ZIP code	Two-letter state abbreviation	City	Territory, possession, or freely associated state
96942	FM	Chuuk	Federated States of Micronesia.
96943	FM	Yap	Federated States of Micronesia.
96944	FM	Kosrae	Federated States of Micronesia.
96950	MP	Saipan	Commonwealth of the Northern Mariana Islands.
96951	MP	Rota	Commonwealth of the Northern Mariana Islands.
96952	MP	Tinian	Commonwealth of the Northern Mariana Islands.
96960	MH	Majuro	Republic of the Marshall Islands.
96970	MH	Ebeye	Republic of the Marshall Islands.

[Renumber current items 2.4.2 through 2.4.4 as 2.4.5 through 2.4.7 and insert new 2.4.2 through 2.4.4 as follows:]

2.4.2 Items Containing Goods

Regardless of mail class or weight, items containing goods (*i.e.,* contents other than documents; *see* IMM 123.63 for "document" eligibility) must bear a properly completed PS Form 2976, *Customs Declaration CN 22,* or, if the customer prefers, a PS Form 2976–A, *Customs Declaration and Dispatch Note—CP 72,* when the items are sent to the United States or Puerto Rico from the ZIP Code destinations listed in the table in 2.4.1, or from the U.S. Virgin Islands..

2.4.3 Improperly Prepared Items

Mailpieces deposited without a properly completed customs form under 2.4.1 and 2.4.2 will be returned to the sender.

2.4.4 Overseas Military Mail

For determining customs declarations' required usage when mailing to or from APO, FPO, or DPO addresses, *see* 703.2.3.6 through 703.2.3.8.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 2011–3446 Filed 2–16–11; 8:45 am]

BILLING CODE 7710–12–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Part 457

[CMS–2291–F]

RIN 0938–AP53

Children's Health Insurance Program (CHIP); Allotment Methodology and States' Fiscal Years 2009 Through 2015 CHIP Allotments

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

ACTION: Final rule.

SUMMARY: This final rule describes the implementation of funding provisions under Title XXI of the Social Security Act (the Act), for the Children's Health Insurance Program (CHIP), as amended by the Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), by the Medicare, Medicaid, and SCHIP Extension Act of 2007 (MMSEA), by other related CHIP legislation, and most recently by the Patient Protection and Affordable Care Act of 2010 (the Affordable Care Act). Specifically, this final rule addresses methodologies and procedures for determining States' fiscal years 2009 through 2015 allotments and payments in accordance with sections 2104 and 2105 of the Act, as amended by CHIPRA and the Affordable Care Act.

DATES: *Effective Date:* These regulations are effective on April 18, 2011.

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

SUPPLEMENTARY INFORMATION:

I. Background

A. The Children's Health Insurance Program

Title XXI of the Social Security Act (the Act) sets forth CHIP to enable States, the District of Columbia, and specified Commonwealths and Territories to initiate and expand health insurance coverage to uninsured, low-income children. The 50 States, the District of Columbia, and the Commonwealths and Territories may implement the CHIP through a separate child health program under title XXI of the Act, an expanded Medicaid program under title XIX of the Act, or a combination of both.

Federal funds appropriated for title XXI are limited, and the law specifies a formula and methodology to divide the total annual appropriation into individual allotments available for each State, the District of Columbia, and each U.S. Territory and Commonwealth with an approved child health plan.

B. Funding of CHIP Allotments Before the Enactment of CHIPRA

Section 4901 of the Balanced Budget Act of 1997 (Pub. L. 105–33, enacted on August 5, 1997) (BBA), which added Title XXI to the Social Security Act, appropriated funding for States' CHIPs for each fiscal year over a 10 fiscal year (FY) period from 1998 through 2007. The funding for each FY varied from $4.295 billion for FY 1998 up to $5.0 billion for FY 2007. Under section 2104(c)(4) of the Act, additional appropriations were provided for each of FYs 1999 through 2007 to provide additional allotment amounts particularly for the Commonwealths and Territories.

Public Law 110–92 (enacted on September 29, 2007), contained provisions to extend funding under the CHIP through November 16, 2007. In particular, section 136(a) of Public Law 110–92 appropriated $5 billion for the purposes of providing FY 2008 allotments to the 50 States, the District of Columbia, and the Commonwealths and Territories. In addition, $40 million was appropriated by this section to provide additional allotments to the Commonwealths and Territories in FY 2008.

