					CHART 6 - PRELIMINARY IMD DSH LIMIT UNDER ARRA FOR FY:					2010
A	B	C	D	E	F	G	H	I	J	K
STATE	INPATIENT HOSPITAL SERVICES FY 95 DSH TOTAL COMPUTABLE	IMD AND MENTAL HEALTH SERVICES FY 95 DSH TOTAL COMPUTABLE	TOTAL INPATIENT & IMD & MENTAL HEALTH FY 95 DSH TOTAL COMPUTABLE Col B + C	APPLICABLE PERCENT Col C/D	FY 2010 ALLOTMENT IN FS UNDER ARRA	FY 2010 FMAP	FY 2010 ALLOTMENTS IN TC Col F/G	COL E * COL H IN TC	FY 2010 TC IMD LIMIT (Lesser of Col I or Col C)	FY 2010 IMD LIMIT IN FS U/ARRA Col G x J
ALABAMA	$413,006,229	$4,451,770	$417,457,999	1 07%	$317,692,797	68 01%	$467,126,595	$4,981,436	$4,451,770	$3,027,649
ARIZONA	$93,916,100	$28,474,900	$122,391,000	23.27%	$104,606,165	65.75%	$159,096,829	$37,014,701	$28,474,900	$18,722,247
CALIFORNIA	$2,189,879,543	$1,555,919	$2,191,435,462	0 071%	$1,132,587,735	50.00%	$2,265,175,470	$1,608,274	$1,555,919	$777,960
COLORADO	$173,900,441	$594,776	$174,495,217	0 34%	$95,566,125	50.00%	$191,132,250	$651,484	$594,776	$297,388
CONNECTICUT	$303,359,275	$105,573,725	$408,933,000	25.82%	$206,629,461	50.00%	$413,258,922	$106,690,543	$105,573,725	$52,786,863
DISTRICT OF COLUMBIA	$39,532,234	$6,545,136	$46,077,370	14 20%	$63,280,272	70.00%	$90,400,389	$12,841,072	$6,545,136	$4,581,595
FLORIDA	$184,458,014	$149,714,986	$334,183,000	33 00%	$206,629,461	54 98%	$375,826,593	$124,022,776	$124,022,776	$68,187,722
GEORGIA	$407,343,557	$0	$407,343,557	0 00%	$277,658,339	65.10%	$426,510,505	$0	$0	$0
HAWAII	$0	$0	$0	0.00%	$10,000,000	54.24%	$18,436,578	$0	$0	$0
ILLINOIS	$315,868,508	$89,408,276	$405,276,784	22.06%	$222,126,671	50.17%	$442,747,999	$97,674,816	$89,408,276	$44,856,132
INDIANA	$79,960,783	$153,566,302	$233,527,085	33.00%	$220,835,237	65.93%	$334,954,098	$110,534,852	$110,534,852	$72,875,628
KANSAS	$11,587,208	$76,663,508	$88,250,716	33.00%	$42,617,327	60 38%	$70,581,860	$23,292,014	$23,292,014	$14,063,718
KENTUCKY	$158,804,908	$37,443,073	$196,247 981	19 08%	$149,806,360	70.96%	$211,113,811	$40,279,394	$37,443,073	$26,569,605
LOUISIANA	$1,078,512,169	$132,917,149	$1,211,429,318	10.97%	$769,015,475	67.61%	$1,137,428,598	$124,797,843	$124,797,843	$84,375,822
MAINE	$99,957,958	$60,958,342	$160,916,300	33 00%	$108,480,467	64 99%	$166,918,706	$55,083,173	$55,083,173	$35,798,554
MARYLAND	$22,226,467	$120,873,531	$143,099,998	33.00%	$78,777,483	50 00%	$157,554,966	$51,993,139	$51,993,139	$25,996,569
MASSACHUSETTS	$469,653,946	$105,635,054	$575,289,000	18 36%	$315,109,928	50.00%	$630,219,856	$115,721,504	$105,635,054	$52,817,527
MICHIGAN	$133,258,800	$304,765,552	$438,024,352	33 00%	$273,784,036	63.19%	$433,271,144	$142,979,478	$142,979,478	$90,348,732
MISSISSIPPI	$182,608,033	$0	$182,608,033	0.00%	$157,554,964	75.67%	$208,213,247	$0	$0	$0
MISSOURI	$521,946,524	$207,234,618	$729,181,142	28 42%	$489,453,536	64.51%	$758,725,060	$215,631,054	$207,234,618	$133,687,052
NEVADA	$73,560,000	$0	$73,560,000	0 00%	$47,783,063	50 16%	$95,261,290	$0	$0	$0
NEW HAMPSHIRE	$92,675,916	$94,753,948	$187,429,864	33 00%	$165,405,357	50.00%	$330,810,714	$109,167,536	$94,753,948	$47,376,974
NEW JERSEY	$736,742,539	$357,370,461	$1,094,113,000	32.66%	$665,088,579	50.00%	$1,330,177,158	$434,476,169	$357,370,461	$178,685,231
NEW YORK	$2,418,869,368	$605,000,000	$3,023,869,368	20.01%	$1,659,492,862	50.00%	$3,318,985,724	$664,045,340	$605,000,000	$302,500,000
