation Act of 2003 (TRRA (Pub. L. 108–27)) on May 28, 2003, there are five Federal fiscal year quarters for which States’ Medicaid expenditures are matched at an increased FMAP rate: The last two quarters of FY 2003 and the first three quarters of FY 2004. In implementing the Qualifying State provisions of Pub. L. 108–74, and in determining the additional amount that would be paid to States under section 2105(g)(1)(B)(i) of the Act, we will use the actual increased FMAP that is being used each quarter in a State for matching a State’s Medicaid expenditures.

*Example.* The Qualifying State’s enhanced FMAP is 65 percent, and its “increased FMAP” under TRRA is 52.95 percent. If the State has a \$10,000 allowable expenditure, the total Federal share it could claim would be \$6,500 (65 percent of \$10,000). However, only \$1,205, representing 12.05 percent (65 percent (the enhanced FMAP rate) minus 52.95 percent (the regular FMAP rate)) of the \$10,000 expenditure, would be applied against the Qualifying State’s available 20 percent allowance(s) under title XXI. \$5,295 of the total \$6,500 Federal share (52.95 percent of \$10,000) would be charged against the title XIX appropriation.

*Subject to the Availability of the FY 20 Percent Allowance.* Section 2105(g)(1)(A) of the Act provides for States to elect to use up to 20 percent of the available allotments for FYs 1998 through 2001. The discussion above describes the determination of the amounts of the 20 percent allowances for each fiscal year. The calculated 20 percent allowances serve as an overall limit, against which the 20 percent allowance expenditures would be applied, and claims in excess of those amounts would not be payable. However, operationally, a Qualifying State’s actual claims for expenditures

(including *both* the 20 percent allowance expenditures *and* all the other SCHIP expenditures that a State may claim) will be applied against all the various allotments that would be available to the Qualifying State during the quarter for which the State is making the claim (including *both* the allotments upon which the 20 percent allowances are based *and* all the other SCHIP allotments). In the application of the State’s various expenditures against all the available allotments, it is possible that any or all of the allotments upon which the 20 percent allowance is based may be reduced below the determined 20 percent allowance, for any or all of the 20 percent allotment(s). In that case, the payments to the States for the 20 percent allowance expenditures may be additionally limited.

*Example.* The Qualifying State’s original FY 1998, 1999, 2000, and 2001 allotments were \$10 million, \$10 million, \$12 million, and \$12 million, respectively. At the beginning of FY 2003, the Qualifying State has the following unexpended allotments carried over from FY 2002: \$0 in FY 1998 retained allotments; \$2 million in FY 1999 retained allotments; \$12 million in FY 2001 allotments; and finally, in FY 2003 the State retains \$6 million of its unexpended FY 2000 allotments that remained at the end of FY 2002.

In FY 2003 the State’s total 20 percent allowances are:

- *FY 1998:* \$2 million (20 percent of the \$10 million original allotment)
- *FY 1999:* \$2 million (20 percent of the \$10 million original allotment)
- *FY 2001:* \$2.4 million (20 percent of the \$12 million original allotment)
- *FY 2000:* \$2.4 million (20 percent of the \$12 million original allotment)

In this example, the four calculated 20 percent allowances total to \$8.8 million (\$2 million + \$2 million + \$2.4 million + \$2.4 million). Therefore, the Qualifying State could *potentially* use up to \$8.8 million from the four related fiscal year allotment amounts for matching the eligible 20 percent allowance expenditures, if those funds were available. As indicated, at the beginning of FY 2003 the State had \$20 million (\$0 + \$2 million + \$6 million + \$12 million) in FY 1998 through 2001 allotment funds. However, with the submission of \$6 million in other expenditures through the end of the third quarter of FY 2003 (June 30, 2003), there would be the following remaining allotment funds available at the beginning of the fourth quarter FY 2003: \$0 in FY 1998 retained allotment; \$0 in FY 1999 retained allotment; \$2 million

in FY 2000 retained allotments, and \$12 million in FY 2001 allotments.

Therefore, in the fourth quarter FY 2003 the States could potentially claim up to the following amounts as 20 percent allowance expenditures:

- *FY 1998:* \$0. Although the FY 1998 20 percent allowance is \$2 million, in the fourth quarter of FY 2003 there is \$0 in FY 1998 retained allotment remaining.
- *FY 1999:* \$0. Although the FY 1999 20 percent allowance is \$2 million, in the fourth quarter of FY 2003 there is \$0 in FY 1999 retained allotment remaining.
- *FY 2000:* \$2 million. Although the FY 2000 20 percent allowance is \$2.4 million, in the fourth quarter of FY 2003 there is only \$2 million in FY 2000 retained allotment remaining.
- *FY 2001:* \$2.4 million. The FY 2001 20 percent allowance is \$2.4 million, and there is \$12 million in FY 2001 allotment remaining.