Section 136(b) of Public Law 110–92 also provided that the FY 2008 allotments will be determined in accordance with the same methodology as previous CHIP fiscal year allotments were determined. In addition, section 136(c) of Public Law 110–92 amended the CHIP statute to add a new section 2104(i) of the Act to provide for the redistribution in FY 2008 of the unexpended FY 2005 allotments remaining at the end of FY 2007 to those 50 States or the District of Columbia that had estimated shortfalls in FY 2008. Finally, section 106 of Public Law 110–92 made the FY 2008 allotment funds available only for States' CHIP expenditures for assistance provided through November 16, 2007.

Subsequent to the enactment of Public Law 110–92; further continuing appropriation legislation was enacted which extended the dates which the FY 2008 allotment funds were available as provided in section 106 of Public Law 110–92; in particular, Public Law 110–116 (enacted on November 13, 2007), Public Law 110–137 (enacted on December 14, 2007), and Public Law 110–149 (enacted on December 21, 2007) extended the dates to December 14, 2007, December 21, 2007, and December 31, 2007, respectively.

Section 201 of the Medicare, Medicaid, and SCHIP Extension Act of 2007 (Pub. L. 110–173, enacted on December 29, 2007) (MMSEA) amended section 2104(a) of the CHIP statute to explicitly provide funding for CHIP allotments in the amount of $5 billion for each of FYs 2008 and 2009 for the 50 States and the District of Columbia and the Commonwealths and Territories, and for $40 million for the Commonwealths and Territories for each of FYs 2008 and 2009. These allotments will be determined in accordance with the existing methodology in CHIP statute for fiscal years before FY 2008. The funding provided for FY 2008 under the Continuing Appropriation legislation discussed above and enacted before MMSEA will no longer be available (and thus expenditures for FY 2008 will be paid from the allotments as provided under MMSEA). MMSEA provided that the FYs 2008 and 2009 allotment funds were only available for States' expenditures through March 31, 2009.

Section 201 of MMSEA amended the CHIP statute to add section 2104(j) of the Act which appropriated $1.6 billion for the purpose of providing additional allotments to eliminate States' CHIP shortfalls in FY 2008.

The provisions of MMSEA were implemented and described in a **Federal Register** notice dated May 23, 2008 (73 FR 30112).

C. Enactment of CHIPRA

Section 101 of the CHIPRA amended section 2104(a) of the Act to appropriate funding for each of FYs 2009 through 2012, and for two semi-annual periods in FY 2013, October 1, 2012 through March 31, 2013 and April 1, 2013 through September 30, 2013 respectively, for the purpose of providing allotments to States for each of those fiscal years or fiscal year periods. Furthermore, section 108 of CHIPRA provided additional funding for State allotments for the period October 1, 2012 through March 31, 2013 (the first half of FY 2013). Finally, section 3(c) of CHIPRA provides for the coordination of funding for CHIP in FY 2009 as previously provided under section 201 of MMSEA.

In particular, section 3(c) of CHIPRA requires the Federal government to rescind any previously appropriated amounts that were not allotted or obligated before April 1, 2009 for the following:

- Section 2104(a)(11) of the Act for purposes of providing State CHIP allotments for FY 2009 for States' expenditures through March 31, 2009.
- Section 2104(k) of the Act for purposes of the redistribution of unexpended FY 2006 allotments in FY 2009 to address States' funding shortfalls in FY 2009.
- Section 2104(l) of the Act for purposes of providing additional allotments for States' expenditures in FY 2009 to fund States' shortfalls for their expenditures through March 31, 2009.

Furthermore, any amounts provided for FY 2009 CHIP allotments in section 2104(a)(12) as appropriated through the amendments made by CHIPRA must be reduced by the amounts that were obligated before April 1, 2009 under sections 2104(a)(11), 2104(k), or 2104(l) of the Act, as amended by section 201 of MMSEA (which refer to States' FY 2009 CHIP allotments, amounts of unexpended FY 2006 allotments redistributed in FY 2009, and the amounts of additional FY 2009 allotments to address States' CHIP funding shortfalls through March 31, 2009, respectively). Funding for Territories and Commonwealths under Section 2104(c)(4) of the Act was not subject to coordination of funding under section 3(c) of CHIPRA.

The rescission of these unobligated amounts as well as the reduction in the FY 2009 allotment for the amounts that were obligated before April 1, 2009 ensure that States do not receive FY 2009 allotments as determined under CHIPRA in excess of the total amount provided under section 2104(a)(12) of the Act for FY 2009, as amended by CHIPRA, and 2104(c)(4).