NORTH CAROLINA	$193,201,966	$236,072,627	$429,274,593	33.00%	$304,778,456	65.13%	$467,954,024	$154,424,828	$154,424,828	$100,576,890
OHIO	$535,731,956	$93,432,758	$629,164,714	14.85%	$419,716,094	63.42%	$661,803,996	$98,279,785	$93,432,758	$59,255,055
PENNSYLVANIA	$388,207,319	$579,199,682	$967,407,001	33.00%	$579,853,926	54 81%	$1,057,934,548	$349,118,401	$349,118,401	$191,351,796
RHODE ISLAND	$108,503,167	$2,397,833	$110,901,000	2.16%	$67,154,574	52.63%	$127,597,519	$2,758,835	$2,397,833	$1,261,980
SOUTH CAROLINA	$365,681,364	$72,076,341	$438,757,705	16.43%	$338,355,743	70 32%	$481,165,732	$79,042,864	$72,076,341	$50,684,083
TENNESSEE	$0	$0	$0	0 00%	$305,451,928	65.57%	$465,840,976	$0	$0	$0
TEXAS	$1,220,515,401	$292,513,592	$1,513,028,993	19.33%	$987,947,112	58.73%	$1,682,184,764	$325,216,443	$292,513,592	$171,793,233
VERMONT	$19,979,252	$9,071,297	$29,050,549	31 23%	$23,245,815	58.73%	$39,580,819	$12,359,469	$9,071,297	$5,327,573
VIRGINIA	$129,313,480	$7,770,268	$137,083,748	5 67%	$90,511,529	50.00%	$181,023,058	$10,260,864	$7,770,268	$3,885,134
WASHINGTON	$171,725,815	$163,836,435	$335,562,250	33 00%	$191,132,252	50.12%	$381,349,266	$125,845,258	$125,845,258	$63,073,643
WEST VIRGINIA	$66,962,606	$18,887,045	$85,849,651	22.00%	$69,737,443	74.04%	$94,188,875	$20,721,686	$18,887,045	$13,983,968
TOTAL	$13,402,460,846	$4,118,758,904	$17,521,219,750		$11,157,866,572		$19,674,551,938	$3,651,515,030	$3,402,282,551	$1,919,526,323
LOW DSH STATES										
ALASKA	$2,506,827	$17,611,765	$20,118,592	33.00%	$21,044,894	51.43%	$40,919,491	$13,503,432	$13,503,432	$6,944,815
ARKANSAS	$2,422,649	$819,351	$3,242,000	25.27%	$44,567,684	72.78%	$61,236,169	$15,476,223	$819,351	$596,324
DELAWARE	$0	$7,069,000	$7,069,000	33.00%	$9,353,286	50.21%	$18,628,333	$6,147,350	$6,147,350	$3,086,584
IDAHO	$2,081,429	$0	$2,081,429	0.00%	$16,982,360	69.40%	$24,470,259	$0	$0	$0
IOWA	$12,011,250	$0	$12,011,250	0.00%	$40,686,518	63 51%	$64,063,168	$0	$0	$0
MINNESOTA	$24,240,000	$5,257,214	$29,497,214	17.82%	$77,164,611	50 00%	$154,329,222	$27,505,708	$5,257,214	$2,628,607
MONTANA	$237,048	$0	$237,048	0 00%	$11,727,024	67.42%	$17,393,984	$0	$0	$0
NEBRASKA	$6,449,102	$1,811,337	$8,260,439	21 93%	$29,236,232	60.56%	$48,276,473	$10,585,994	$1,811,337	$1,096,946
NEW MEXICO	$6,490,015	$254,786	$6,744,801	3 78%	$21,044,894	71.35%	$29,495,296	$1,114,190	$254,786	$181,790
NORTH DAKOTA	$214,523	$988,478	$1,203,001	33 00%	$9,868,604	63.01%	$15,661,965	$5,168,448	$988,478	$622,840
OKLAHOMA	$20,019,969	$3,273,248	$23,293,217	14 05%	$37,413,143	64.43%	$58,067,892	$8,159,912	$3,273,248	$2,108,954
OREGON	$11,437,908	$19,975,092	$31,413,000	33 00%	$46,766,430	62.74%	$74,540,054	$24,598,218	$19,975,092	$12,532,373
SOUTH DAKOTA	$321,120	$751,299	$1,072,419	33.00%	$11,410,747	62.72%	$18,193,155	$6,003,741	$751,299	$471,215
UTAH	$3,621,116	$934,586	$4,555,702	20.51%	$20,268,267	71 68%	$28,276,042	$5,800,729	$934,586	$669,911
WISCONSIN	$6,609,524	$4,492,011	$11,101,535	33.00%	$97,666,330	60 21%	$162,209,483	$53,529,130	$4,492,011	$2,704,640
WYOMING	$0	$0	$0	0.00%	$233,831	50.00%	$467,662	$0	$0	$0
TOTAL LOW DSH STATES	$98,662,480	$63,238,167	$161,900,647		$495,434,855		$816,228,650	$177,593,076	$58,208,184	$33,644,999
TOTAL	$13,501,123,326	$4,181,997,071	$17,683,120,397		$11,653,301,427		$20,490,780,588	$3,829,108,106	$3,460,490,735	$1,953,171,322