In this example, through the end of the third quarter FY 2003, \$6 million in SCHIP matching funds related to other expenditures were applied against the available four 20 percent allotment funds *before* any 20 percent allowance expenditures were submitted. Therefore, at the beginning of the fourth quarter FY 2003 only \$4.4 million related to the available allotments and 20 percent allowances for FY 2000 and FY 2001 could potentially be claimed as 20 percent allowance expenditures.

### 3. Ordering of Allotments and Expenditures

In the SCHIP, the application of payments for a State’s expenditures against the State’s available SCHIP allotments follows an order specified by statute and regulation. In general, payments for expenditures are applied against a State’s available allotments in the following priority order prescribed in section 2105(a) of the Act:

- Medicaid SCHIP expansion expenditures paid at the enhanced FMAP rate;
- Medicaid presumptive eligibility expenditures under section 1920A of the Act;
- SCHIP program expenditures; and
- SCHIP “10 percent fiscal year limit” expenditures (representing four categories of expenditures that are subject to the State’s annual fiscal year 10 percent limit on those expenditures).

Furthermore, as specified by regulation, States’ fiscal year allotments are also ordered in a certain priority. Typically, payments for expenditures are first applied against the oldest fiscal year allotment and the most recent fiscal year allotment is ordered last. A

retained allotment for a fiscal year is ordered in the same priority as the original allotment for that fiscal year. However, redistributed allotments for a fiscal year are ordered in the priority chosen by the redistribution States.

#### ORDERING OF ALLOTMENTS—

*Reopening of States' Elections for Ordering FY 1998 and FY 1999 Redistributed Allotments Ordering Elections.* Before the passage of Pub. L. 108–74, the FY 1998 and FY 1999 reallotment amounts (referring to both redistributed and retained allotments) expired at the end of FY 2002. However, with the enactment of Pub. L. 108–74, the availability of these allotments was extended to the end of FY 2004. As indicated in the discussion above on the extension of the FYs 1998 through 2000 allotments, States with redistributed allotments have the option to reopen their ordering elections for FY 1998 and FY 1999 redistribution funds during FY 2003 (the first fiscal year in which these funds are restored).

#### ORDERING OF EXPENDITURES—

*Ordering of 20 Percent Allowance Expenditures.* Section 2105(g)(1)(B)(ii) of the Act establishes a new expenditure under the Medicaid program for which certain amounts of payments would be applied against a State's available SCHIP allotments. However, Pub. L. 108–74 did *not* amend section 2105(a) of the Act to add these new 20 percent allowance expenditures to the list of recognized expenditures that are applied against the title XXI SCHIP allotments. The 20 percent allowance expenditures can only be applied against the allotment funds on which the 20 percent allowance amounts are based (that is, the available FY 1998, 1999, 2000, and 2001 allotment funds); they cannot be applied against any other available fiscal year allotment funds. Since the 20 percent allowance expenditures can only be applied against the FY 1998 through 2001 allotment funds, if a Qualifying State submits 20 percent allowance expenditures in a particular quarter, those expenditures must skip over other available fiscal year allotments in the otherwise required fiscal year allotment priority order.

If a Qualified State submits both 20 percent allowance expenditures and other “regular” SCHIP expenditures at the same time in a quarter (based on the allotment priority order, they both must apply against an available fiscal year allotment), the 20 percent allowance expenditures will be applied first.

This ordering of expenditures provides states with flexibility and administrative ease. Although the priority order of funding allows states to

claim the 20 percent allowance expenditures first, this order does not negatively affect health coverage for children, which is the first priority in SCHIP, and was a primary consideration in determining the ordering of expenditures. CMS' analysis indicated that health coverage for children would not be affected by this ordering of expenditures. CMS would have revisited the priority order if the analysis had been different.

*10 Percent Limit Calculation.* Under the SCHIP program, Federal matching funds for certain expenditures (including but not limited to administrative expenditures), listed in section 2105(a)(1)(D) of the Act, is only available up to the “10 percent limit” referenced in section 2105(b)(2) of the Act. Under section 2105(b)(2) of the Act (and related regulations), the amount of the 10 percent limit, a dollar amount, is calculated based only on the following expenditures listed in section 2105(a)(1)(A) through (a)(1)(C) of the Act: Medicaid SCHIP expansion group expenditures, Medicaid section 1920A presumptive eligibility expenditures, and SCHIP title XXI program expenditures. Since the dollar amount of the 10 percent limit is calculated by taking a percentage of the total of these expenditures, the greater the amount of these expenditures, the higher a State's calculated 10 percent limit dollar amount would be.