D. The Patient Protection and Affordable Care Act

Section 10203(d)(1) of the Patient Protection and Affordable Care Act of 2010 ("Affordable Care Act"), Public Law 111–148, amended section 2104 of the CHIP statute to extend funding for CHIP to the end of FY 2015 and made other technical changes to the funding provisions under CHIP that do not affect the overall funding mechanism.

E. Authority for Qualifying States to Use Available CHIP Allotments for Medicaid Expenditures

Under section 2105(a)(1)(A) through (D) and (a)(2) of the Act, and before enactment of Extension of Availability of CHIP Allotment Act (Pub. L. 108–74, enacted on August 15, 2003), only Federal payments for the following Medicaid and CHIP expenditures were applied against States' available CHIP allotments to include:

- Medical assistance provided under title XIX (Medicaid) of the Act, to targeted low-income children in a CHIP-related Medicaid expansion, for which the CHIP enhanced Federal medical assistance percentage (CHIP EFMAP) rate is available.
- Medical assistance provided on behalf of a child during a period of presumptive eligibility under section 1920A of the Act (these funds are matched at the regular Medicaid Federal medical assistance percentage (FMAP) rate).
- Child health assistance to targeted low income children that meets minimum benefit requirements under CHIP.
- Other types of expenditures in CHIP 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).

Section 1(b) of the Extension of Availability of CHIP Allotment Act as amended by the Social Security Act, Technical corrections (Pub. L. 108–127, enacted November 17, 2003), added new section 2105(g) to the Act that certain "qualifying States" that met prescribed criteria could elect to use up to 20 percent of any of the States' available CHIP allotments for FYs 1998, 1999, 2000, or 2001 to increase the FMAP rate for certain regular Medicaid expenditures to the EFMAP rate available under CHIP. These

expenditures were for children under 19 years of age whose family income exceeds 150 percent of the Federal poverty line and who are eligible under the States' Medicaid program. As described in the **Federal Register** notice published on July 23, 2004 (69 FR 44013), if a qualified State submitted both 20 percent allowance expenditures and other "regular" CHIP expenditures at the same time in a quarter, the 20 percent allowance expenditures would be applied first against the available fiscal year reallotments. However, the 20 percent allowance expenditures could be applied only against the specified fiscal year allotment funds (upon which the 20 percent allowances were based) and which would remain available. Under section 2104(g)(1)(B)(iii) of the Act, the amounts of States' FY 2001 reallotments would only be available through the end of FY 2005; therefore, the FY 2001 20 percent allowances for the qualifying States are only available through the end of FY 2005.

Section 6103 of the Deficit Reduction Act of 2005 (Pub. L. 109–171, enacted on February 8, 2006) amended section 2105(g) of the Act to provide for continued authority for qualifying States to use a portion of their available FYs 2004 and 2005 CHIP allotments for payments to supplement the Medicaid FMAP that result in total Federal participation at the EFMAP rate (as determined in section 2105(b) of the Act) for certain expenditures made in the Medicaid program.

Section 201(b) of the National Institutes of Health Reform Act of 2006 (Pub. L. 109–482, enacted on January 15, 2007) and section 201(b) of MMSEA, amended section 2105(g) of the Act to provide for continued authority of payments to qualifying States for FYs 2006 through 2009.

Finally, section 107 of CHIPRA amended title XXI of the Act to add a new paragraph (4) of section 2105(g) of the Act; under this new provision, qualifying states at their option may use up to their entire fiscal year allotments for each of FYs 2009 through 2015, to the extent such allotments remain available to the State under the Act, in an amount equal to the additional amount that would have been paid to the State if the EFMAP as determined by section 2104(b) of the Act was substituted for the FMAP defined in section 1905(b) of the Act. Section 10203(d)(2)(C) of the Affordable Care Act further amended section 2105(g)(4) of the Act to provide that qualifying states at their option may use up to their entire fiscal year allotments for each of FYs 2009 through 2015.

The CHIPRA amendments to the qualifying State provision provide that the indicated amounts of such allotments are available for certain expenditures of the qualifying States as described in section 2105(g)(4)(B) of the Act, as amended by CHIPRA. In particular, these are expenditures made by such States on or after February 5, 2009 for children whose family income equals or exceeds 133 percent of the Federal poverty line but does not exceed the Medicaid applicable income level. As indicated above in this preamble, this is a change from what was in effect previously; that is, before CHIPRA, the income level was 150 percent of the Federal poverty line.