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: December 17, 2009.

Charlene Frizerra,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: February 22, 2010.

Kathleen Sebelius,

Secretary.

[FR Doc. 2010–8502 Filed 4–22–10; 8:45 am]

BILLING CODE 4120–01–C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2309–N]

RIN 0938–AP90

Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2009 and Federal Fiscal Year 2010

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

ACTION: Notice.

SUMMARY: This notice sets forth final allotments available to States to pay the Medicare Part B premiums for Qualifying Individuals (QIs) for the Federal fiscal year (FY) 2009 and the preliminary QI allotments for FY 2010. The amounts of these QI allotments were determined in accordance with the methodology set forth in regulations, as amended in the **Federal Register** published on November 24, 2008, and reflect funding for the QI program made available under recent legislation.

DATES: *Effective dates:* The final QI allotments for payment of Medicare Part B premiums for FY 2009 are effective October 1, 2008. The preliminary QI allotments for FY 2010 are effective October 1, 2009.

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

SUPPLEMENTARY INFORMATION:

I. Background

A. History of the QI Program

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

beneficiaries (SLMBs), and qualified disabled and working individuals (QDWIs).

A QMB is an individual entitled to Medicare Part A with income at or below 100 percent of the Federal poverty level (FPL). A SLMB is an individual who meets the QMB criteria, except that his or her income is above 100 percent of the FPL and does not exceed 120 percent of the FPL. Effective January 1, 2010, the resource limits for a QMB, SLMB, and QI are $6,600 for a single person and $9,910 for a married person living with a spouse and no other dependents. These resource limits are adjusted January 1 of each year, based upon the change in the annual consumer price index (CPI) since September of the previous year.

A QDWI is a disabled individual who is entitled to enroll in Medicare Part A under section 1818A of the Act, whose income does not exceed 200 percent of the FPL, for a family of the size involved, whose resources do not exceed twice the amount allowed under SSI program, and who is not otherwise eligible for Medicaid. The definition of Medicare cost-sharing at section 1905(p)(3) of the Act includes payment for premiums for Medicare Part B.

Section 4732 of the Balanced Budget Act of 1997 (BBA), (Pub. L. 105–33), enacted on August 5, 1997, amended section 1902(a)(10)(E) of the Act to require States to provide for Medicaid payment of the Medicare Part B premiums for two additional eligibility groups of low-income Medicare beneficiaries, referred to as qualifying individuals (QIs).