Though Pub. L. 108–74 recognizes a new Medicaid 20 percent allowance expenditure, for which Qualifying States' specified SCHIP fiscal year allotment funds could be used, this legislation did not amend title XXI with respect to the calculation of the 10 percent limit. The new 20 percent allowance expenditures under title XIX were not added to the list of expenditures in section 2105(a)(1) of the Act upon which the 10 percent limit calculation is based. Therefore, the 20 percent allowance expenditures will not be used in calculating the 10 percent limit.

#### 4. 20 Percent Allowance Expenditures Described

Section 2105(g)(1)(B)(ii) of the Act indicates that the 20 percent allowance “Expenditures Described” are those that are made after the date of enactment of Pub. L. 108–74 for “medical assistance under title XIX to individuals who have not attained age 19 and whose family income exceeds 150 percent of the poverty line.” The date of enactment for Pub. L. 108–74 was August 15, 2003. Federal regulations at 45 CFR part 95 contain the rules on the timing of expenditures.

Generally, a Qualifying State can choose any eligible Medicaid program expenditures or subset of those expenditures. For example, the State can submit expenditures by category of medical assistance (for example, by physician services, hospital services, public agency services). Similarly, as long as the age and income criteria are met, the Qualifying State could submit expenditures by eligibility category (for example, medically needy children, disabled children).

In general, a Qualifying State may claim any category of Medicaid expenditures against their 20 percent allowance. However, the following expenditures *are precluded* from being applied against the 20 percent allowance expenditures:

- *Medicaid Expansion Population Expenditures.* The 20 percent allowance expenditures do *not* include medical assistance expenditures for individuals covered in a State's Medicaid program as the SCHIP Medicaid expansion population. Under the Medicaid statute, expenditures for the Medicaid expansion population are already claimed at the enhanced FMAP. Further, the *full* Federal share amount for those expenditures must be applied against the SCHIP allotments (not just the additional amount above the regular FMAP rate). Therefore, expenditures for the Medicaid expansion population would not be claimable under the 20 percent allowance provision.

### III. Regulatory 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.

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects (\$100 million or more annually). We have determined that this rule is not a major rule for the reasons discussed below.

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 to \$29 million or less annually. For purposes of the RFA, all hospices are considered to be small entities. Individuals and States are not included in the definition of a small entity. This notice is the result of a statutory formula that does not involve any agency discretion or policy. Therefore, we do not believe further regulatory analysis is necessary because there are no regulatory options to be considered.

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.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any one year by State, local, or tribal governments, in the aggregate, or by the private sector, of \$110 million. Because 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. Therefore, we are not required to perform an assessment of the costs and benefits of these regulations.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes a proposed rule (and subsequent final rule) that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has Federalism implications. We have reviewed this notice and have determined that it does not significantly affect States' rights, roles, and responsibilities.

Low-income children will benefit from payments under this program 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 Commonwealths and Territories of the extent to which they are permitted to expend funds under their child health plans using the FY

2000 and FY 2001 allotment's redistribution and retained amounts.

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: March 5, 2004.

**Dennis G. Smith,**

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

Dated: March 25, 2004.

**Tommy G. Thompson,**

*Secretary.*

[FR Doc. 04-14580 Filed 7-22-04; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare and Medicaid Services

**[CMS-2202-PN]**

**RIN 0938-ZA52**

#### Medicare and Medicaid Programs; Application by the American Association for Accreditation of Ambulatory Surgery Facilities, Inc., for Continued Deeming Authority for Ambulatory Surgical Centers

**AGENCY:** Centers for Medicare and Medicaid Services, HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice acknowledges the receipt of a renewal application by the American Association for Accreditation of Ambulatory Surgery Facilities, Inc. for approval as a national accreditation program for ambulatory surgical centers that wish to participate in the Medicare or Medicaid programs. The statute requires that within 60 days of receipt of an organization's written request, CMS publish a proposed notice that identifies the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. **DATES:** To be assured of consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on August 23, 2004.

**ADDRESSES:** In commenting, please refer to file code CMS-2202-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 the issues in this notice 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-2202-PN, P.O. Box 8018, Baltimore, MD 21244-8018.

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) 786-7195 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 retaining an extra copy of the comments being filed.)

Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

**FOR FURTHER INFORMATION CONTACT:** Milonda H. Mitchell, (410) 786-3511.

#### SUPPLEMENTARY INFORMATION:

*Submitting Comments:* We welcome comments from the public on all issues set forth in this proposed notice to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS-2202-PN and the specific "issue identifier" that precedes the section on which you choose to comment.

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. After the close of the comment period, CMS posts all