II. Provisions of the Proposed Rule

We published on September 16, 2009 a proposed rule in the **Federal Register** (74 FR 47517), that set forth the methodologies and procedures to determine allotments of federal funds under title XXI of the Social Security Act (the Act), reflecting the statutory changes described above. We proposed new regulatory provisions that would be set forth in 42 CFR part 457 subpart F.

III. Analysis of and Responses to Public Comments

We received a total of 2 timely comments on the September 16, 2009 (74 FR 47517) proposed rule. Both comments either indicated agreement with the content of the proposed rule or were outside of the scope of the rule; neither of these comments suggested any changes to the content of the proposed rule.

IV. Provisions of the Final Regulations

After consideration of the comments reviewed and further analysis of specific issues, we are adopting the September 16, 2009 proposed rule as final with minor revisions discussed and identified below.

The provisions of this final rule that differ from those of the proposed rule relate to the amendments made by the Affordable Care Act, which extended funding for CHIP to the end of FY 2015; previously funding for CHIP extended only through the end of FY 2013. Therefore, we are implementing the new provisions of the Affordable Care Act discussed in this final regulation as final without the need for public comments.

In this final rule, we are retaining the provisions as published in the proposed rule, as follows:

- Set forth the methodology and procedures for determining the CHIP allotments for FYs 2009 through 2015 for the 50 States and the District of Columbia, and the U.S. Commonwealths and Territories as provided under section 2104(m) of the Act.
- Describe the methodology and process used to coordinate the funding provided previously to States under MMSEA, as described in the May 23, 2008 **Federal Register** notice (73 FR 30112), under the provisions of section 2104(a)(11) of the Act related to States' FY 2009 allotments provided to States before CHIPRA, section 2104(k) of the Act related to the redistribution of States' unexpended FY 2006 allotments to address States' shortfalls in FY 2009, and section 2104(l) of the Act related to funding States' shortfalls in FY 2009 for their expenditures through March 31, 2009.
- Set forth the FY 2009 allotments as determined in accordance with such methodologies and procedures.
- Set forth the FY 2010 allotments as determined in accordance with such methodologies and procedures.
- Describe the implementation of the continued authority under section 2105(g)(4) of the Act as amended by CHIPRA for "qualifying States" to elect to receive their available CHIP allotments for FYs 2009 through 2015 CHIP as increased Federal matching funds for certain expenditures in their Medicaid programs.
- Describe the retrospective adjustment for the FY 2008 shortfall funding as provided under section 2104(j) of the Act.

To incorporate the policies and implement the statutory provisions as described above, we applied the following revisions:

- In § 457.600(a), we removed the date "2007" and added in its place "2015".
- In § 457.608, we revised the heading "Process and calculation of State allotments for a fiscal year" to read "Process and calculation of State allotments prior to FY 2009".
- In part 457 subpart F, we added § 457.609, "Process and calculation of State allotments for a fiscal year after FY 2008", which implements the funding amounts available for States' CHIP allotments for FYs 2009 through 2015 of this regulation.
- In § 457.610, we revised the heading "Period of availability for State allotments for a fiscal year" to read "Period of availability for State allotments prior to FY 2009". In the first line of the paragraph for this section, we removed the words "for a fiscal year" and add in its place "prior to FY 2009".
- In part 457 subpart F, we add § 457.611, "Period of availability for State allotments for a fiscal year after FY 2008", which reflects the 3 fiscal year and 2 fiscal year periods of availability,

as applicable to fiscal years before 2009 and effective for FY 2009 and subsequent fiscal years, respectively.

A. Methodology and Procedures for Determining the CHIP Allotments for FY 2009 Through FY 2015 for the 50 States and the District of Columbia, and the U.S. Commonwealths and Territories