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

Coverage of the second eligibility group of QIs ended on December 31, 2002, and section 401 of the Welfare Reform Bill (Pub. L. 108–89), enacted on October 1, 2003, eliminated reference to the second QI benefit (for the Medicare beneficiaries who would be QMBs except that their income is at least 135 percent but less than 175 percent of the FPL for a family of the size involved, who are not otherwise eligible for Medicaid under the approved State plan). In 2002 and 2003, continuing resolutions extended the coverage of the first group of QIs (whose income is at least 120 percent but less than 135 percent of the FPL) through the following FY, but maintained the annual funding at the FY 2002 level. Section 1933(g) of the Act was amended by the Extension of Medicare Cost-Sharing for Medicare Part B Premium for Qualifying Individuals Act, (Pub. L. 108–448), enacted December 8, 2004, which continued coverage of this group of QIs (whose income is at least 120 percent but less than 135 percent of the FPL) through September 30, 2005, again, with no change in funding.

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

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

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

On March 29, 1999, we published a notice in the **Federal Register** (64 FR 14931) to advise States of the methodology used to calculate allotments and each State's specific allotment for that year. Following that notice, there was no change in methodology and States have been notified annually of their allotments. We did not include the methodology for computing the allocation in our regulations. Although the BBA originally provided coverage of QIs through FY 2002, based on several legislative actions, coverage has continued (as discussed below) through December 31, 2010.

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

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

B. Allotments for FY 2005 Through 2009

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

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

The August 26, 2005 interim final rule amended 42 CFR 433.10(c) to specify the formula and the data to be used to determine States' allotments and to revise, under certain circumstances, individual State allotments for a Federal FY for the Medicaid payment of Medicare Part B premiums for qualifying individuals identified under section 1902(a)(10)(E)(iv) of the Act. Section 433.10(c)(5)(iv) states that CMS will notify States of any changes in allotments resulting from any reallocations.

The FY 2005 allotments were determined by applying the U.S. Census Bureau data to the formula set forth in section 1933(c)(2) of the Act. However, the statute requires that the allocation of the FY allotment be based upon a ratio of the amount of "total number of individuals described in section 1902(a)(10)(E)(iv) of the Act in the State" to the sum of these amounts for all States. Because this formula requires an estimate of an unknown number, that is, the number of individuals who could be QIs (rather than the number of individuals who were QIs in a previous period), our use of the Census Bureau data in the formula represented a rough proxy to attain the statutory number. Actual expenditure data, however, revealed that the Census Bureau data yielded an inappropriate distribution of the total appropriated funds as evidenced by the fact that several States projected significant shortfalls in their allotments, while many other States projected a significant surplus by the end of the FY 2005. The Census Bureau data were not accurate for the purpose of projecting States' needs because the data could not take into consideration all variables that contribute to QI eligibility and enrollment, such as resource levels and the application process itself. While section 1933 of the Act requires the Secretary to estimate the allocation of the allotments among the States, it did not preclude a subsequent readjustment of that allocation, when it became clear that the data used for that estimate did not effectuate the statutory objective. The August 26, 2005 interim final rule published in the **Federal Register**, permitted in this specific circumstance a redistribution of surplus funds, as it was demonstrated that the States' projections and estimates resulted in an inequitable initial allocation for FY 2005, such that some States were granted an allocation in excess of their total projected need, while the allocation granted to other States proved insufficient to meet their projected QI expenditures.

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

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

On October 16, 2006, we published a final rule in the **Federal Register** (71 FR 60663), which implemented the provisions of section 101 of Public Law 109–91 relating to the QI allotments for final FY 2006 allotments and preliminary FY 2007 allotments. As we stated in that final rule, we believe that the intent of the statute is to provide benefits to eligible persons up to the full amount of funds made available for the program in each FY. We recognized that because of the imprecise data for computing the States' QI allotments for a FY, some States would experience either surpluses or shortages in their FY 2006 and FY 2007 allotments. In accordance with § 433.10(c), the FY 2006 and FY 2007 QI allotments were designed to compensate for the imprecise data to permit shortage States to enroll more QIs than otherwise would have been possible.

Section 3 of the TMA, Abstinence Education, and QI Program Extension Act of 2007, Public Law 110–90 (enacted on September 29, 2007) provided $100 million and extended the QI program through December 31, 2007. Section 203 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA) (Pub. L. 110–173, enacted on December 29, 2007) provided an additional $200 million and extended the QI program through June 30, 2008. Section 111 of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA) (Pub. L. 110–275) enacted on July 15, 2008, and section 2 of the QI Program Supplemental Funding Act of 2008 (the SFA) enacted on October 8, 2008, (Pub. L. 110–379), extended and provided additional funds for the QI program. As amended by MIPPA and the SFA, a total of $415 million was made available for the QI program for FY 2008, and $480 million was made available for the QI program for FY 2009. Additionally,

$150 million was provided for the QI program for the first quarter of FY 2010 (that is, October 1, 2009 through December 31, 2009).

However, the then-existing regulation at § 433.10(c)(5)(v) authorized the methodology for determining each State's QI allotment under the QI program only through FY 2007. Therefore, on November 24, 2008, we published an interim final rule with comment period entitled, "Medicaid Program; State Allotments for Payment of Medicare Part B Premiums for Qualifying Individuals: Federal Fiscal Year 2008 and Federal Fiscal Year 2009" (73 FR 70886). This rule revised paragraph § 433.10(c)(5)(ii) by changing the statutory reference "section 1933(c)(1)" to "section 1933(g)". It also revised paragraph (c)(5)(iii) introductory text, and paragraphs (c)(5)(iii)(D), and (c)(5)(v) to more generally refer to the period for which QI program funding is available under the statute, rather than referring to particular years.