1. Reauthorization Funding for the CHIP

Section 2104(a)(1) through (18) of the Act, as amended by section 101 of CHIPRA, and as further amended by section 10203(d) of the Affordable Care Act, provides funding for providing States' allotments for FYs 2009 through 2015. In particular, section 101 of CHIPRA amended section 2104(a) of the Act to revise paragraph (11) for FY 2008, and adds new paragraphs (12) through (16) to provide appropriations for FY 2009 through FY 2013, respectively. The Affordable Care Act further amended section 2104(a) of the Act to add new paragraphs (17) and (18), which provide appropriations for CHIP in FYs 2014 and 2015. In particular, under the amendments made by CHIPRA and the Affordable Care Act, the appropriated amounts available for allotments for FYs 2009 through 2015, respectively are: $10,562,000,000 for FY 2009 (before CHIPRA the amount for FY 2009 was $5,000,000,000); 12,520,000,000 for FY 2010; $13,459,000,000 for FY 2011; $14,982,000,000 for FY 2012; $17,406,000,000 for FY 2013, $19,147,000,000 for FY 2014, and $2,850,000,000 for each of the first and second half of FY 2015. Also, section 108 of CHIPRA, as amended by 10203(d) of the Affordable Care Act, provides for a one-time appropriation of $15,361,000,000 for allotments for the first half of FY 2015. Therefore, the total appropriation for providing allotments during FY 2015 is $21,061,000,000 (determined as the sum of $2,850,000,000, $15,361,000,000, and $2,850,000,000).

2. Methodology for Determining State's Fiscal Year Allotments

a. CHIPRA and Affordable Care Act Provisions

Section 2104(m) of the Act, as amended by section 102 of CHIPRA and section 10203(d) of the Affordable Care Act sets forth the methodology for determining States' CHIP allotments for each of FYs 2009 through 2015. In general, the States' fiscal year allotments are provided from the appropriation for the respective fiscal year allotment, subject to a proration adjustment, described in section II.A.2.i. of this final rule.

b. FY 2009 Allotments

The FY 2009 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2009 appropriation of $10,562,000,000, and the $40,000,000 available at section 2104(c)(4) and are subject to a proration adjustment described in II.A.2.i. of this final rule, if necessary. The FY 2009 CHIP allotments for the 50 States and the District of Columbia are determined under a different methodology than is used for the determining the FY 2009 allotments for the Commonwealths and Territories.

The FY 2009 allotment for the 50 States and the District of Columbia is determined as 110 percent of the highest of the following 3 amounts:

- The total Federal payments to the State from the States' available CHIP allotments in FY 2008 as reported by the State and certified to the Secretary through the November 2008 submission of the quarterly expenditure reports, Forms CMS–21 (OMB# 0938–0731 with an expiration date of August 31, 2011) and CMS–64 (OMB# 0938–0067 with an expiration date of August 31, 2011), multiplied by the allotment increase factor described in section II.A.2.j. of this final rule.
- The amount allotted to the State for FY 2008, multiplied by the allotment increase factor described in section II.A.2.j. of this final rule.
- The projected total Federal payments to the State under title XXI of the Act for FY 2009, determined based on the February submission of projections of expenditures as certified by the State to CMS no later than March 31, 2009. These projections may include certain amounts of Medicaid expenditures for certain "qualifying States" described in section 2105(g) of the Act.

With respect to the last item related to projected total Federal payments for FY 2009 under title XXI, section 107 of CHIPRA added a new paragraph section 2105(g)(4) of the Act to allow States to use up to 100 percent of their FY 2009 allotments for these expenditures. This provision is further described in section II.E. of this final rule.

The FY 2009 allotment for the Commonwealths and Territories is determined as the highest amount of the Federal payments made to the Commonwealth or Territory under title XXI of the Act in any of the fiscal years for the period of FYs 1999 through 2008, multiplied by the allotment increase factor described in section II.A.2.j. of this final rule, plus an additional amount. The additional amount is equal to $40,000,000, as appropriated under section 2104(c)(4)(B) of the Act, multiplied by the following percentage provided under section 2104(c)(2) of the Act for the indicated jurisdiction: 91.6 percent for Puerto Rico; 3.5 percent for Guam; 2.6 percent for the Virgin Islands; 1.2 percent for American Samoa; and 1.1 percent for the Northern Mariana Islands.

c. FY 2010 Allotments

The FY 2010 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2010 appropriation of $12,520,000,000, and are subject to a proration adjustment if necessary, described in section II.A.2.i. of this final rule. Under the CHIPRA, the FY 2010 allotment for each State is determined by multiplying the allotment increase factor for FY 2010 for the State, by the sum of: The State's FY 2009 allotment; the amount of the final FY 2006 redistributed allotments paid to the State as determined under section 2104(k) of the Act, and subject to any final retrospective adjustment to such amount determined by section 2104(k)(5) of the Act; the amount of the final additional FY 2009 allotments paid to the State as determined by section 2104(l) of the Act, and subject to any final retrospective adjustment to such amount determined by section 2104(l)(5) of the Act; and the amount of any contingency fund payment made to the State for FY 2010, as determined by section 2104(n) of the Act.