C. Allotments for FY 2010 and Thereafter

Section 5005 of the American Recovery and Reinvestment Act of 2009 (the Recovery Act, Pub. L. 111–5, enacted on February 17, 2009) extended the QI program by providing $412.5 million in additional funds for the remaining three quarters of FY 2010 and $150 million in additional funds for the first quarter of 2011 (that is, through December 31, 2010). However, most recently, on January 27, 2010 the President signed into law the "Emergency Aid to American Survivors of the Haiti Earthquake Act", P.L. 111–127 (Haiti Earthquake Act); section 3 of this legislation amends section 1933(g)(2)(M) of the Act to make available $462.5 million for the last three quarters of FY 2010 (this replaces the $412.5 million provided under the Recovery Act for that period). Prior to enactment of the Haiti Earthquake Act, through the Recovery Act there was a total of $562.5 million available for States' QI allotments for FY 2010. With the enactment of the Haiti Earthquake Act, a total of $612.5 million is available for States' QI allotments for FY 2010. The Haiti Earthquake Act also amended section 1933(g)(2) of the Act to make $165 million available for the QI program for FY 2011 (this replaces the $150 million for FY 2011 previously provided under the Recovery Act).

The amounts of the final FY 2009 and preliminary FY 2010 QI allotments were determined in accordance with the methodology set forth in existing Medicaid regulations at § 433.10(c)(5), as amended in the **Federal Register** published on November 24, 2008 (73 FR 70893).

II. Charts

The Final QI Allotments for FY 2009 and the Preliminary QI Allotments for FY 2010 are shown by State in Chart 1 and Chart 2 below, respectively:

Chart 1—Final Qualifying Individuals Allotments for October 1, 2008 through September 30, 2009.

Chart 2—Preliminary Qualifying Individuals Allotments for October 1, 2009 through September 30, 2010.

The following describes the information contained in the columns of Chart 1 and Chart 2.

Column A—State. Column A shows the name of each State.

Columns B through D show the determination of an Initial QI Allotment for FY 2009 (Chart 1) or FY 2010 (Chart 2) for each State, based only on the indicated Census Bureau data.

Column B—Number of Individuals. Column B contains the estimated average number of Medicare beneficiaries for each State that are not covered by Medicaid whose family income is at least 120 percent but less than 135 percent of the poverty level. With respect to the final FY 2009 QI allotment (Chart 1), Column B contains the number of such individuals for the years 2005 through 2007, as obtained from the Census Bureau's Annual Social and Economic Supplement to the 2008 Current Population Survey. With respect to the preliminary FY 2010 QI allotment (Chart 2), Column B contains the number of such individuals for the years 2006 through 2008, as obtained from the Census Bureau's Annual Social and Economic Supplement to the 2009 Current Population Survey.

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

Column D—Initial QI Allotment. Column D contains each State's Initial QI Allotment for FY 2009 (Chart 1) or FY 2010 (Chart 2), calculated as the State's Percentage of Total in Column C multiplied by the total amount available nationally for QI allotments for the FY. The total amount available nationally for QI allotments each FY is $480,000,000 for FY 2009 (Chart 1) and $612,500,000 for FY 2010 (Chart 2).

Columns E through L show the determination of the States' Final QI Allotments for FY 2009 (Chart 1) or Preliminary QI Allotments for FY 2010 (Chart 2).

Column E—FY 2009 Estimated QI Expenditures. Column E contains the States' estimates of their total QI expenditures for FY 2009 (Chart 1) or FY 2010 (Chart 2) based on information obtained from States in the summer of 2009.

Column F—Need (Difference). Column F contains the additional amount of QI allotment needed for those States whose estimated expenditures in Column E exceeded their Initial QI allotments in Column D for FY 2009 (Chart 1) or for FY 2010 (Chart 2). For such States, Column F shows the amount in Column E minus the amount in Column D. For other "Non-Need" States, Column F shows "NA".

Column G—Percent of Total Need States. For States whose projected QI expenditures in Column E are greater than their initial QI allotment in Column D for FY 2009 (Chart 1) or FY 2010 (Chart 2), respectively, Column G shows the percentage of total need, determined as the amount for each Need State in Column F divided by the sum of the amounts for all States in Column F. For Non-Need States, the entry in Column G is "NA".

Column H—Reduction Pool for Non-Need States. "Column H shows the amount of the pool of surplus QI allotments for FY 2009 (Chart 1) or FY 2010 (Chart 2), respectively, for those States that project QI expenditures for the FY (in Column E) that are less than the initial QI allotments (in Column D) for the FY (referred to as non-need States). The amount in Column H is calculated as the amount in Column D minus the amount in Column E, representing the surplus of QI allotment funds for the indicated FYs. There will only be an amount shown in Column H for States whose projected QI expenditures in Column E are less than the initial QI allotment for the FY shown in Column D." For the States with a need, Column H shows "Need." The reduction pool of excess QI allotments is equal to the sum of the amounts in Column H.

Column I—Percent of Total Non-Need States. For States whose Projected QI Expenditures in Column E are less than their Initial QI Allotment in Column D for FY 2009 (Chart 1) or FY 2010 (Chart 2), Column I shows the percentage of the total reduction pool in Column H, determined as the amount for each Non-Need State in Column H divided by the sum of the amounts for all States in Column H. For Need States, the entry in Column I is "Need".

Column J—Reduction Adjustment for Non-Need States. Column J shows the amount of adjustment needed to reduce the Initial QI Allotments in Column D

for FY 2009 (Chart 1) or FY 2010 (Chart 2) for Non-Need States in order to address the total need shown in Column F. The amount in Column J is determined as the percentage in Column I for Non-Need States multiplied by the lesser of the total need in Column F (equal to the sum of Needs in Column F) or the total Reduction Pool in Column H (equal to the sum of the Non-Need amounts in Column H). For Need States, the entry in Column J is "Need".

Column K—Increase Adjustment for Need States. Column K shows the amount of adjustment to increase the Initial QI Allotment in Column D for FY 2009 (Chart 1) or FY 2010 (Chart 2) for Need States in order to address the total need shown for the FY in Column F. The amount in Column K is determined as the percentage in Column G for Need States multiplied by the lesser of the total need in Column F (equal to the sum of Needs in Column F) or the total Reduction Pool in Column H (equal to the sum of the Non-Need amounts in Column H). For Non-Need States, the entry in Column K is "NA".

Column L—Final FY 2009 QI Allotment (Chart 1) or Preliminary FY 2010 QI Allotment (Chart 2). Column L contains the Final QI Allotment for each State for FY 2009 (Chart 1) or the Preliminary QI Allotment for FY 2010 (Chart 2). For Need States, additional QI allotment amounts for the FY are based on the Estimated QI Expenditures in Column E as compared to their Initial QI allotments in Column D for the FY (States with a projected need amount are shown in Column F); and Column L is equal to the Initial QI Allotment in Column D for FY 2009 (Chart 1) or FY 2010 (Chart 2) plus the amount determined in Column K for Need States. For Non-Need States (States with a projected surplus in Column H), Column L is equal to the QI Allotment in Column D reduced by the Reduction Adjustment amount in Column J.