For the 50 States and the District of Columbia, section 2104(m)(6) of the Act, the FY 2010 allotment may include additional amounts in situations where such States have submitted an expansion allotment adjustment request before August 31, 2009.

For the Commonwealths and Territories, in accounting for the amounts of the FY 2009 allotments for purposes of determining the FY 2010 allotments, the component of the FY 2009 allotment for such jurisdictions relating to the additional $40 million referenced in section 2104(c)(4) of the Act, is not included. Section 2104(m)(2)(A)(i)(I) of the Act, as amended by CHIPRA, references the FY 2009 allotment as determined in section 2104(m)(1) of the Act; that section, in turn, provides for determining the FY 2009 allotments from the amounts appropriated in section 2104(a)(12) of the Act. That is, such section 2104(m)(1) of the Act does not include the additional $40 million which is separately appropriated and available only for the jurisdictions in determining their FY 2009 allotments. Therefore, the

component of the jurisdictions' FY 2009 allotment related to the additional $40 million would not be included in determining the amount of the jurisdictions' FY 2010 allotments.

d. FY 2011 Allotments

The FY 2011 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2011 appropriation ($13,459,000,000). The amounts of these allotments are subject to a proration adjustment described in section II.A.2.i of this final rule, if necessary. Section 2104(m)(2)(A)(ii) of the Act, as amended by CHIPRA requires a "rebasing" process be used for determining the FY 2011 allotments; under the rebasing methodology, States' payments rather than their allotments for FY 2010 must be considered in calculating the FY 2011 allotments. In particular, the FY 2011 allotments are determined by multiplying the allotment increase factor for FY 2011 for the State by the sum of: Any Federal payments made from the States' available allotments in FY 2010; any amounts provided as redistributed allotments in FY 2010 to the State; and any Federal payments attributable to any contingency fund payments made to the State for FY 2010 determined under Section 2104(n) of the Act.

e. FY 2012 Allotments

The FY 2012 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2012 appropriation ($14,982,000,000), and are subject to a proration adjustment described in section II.A.2.i. of this final rule, if necessary. Under the CHIPRA, the FY 2012 allotment for each State will be determined by multiplying the allotment increase factor for FY 2012 for the State, by the sum of: The State's FY 2011 allotment and any contingency fund payment made to the State for FY 2011, as determined under section 2104(n) of the Act.

For the 50 States and the District of Columbia, in section 2104(m)(6) of the Act, the FY 2012 allotment may include additional amounts in situations where such States have submitted an expansion allotment adjustment request before August 31, 2011.

f. FY 2013 Allotments

The FY 2013 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2013 appropriation ($17,406,000,000). The amounts of these allotments are subject to a proration adjustment described in section II.A.i. of this final rule, if necessary. Section 2104(m)(2)(B)(i) of the of the Act, as amended by the Affordable Care Act requires a "rebasing" process be used for determining the FY 2013 allotments; the rebasing methodology means the States' payments rather than their allotments for FY 2012 must be considered in calculating the FY 2013 allotments. In particular, the FY 2013 allotments are determined by multiplying the allotment increase factor for FY 2013 for the State by the sum of: Any Federal payments made from the States' available allotments in FY 2012; any amounts provided as redistributed allotments in FY 2012 to the State; and any Federal payments attributable to any contingency fund payments made to the State for FY 2012 determined under Section 2104(n) of the Act.

g. FY 2014 Allotments

The FY 2014 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are provided from the FY 2014 appropriation of $19,147,000,000, and are subject to a proration adjustment described in II.A.2.i. of this final rule, if necessary. Under section 2104(m), as amended by the Affordable Care Act, the FY 2014 allotment for each State is determined by multiplying the allotment increase factor for FY 2014 for the State, by the sum of: The State's FY 2013 allotment and any contingency fund payment made to the State for FY 2013, as determined in section 2104(n) of the Act.

For the 50 States and the District of Columbia, under section 2104(m)(6) of the Act, the FY 2014 allotment may include additional amounts in situations where such States have submitted an expansion allotment adjustment request before August 31, 2013.

h. FY 2015 Allotments

The FY 2015 allotments for the 50 States and the District of Columbia, and the Commonwealths and Territories, are comprised of two components related to the first half of FY 2015 (that is, the period of October 1, 2014 through March 31, 2015) and second half of FY 2015 (that is, April 1, 2015 through September 30, 2015). The FY 2015 allotments for the first and second half of FY 2015 are subject to a proration adjustment described in section II.A.2.i. of this final rule, as necessary.