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CHART 1 - FINAL QUALIFYING INDIVIDUALS ALLOTMENTS FOR OCTOBER 1, 2008 THROUGH SEPTEMBER 30, 2009

STATE	Initial QI Allotments for FY 2009			FY 2009 Estimated QI Expenditures /1	Need (Difference)	Pct of Tot. Need States	Reduction Pool for Non-Need States	Pct of Tot. Non-Need States	Reduction Adj. For Non-Need States	Increase Adj. For Need States	Final FY 2009 QI Allotment /2
	Number of Individuals /3 (000s)	Percentage of Total Col B/Tot. Col B	Initial QI Allotment Col C x $480,000,000		If E>D, E-D	F/(Tot. of F)	If D >= E, D - E	H/(Tot. of H)	Col. I x $71,182,853	Col. G x $71,182,853	
A	B	C	D	E	F	G	H	I	J	K	L
Alabama	25	1.67%	$8,021,680	$17,290,330	$9,268,650	13.0209%	Need	Need	Need	$9,268,650	$17,290,330
Alaska	2	0.11%	$542,005	$107,872	NA	NA	$434,133	0.4069%	$289,619	NA	$252,387
Arizona	18	1.20%	$5,745,257	$12,804,867	$7,059,610	9.9176%	Need	Need	Need	$7,059,610	$12,804,867
Arkansas	21	1.42%	$6,829,268	$9,332,717	$2,503,449	3.5169%	Need	Need	Need	$2,503,449	$9,332,717
California	111	7.50%	$35,989,160	$21,885,625	NA	NA	$14,103,535	13.2177%	$9,408,738	NA	$26,580,422
Colorado	16	1.06%	$5,094,851	$3,234,612	NA	NA	$1,860,239	1.7434%	$1,241,001	NA	$3,853,850
Connecticut	18	1.24%	$5,962,060	$10,061,750	$4,099,690	5.7594%	Need	Need	Need	$4,099,690	$10,061,750
Delaware	4	0.27%	$1,300,813	$607,995	NA	NA	$692,818	0.6493%	$462,192	NA	$838,621
District of Columbia	3	0.20%	$975,610	$0	NA	NA	$975,610	0.9143%	$650,848	NA	$324,762
Florida	113	7.68%	$36,856,369	$39,484,737	$2,628,368	3.6924%	Need	Need	Need	$2,628,368	$39,484,737
Georgia	37	2.48%	$11,924,119	$22,603,852	$10,679,733	15.0032%	Need	Need	Need	$10,679,733	$22,603,852
Hawaii	3	0.23%	$1,084,011	$764,741	NA	NA	$319,270	0.2992%	$212,991	NA	$871,020
Idaho	6	0.41%	$1,951,220	$1,693,000	NA	NA	$258,220	0.2420%	$172,263	NA	$1,778,956
Illinois	68	4.61%	$22,113,821	$17,678,796	NA	NA	$4,435,025	4.1565%	$2,958,690	NA	$19,155,131
Indiana	37	2.51%	$12,032,520	$5,981,480	NA	NA	$6,051,040	5.6710%	$4,036,765	NA	$7,995,756
Iowa	15	1.02%	$4,878,049	$2,779,212	NA	NA	$2,098,837	1.9670%	$1,400,174	NA	$3,477,875
Kansas	13	0.90%	$4,336,043	$2,740,163	NA	NA	$1,595,880	1.4956%	$1,064,642	NA	$3,271,401
Kentucky	21	1.40%	$6,720,867	$10,574,941	$3,854,074	5.4143%	Need	Need	Need	$3,854,074	$10,574,941
Louisiana	16	1.08%	$5,203,252	$14,394,478	$9,191,226	12.9121%	Need	Need	Need	$9,191,226	$14,394,478
Maine	8	0.52%	$2,493,225	$3,491,512	$998,287	1.4024%	Need	Need	Need	$998,287	$3,491,512
Maryland	17	1.15%	$5,528,455	$4,447,800	NA	NA	$1,080,655	1.0128%	$720,926	NA	$4,807,529
Massachusetts	39	2.62%	$12,574,526	$9,380,106	NA	NA	$3,194,420	2.9938%	$2,131,059	NA	$10,443,467
Michigan	49	3.32%	$15,934,959	$10,195,553	NA	NA	$5,739,406	5.3789%	$3,828,868	NA	$12,106,092
Minnesota	23	1.54%	$7,371,274	$4,248,045	NA	NA	$3,123,229	2.9271%	$2,083,566	NA	$5,287,708
Mississippi	14	0.97%	$4,661,247	$10,418,310	$5,757,063	8.0877%	Need	Need	Need	$5,757,063	$10,418,310
Missouri	44	3.00%	$14,417,344	$4,845,739	NA	NA	$9,571,605	8.9704%	$6,385,401	NA	$8,031,943
Montana	7	0.47%	$2,276,423	$1,039,569	NA	NA	$1,236,854	1.1592%	$825,129	NA	$1,451,294
Nebraska	10	0.65%	$3,143,631	$2,711,636	NA	NA	$431,995	0.4049%	$288,192	NA	$2,855,439
Nevada	12	0.84%	$4,010,840	$2,690,831	NA	NA	$1,320,009	1.2371%	$880,603	NA	$3,130,237
New Hampshire	8	0.52%	$2,493,225	$1,301,882	NA	NA	$1,191,343	1.1165%	$794,768	NA	$1,698,457
New Jersey	31	2.08%	$9,972,900	$9,021,305	NA	NA	$951,595	0.8918%	$634,827	NA	$9,338,073
New Mexico	11	0.77%	$3,685,637	$2,997,076	NA	NA	$688,561	0.6453%	$459,352	NA	$3,226,285
New York	92	6.23%	$29,918,699	$35,846,404	$5,927,705	8.3274%	Need	Need	Need	$5,927,705	$35,846,404
North Carolina	53	3.59%	$17,235,772	$20,602,870	$3,367,098	4.7302%	Need	Need	Need	$3,367,098	$20,602,870
North Dakota	5	0.34%	$1,626,016	$532,899	NA	NA	$1,093,117	1.0245%	$729,239	NA	$896,777
Ohio	60	4.09%	$19,620,596	$17,153,038	NA	NA	$2,467,558	2.3126%	$1,646,155	NA	$17,974,441
Oklahoma	22	1.51%	$7,262,873	$7,397,158	$134,285	0.1886%	Need	Need	Need	$134,285	$7,397,158
Oregon	21	1.42%	$6,829,268	$8,716,833	$1,887,565	2.6517%	Need	Need	Need	$1,887,565	$8,716,833
Pennsylvania	82	5.58%	$26,775,068	$22,569,168	NA	NA	$4,205,900	3.9417%	$2,805,836	NA	$23,969,232
Rhode Island	4	0.27%	$1,300,813	$2,064,888	$764,075	1.0734%	Need	Need	Need	$764,075	$2,064,888
South Carolina	25	1.69%	$8,130,081	$6,349,675	NA	NA	$1,780,406	1.6686%	$1,187,743	NA	$6,942,338
South Dakota	3	0.23%	$1,084,011	$1,105,997	$21,986	0.0309%	Need	Need	Need	$21,986	$1,105,997
Tennessee	41	2.80%	$13,441,734	$14,468,676	$1,026,942	1.4427%	Need	Need	Need	$1,026,942	$14,468,676
Texas	124	8.42%	$40,433,604	$21,553,016	NA	NA	$18,880,588	17.6947%	$12,595,602	NA	$27,838,002
Utah	10	0.68%	$3,252,033	$1,450,242	NA	NA	$1,801,791	1.6886%	$1,202,009	NA	$2,050,024
Vermont	3	0.20%	$975,610	$2,988,658	$2,013,048	2.8280%	Need	Need	Need	$2,013,048	$2,988,658
Virginia	35	2.35%	$11,273,713	$6,532,257	NA	NA	$4,741,456	4.4436%	$3,163,116	NA	$8,110,597
Washington	27	1.81%	$8,672,087	$6,123,328	NA	NA	$2,548,759	2.3887%	$1,700,326	NA	$6,971,761
West Virginia	15	1.04%	$4,986,450	$4,499,181	NA	NA	$487,269	0.4567%	$325,066	NA	$4,661,383
Wisconsin	31	2.08%	$9,972,900	$3,109,272	NA	NA	$6,863,628	6.4325%	$4,578,857	NA	$5,394,042
Wyoming	3	0.23%	$1,084,011	$606,901	NA	NA	$477,110	0.4471%	$318,289	NA	$765,722
Total	1,476	100.00%	$480,000,000	$444,480,993	$71,182,853	100.0000%	$106,701,860	100.0000%	$71,182,853	$71,182,853	$480,000,000

Footnotes:

/1 FY 2009 Estimates from July 2009 CMS Survey of States

/2 For Need States, Final FY 2009 QI Allotment is equal to Initial QI Allotment in Column D increased by amount in Column K
For Non-Need States, Final FY 2009 QI Allotment is equal to Initial QI Allotment in Column D reduced by amount in Column J

/3 Three-year average (2005-2007) of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 120% but less than 135% of Federal poverty level
Source: Census Bureau Annual Social and Economic Supplement (ASEC) to the 2008 Current Population Survey (CPS)

CHART 2 - PRELIMINARY QUALIFYING INDIVIDUALS ALLOTMENTS FOR OCTOBER 1, 2009 THROUGH SEPTEMBER 30, 2010

STATE	Initial QI Allotments for FY 2010			FY 2010 Estimated QI Expenditures /1	Need (Difference)	Pct of Tot. Need States	Reduction Pool for Non-Need States	Pct of Tot. Non-Need States	Reduction Adj. For Non-Need States Col. I x	Increase Adj. For Need States Col. G x	Preliminary FY 2010 QI Allotment /2
	Number of Individuals /3 (000s)	Percentage of Total Col B/Tot. Col B	Initial QI Allotment Col C x $612,500,000		If E>D, E-D	F/(Tot. of F)	If D >= E, D - E	H/(Tot. of H)	$113,862,028	$113,862,028	
A	B	C	D	E	F	G	H	I	J	K	L
Alabama	30	2.07%	$12,707,469	$30,986,841	$18,279,372	16.0540%	Need	Need	Need	$18,279,372	$30,986,841
Alaska	2	0.14%	$847,165	$127,597	NA	NA	$719,568	0.5844%	$665,422	NA	$181,743
Arizona	16	1.11%	$6,777,317	$15,520,400	$8,743,083	7.6787%	Need	Need	Need	$8,743,083	$15,520,400
Arkansas	20	1.41%	$8,612,840	$12,420,041	$3,807,201	3.3437%	Need	Need	Need	$3,807,201	$12,420,041
California	104	7.19%	$44,052,559	$38,011,082	NA	NA	$6,041,477	4.9067%	$5,586,870	NA	$38,465,689
Colorado	16	1.08%	$6,636,123	$4,525,300	NA	NA	$2,110,823	1.7143%	$1,951,988	NA	$4,684,134
Connecticut	19	1.29%	$7,906,870	$12,250,834	$4,343,964	3.8151%	Need	Need	Need	$4,343,964	$12,250,834
Delaware	5	0.32%	$1,976,717	$2,062,242	$85,525	0.0751%	Need	Need	Need	$85,525	$2,062,242
District of Columbia	3	0.21%	$1,270,747	$0	NA	NA	$1,270,747	1.0321%	$1,175,126	NA	$95,621
Florida	119	8.21%	$50,265,099	$49,490,946	NA	NA	$774,153	0.6287%	$715,900	NA	$49,549,199
Georgia	31	2.17%	$13,272,245	$28,065,805	$14,793,560	12.9925%	Need	Need	Need	$14,793,560	$28,065,805
Hawaii	4	0.25%	$1,553,135	$1,095,035	NA	NA	$458,100	0.3721%	$423,629	NA	$1,129,506
Idaho	5	0.37%	$2,259,106	$2,075,576	NA	NA	$183,530	0.1491%	$169,719	NA	$2,089,386
Illinois	67	4.63%	$28,380,014	$21,852,360	NA	NA	$6,527,654	5.3016%	$6,036,463	NA	$22,343,551
Indiana	29	2.01%	$12,283,887	$6,903,519	NA	NA	$5,380,368	4.3698%	$4,975,507	NA	$7,308,379
Iowa	16	1.13%	$6,918,511	$3,816,120	NA	NA	$3,102,391	2.5197%	$2,868,943	NA	$4,049,568
Kansas	15	1.06%	$6,494,929	$3,354,592	NA	NA	$3,140,337	2.5505%	$2,904,034	NA	$3,590,895
Kentucky	24	1.68%	$10,307,169	$15,139,957	$4,832,788	4.2444%	Need	Need	Need	$4,832,788	$15,139,957
Louisiana	23	1.61%	$9,883,587	$16,682,646	$6,799,059	5.9713%	Need	Need	Need	$6,799,059	$16,682,646
Maine	6	0.41%	$2,541,494	$5,984,796	$3,443,302	3.0241%	Need	Need	Need	$3,443,302	$5,984,796
Maryland	15	1.01%	$6,212,540	$5,865,638	NA	NA	$346,902	0.2817%	$320,799	NA	$5,891,742
Massachusetts	37	2.54%	$15,531,351	$11,940,968	NA	NA	$3,590,383	2.9160%	$3,320,215	NA	$12,211,136
Michigan	46	3.16%	$19,343,592	$14,610,262	NA	NA	$4,733,330	3.8443%	$4,377,157	NA	$14,966,434
Minnesota	23	1.59%	$9,742,393	$5,146,238	NA	NA	$4,596,155	3.7329%	$4,250,305	NA	$5,492,088
Mississippi	15	1.01%	$6,212,540	$23,269,927	$17,057,387	14.9808%	Need	Need	Need	$17,057,387	$23,269,927
Missouri	32	2.24%	$13,695,828	$6,437,470	NA	NA	$7,258,358	5.8950%	$6,712,183	NA	$6,983,644
Montana	7	0.48%	$2,965,076	$1,579,764	NA	NA	$1,385,312	1.1251%	$1,281,071	NA	$1,684,006
Nebraska	9	0.62%	$3,812,241	$3,386,050	NA	NA	$426,191	0.3461%	$394,121	NA	$3,418,120
Nevada	8	0.55%	$3,388,658	$3,733,090	$344,432	0.3025%	Need	Need	Need	$344,432	$3,733,090
New Hampshire	7	0.46%	$2,823,882	$1,811,801	NA	NA	$1,012,081	0.8220%	$935,924	NA	$1,887,958
New Jersey	29	2.01%	$12,283,887	$11,220,822	NA	NA	$1,063,065	0.8634%	$983,071	NA	$11,300,815
New Mexico	12	0.85%	$5,224,182	$3,895,266	NA	NA	$1,328,916	1.0793%	$1,228,918	NA	$3,995,264
New York	92	6.36%	$38,969,571	$57,152,700	$18,183,129	15.9694%	Need	Need	Need	$18,183,129	$57,152,700
North Carolina	58	4.03%	$24,708,967	$25,503,029	$794,062	0.6974%	Need	Need	Need	$794,062	$25,503,029
North Dakota	3	0.23%	$1,411,941	$635,909	NA	NA	$776,032	0.6303%	$717,637	NA	$694,304
Ohio	70	4.84%	$29,650,761	$22,428,028	NA	NA	$7,222,733	5.8661%	$6,679,239	NA	$22,971,521
Oklahoma	18	1.22%	$7,483,287	$8,600,790	$1,117,503	0.9815%	Need	Need	Need	$1,117,503	$8,600,790
Oregon	18	1.24%	$7,624,481	$12,862,593	$5,238,112	4.6004%	Need	Need	Need	$5,238,112	$12,862,593
Pennsylvania	77	5.30%	$32,474,643	$26,281,443	NA	NA	$6,193,200	5.0299%	$5,727,176	NA	$26,747,467
Rhode Island	4	0.28%	$1,694,329	$2,336,193	$641,864	0.5637%	Need	Need	Need	$641,864	$2,336,193
South Carolina	23	1.61%	$9,883,587	$10,209,013	$325,426	0.2858%	Need	Need	Need	$325,426	$10,209,013
South Dakota	3	0.21%	$1,270,747	$1,410,340	$139,593	0.1226%	Need	Need	Need	$139,593	$1,410,340
Tennessee	34	2.35%	$14,401,798	$16,601,179	$2,199,381	1.9316%	Need	Need	Need	$2,199,381	$16,601,179
Texas	128	8.88%	$54,359,728	$23,150,246	NA	NA	$31,209,482	25.3474%	$28,861,041	NA	$25,498,686
Utah	9	0.65%	$3,953,435	$1,716,292	NA	NA	$2,237,143	1.8169%	$2,068,803	NA	$1,884,632
Vermont	3	0.18%	$1,129,553	$3,822,839	$2,693,286	2.3654%	Need	Need	Need	$2,693,286	$3,822,839
Virginia	34	2.33%	$14,260,604	$7,791,642	NA	NA	$6,468,962	5.2539%	$5,982,188	NA	$8,278,416
Washington	25	1.71%	$10,448,363	$7,415,935	NA	NA	$3,032,428	2.4628%	$2,804,245	NA	$7,644,118
West Virginia	15	1.06%	$6,494,929	$5,422,963	NA	NA	$1,071,966	0.8706%	$991,303	NA	$5,503,626
Wisconsin	35	2.40%	$14,684,186	$5,712,295	NA	NA	$8,971,891	7.2867%	$8,296,777	NA	$6,387,409
Wyoming	3	0.23%	$1,411,941	$918,562	NA	NA	$493,379	0.4007%	$456,253	NA	$955,688
Total	1,446	100.00%	$612,500,000	$603,234,976	$113,862,028	100.0000%	$123,127,052	100.0000%	$113,862,028	$113,862,028	$612,500,000

Footnotes:

/1 FY 2010 Estimates from July 2009 CMS Survey of States

/2 For Need States, Final FY 2010 QI Allotment is equal to Initial QI Allotment in Column D increased by amount in Column K

For Non-Need States, Final FY 2010 QI Allotment is equal to Initial QI Allotment in Column D reduced by amount in Column J

/3 Three-year average (2006-2008) of number (000) of Medicare beneficiaries in State who are not enrolled in Medicaid but whose incomes are at least 120% but less than 135% of Federal poverty level

Source: Census Bureau Annual Social and Economic Supplement (ASEC) to the 2009 Current Population Survey (CPS)

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III. Waiver of Notice With Comment and 30-Day Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on a proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued. In addition, we also normally provide a delay of 30 days in the effective date. However, if adherence to this procedure would be impractical, unnecessary, or contrary to public interest, we may waive the delay in the effective date in accordance with the Administrative Procedure Act (5 U.S.C. 551 *et seq.*).