The allotments for the first half of FY 2015 are provided from a total available appropriation of $18,211,000,000, comprised of $2,850,000,000 appropriated under section 2104(a)(18)(A) of the Act, and $15,361,000,000 appropriated by section 108 of CHIPRA, as amended by the Affordable Care Act. The allotments for the first half of FY 2015 are equal to the "first half ratio" multiplied by the allotment increase factor for FY 2015 multiplied by the sum of any Federal payments made from the States' available allotments in FY 2014; any amounts provided as redistributed allotments in FY 2014 to the State; and any Federal payments attributable to any contingency fund payments made to the State for FY 2014 as determined under Section 2104(n) of the Act. Therefore, the first half ratio is the percentage determined by dividing $18,211,000,000 (calculated as the sum of $2,850,000,000 (the appropriation for the first half of FY 2015) and 15,361,000,000 (the one-time appropriation for the first half of the FY 2015)) by $21,061,000,000 (calculated as $2,850,000,000, the appropriation for the second half of FY 2015) plus the $18,211,000,000 amount).

The States' CHIP allotments for the second half of FY 2015 are provided from a total available appropriation of $2,850,000,000, appropriated under section 2104(a)(18)(B) of the Act. The allotments for the second half of FY 2015 are equal to $2,850,000,000 multiplied by a percentage equal to the amount of the allotment for the State for the first half of FY 2015 divided by the sum of all such first half of FY 2015 allotments for all States.

i. Proration Rule

Under section 2104(m)(4) of the Act, as amended by CHIPRA, if the amount of States' allotments for a fiscal year (in accordance with the provisions described in this final rule, or in the case of FY 2015, the amount of an allotment for each half of the fiscal year) exceeds the total appropriations available for such periods, the total allotments for each of these periods will be reduced on a proportional basis. The total amount available nationally for the period is multiplied by a proration percentage determined by dividing the amount determined for the period by the sum of such amounts.

j. The Allotment Increase Factor for a Fiscal Year

Under Section 2104(m)(5) of the Act, the allotment increase factor for a fiscal year is equal to the product of two amounts for the fiscal year: The per capita health care growth factor and the child population growth factor.

The per capita health care growth factor for a fiscal year is equal to 1 plus the percentage increase in the projected

per capita amount of the National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by CMS before the beginning of the fiscal year involved.

In general, for the 50 States and the District of Columbia, the Child Population Growth Factor (CPGF) for a fiscal year is equal to 1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by CMS based on the most recent published estimates of the Census Bureau available before the beginning of the fiscal year involved plus 1 percentage point. In the determination of the CPGF, section 2104(m)(5)(B) refers to "the percentage increase (if any)" of the population of children in the State. In this regard, CPGF refers only to increases in the population of children. Thus, if there was a decrease in the population of children over the indicated period, the CPGF for such State would be 0.0 percent plus one percentage point; that is, negative growth in the children population would not result in the growth factor being less than 101 percent.

Because of concerns about availability of data to determine the CGPF for the Commonwealths and the Territories, section 2104(m)(1)(B) of the Act explicitly required that the term "United States" be substituted for the term "the State". For fiscal years after FY 2009, that exception does not apply, and CMS will determine the CPGF for the Commonwealths and the Territories, based on the most recent published estimates of the Census Bureau. In accordance with section 602(b) of the CHIPRA, which added a new section 2109(b)(2)(B) of the Act, we will be working with the Secretary of the Commerce Department on appropriate adjustments to improve the Current Population Survey (CPS), or develop other data, to determine the CPGF.

k. CHIP Fiscal Year Allotment Process

As described above, the determination of the allotments for each fiscal year potentially involves the collection of relevant data, such as related to the allotment increase factor, or the consideration of additional information later or after the end of the fiscal year; for example, the determination of the FYs 2010, 2012, and 2014 allotments allows States to receive increases in their CHIP allotments to reflect the submission of certain expansions to their CHIP programs. In that regard, we are incorporating into the CHIP regulation a process, which the Secretary may elect to publish preliminary fiscal year allotments. Consequently, this process at the time the updated allotment amounts became available the Secretary would publish a final notice. For example, the CHIPRA legislation as amended by the Affordable Care Act, in the determination of the FYs 2010, 2012, and 2014 allotments, States can amend their CHIP programs to provide for certain expansions; the increase in expenditures for such expansions will serve to increase the amount of the State fiscal year allotments associated with the year of such expansions. As determined by the Secretary, the CHIP allotments for a fiscal year may need to be published first as "Preliminary Allotments" and then later as "Final Allotments" in the **Federal Register**. The proposed rule provided for the potential for a preliminary and final allotment to be determined.