We are publishing this notice without a comment period or delay in effective date because of the need to notify individual States of the limitations on Federal funds for their Medicaid expenditures for payment of Medicare Part B premiums for qualifying individuals. Some States have experienced deficits in their current allotments that have caused them to deny benefits to eligible applicants, while other States project a surplus in their allotments. This notice adjusts the allocation of Federal funds, which will reduce the impact of States denying coverage to eligible QIs when there is sufficient funding to cover all or some of these individuals. Because access to Medicare Part B coverage for QIs, who without this coverage would have difficulty paying for needed health care, is critically important, we believe that it is in the public interest to waive the usual notice and comment procedure which we undertake before making a rule final. Moreover, we are not making any changes to the process we use for allocating allotments. We are simply implementing a process already set forth in regulations. For these reasons, we also believe a notice and comment process would be unnecessary.

Therefore, for the reasons discussed above, we find that good cause exists to dispense with the normal requirement that a regulation cannot become effective any earlier than 30 days after its publication. States that will have access to additional funds for QIs need to know that these funds are available as soon as possible. While we believe the surplus States that will have diminished amounts available for this FY will have sufficient funds for enrolling all potential QIs in their States, they also need to know as soon as possible that a certain amount of their unused allocation will no longer be available to them for this FY.

IV. Collection of Information Requirements

This notice does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

V. Regulatory Impact Statement

We have examined the impact of this notice as required by Executive Order 12866 on Regulatory Planning and Review, the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 1995 (March 22, 1995; Pub. L. 104–4), Executive Order 13132 on Federalism (August 4, 1999) and the Congressional Review Act (5 U.S.C. 804(2)).

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 in any 1 year). This notice does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $7 million to $34.5 million in any 1 year. Individuals and States are not included in the definition of a small entity.

This notice codifies our procedures for implementing provisions of the Balanced Budget Act of 1997 to allocate, among the States, Federal funds to provide Medicaid payment for Medicare Part B premiums for low-income Medicare beneficiaries. The total amount of Federal funds available during a Federal FY and the formula for determining individual State allotments are specified in the law. We have applied the statutory formula for the State allotments. Because the data specified in the law were not initially available, we used comparable data from the U.S. Census Bureau on the number of possible qualifying individuals in the States. This notice also permits, in a specific circumstance, reallocation of funds to enable enrollment of all eligible individuals to the extent of the available funding.

We believe that the statutory provisions implemented in this notice will have a positive effect on States and individuals. Federal funding at the 100 percent matching rate is available for Medicare cost-sharing for Medicare Part B premium payments for qualifying individuals. Also, as a result of the reallocation of State allotments, a greater number of low-income Medicare beneficiaries will be eligible to have their Medicare Part B premiums paid under Medicaid. The changes in allotments will not result in fewer individuals receiving the QI benefit in any State. The FY 2009 and FY 2010 costs for this provision have been included in the Mid-session Review of the FY 2010 President's Budget.

Section 1102(b) of the Social Security Act (the Act) requires us to prepare a regulatory impact analysis for any rule that may have a significant impact on the operations of a substantial number of small rural hospitals. The analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a metropolitan statistical area and has fewer than 100 beds. We are not preparing analyses for either the RFA or section 1102(b) of the Act because we have determined and certify that this notice will not have a significant economic impact on a substantial number of small entities or a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4) also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. In 2010, that threshold is approximately $135 million. This notice will have no consequential effect on the governments mentioned or on the private sector.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates a rule

that imposes substantial direct requirement costs on State and local governments, preempts State law, or otherwise has federalism implications. Since this regulation does not impose any costs on State or local governments, the requirements of Executive Order 13132 are not applicable.

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

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program)

Dated: December 17, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: January 22, 2010.

Kathleen Sebelius,

Secretary.

[FR Doc. 2010–8498 Filed 4–13–10; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1343–NC]

Medicare and Medicaid Programs; Announcement of an Application From a Hospital Requesting Waiver for Organ Procurement Service Area

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

ACTION: Notice with comment period.

SUMMARY: A hospital has requested a waiver of statutory requirements that would otherwise require the hospital to enter into an agreement with its designated Organ Procurement Organization (OPO). The request was made in accordance with section 1138(a)(2) of the Social Security Act (the Act). This notice requests comments from OPOs and the general public for our consideration in determining whether we should grant the requested waiver.

DATES: *Comment Date:* To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on June 22, 2010.

ADDRESSES: In commenting, please refer to file code CMS–1343–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the instructions under the "More Search Options" tab.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1343–NC, P.O. Box 8010, Baltimore, MD 21244–1850.

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

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1343–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments before the close of the comment period to either of the following addresses: a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey 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.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

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

For information on viewing public comments, *see* the beginning of the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mark A. Horney, (410) 786–4554.

SUPPLEMENTARY INFORMATION: *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. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Organ Procurement Organizations (OPOs) are not-for-profit organizations that are responsible for the procurement, preservation, and transport of transplantable organs to transplant centers throughout the country. Qualified OPOs are designated by the Centers for Medicare & Medicaid Services (CMS) to recover or procure organs in CMS-defined exclusive geographic service areas, pursuant to section 371(b)(1) of the Public Health Service Act (42 U.S.C. 273(b)(1) and our regulations at 42 CFR 486.306. Once an OPO has been designated for an area, hospitals in that area that participate in Medicare and Medicaid are required to work with that OPO in providing organs for transplant, pursuant to section 1138(a)(1)(C) of the Social Security Act (the Act) and our regulations at 42 CFR 482.45.

Section 1138(a)(1)(A)(iii) of the Act provides that a hospital must notify the designated OPO (for the service area in which it is located) of potential organ donors. Under section 1138(a)(1)(C) of the Act, every participating hospital must have an agreement to identify potential donors only with its designated OPO.

However, section 1138(a)(2)(A) of the Act provides that a hospital may obtain a waiver of the above requirements from the Secretary under certain specified conditions. A waiver allows the hospital to have an agreement with an OPO other than the one initially designated by CMS, if the hospital meets certain conditions specified in section 1138(a)(2)(A) of the Act. In addition, the Secretary may review additional criteria described in section 1138(a)(2)(B) of the