B. Coordination of CHIP Funding for FY 2009

Before the enactment of CHIPRA, section 2104(a)(11) of the Act, as amended by MMSEA, appropriated $5 billion for purposes of providing FY 2009 allotments for States. The CHIP statute as amended by MMSEA and before the enactment of CHIPRA, funds were potentially available for allotment and obligation to States for their CHIP related expenditures in FY 2009 through March 31, 2009. Furthermore, section 2104(k) of the Act and section 2104(l) of the Act, as amended by MMSEA, provided for redistribution of the unexpended FY 2006 allotments in FY 2009, and for additional FY 2009 shortfall allotments in FY 2009, respectively. However, section 3(c)(1) of CHIPRA provides for a rescission of amounts of these funds that were not obligated before April 1, 2009. Also, section 3(c)(2) of CHIPRA requires that the FY 2009 allotments, as determined under section 2104(m)(1) of the Act as amended by CHIPRA, be reduced by the following amounts that were appropriated and obligated before April 1, 2009. Amounts appropriated and obligated before April 1, 2009 include the amounts of the FY 2009 allotments appropriated by section 2104(a)(11) of the Act, as amended by MMSEA and before the enactment of CHIPRA; amounts of FY 2006 redistributed allotments, provided in section 2104(k) of the Act; and, the amounts of the FY 2009 shortfall allotments, provided in section 2104(l) of the Act. Funding for Territories and Commonwealths under section 2104(c)(4) is not part of this coordination of funding. This coordination ensures that States' FY 2009 CHIP funding does not exceed the final FY 2009 CHIP allotments as determined under the CHIPRA.

C. FY 2009 Allotments Determined in Accordance With Such Methodologies and Procedures

We calculated the FY 2009 allotments for the States in accordance with the methodology described in section II.A. of the September 16, 2009 (74 FR 47517) proposed rule relating to the calculation of the fiscal year CHIP allotments, and in section II.B. of the same proposed rule. That calculation was contained in three tables described as Table 1 provided the calculation of the allotment increase factor for FY 2009, Table 2 provided the calculation of the FY 2009 allotment, and Table 3 provided the coordination of funds in FY 2009.

D. FY 2010 Allotments Determined in Accordance With Such Methodologies and Procedures

In accordance with the methodology described in section II.A.2.c. of this final rule, relating to the calculation of the FY 2010 CHIP allotments, and the availability of additional allotments, we calculated the FY 2010 allotments for the States. That calculation is contained in two tables described in section III of this final rule; Table 1 provides the calculation of the allotment increase factor for FY 2010, and Table 2 provides the calculation of the FY 2010 allotment.

E. FY 2011 Allotments Determined in Accordance With Such Methodologies and Procedures

In accordance with the methodology described in section II.A.2.d. of this final rule relating to the calculation of the fiscal year CHIP allotments, we calculated the FY 2011 allotments for the States. That calculation is contained in two tables described in section III of this final rule; Table 3 provides the calculation of the allotment increase factor for FY 2011, and Table 4 provides the calculation of the FY 2011 allotment, determined under the "rebasing" methodology.

F. Period of Availability for CHIP Allotments

Section 105 of CHIPRA amended section 2104(e) of the Act to revise the period of availability for expenditure by States of their CHIP fiscal year allotments. Before the enactment of CHIPRA, States' CHIP fiscal year allotments were available for expenditure by the State for three fiscal

years, the fiscal year in which they were initially allotted and the subsequent two fiscal years. Section 2104(e) of the Act, as amended by CHIPRA, now provides that each of the States' fiscal year allotments for *FYs 1998 through 2008* are available for expenditure by the State for *three fiscal years* and allotments for *FY 2009 and each succeeding fiscal year* are available for expenditure by the States for *two fiscal years;* the fiscal year in which they were initially allotted and the immediately subsequent fiscal year. In this final rule, we have amended the CHIP regulations at § 457.610 and added § 457.611 to reflect the three fiscal year and two fiscal year periods of availability, as applicable to fiscal years before FY 2009 and effective for FY 2009 and subsequent fiscal years, respectively.

G. Continuing Authority for Qualifying States to Use FY 2009 Through FY 2015 Allotments for Certain Medicaid Expenditures

Section 107 of CHIPRA amended the CHIP statute to add a new section 2105(g)(4) of the Act to allow certain "qualifying States" described in section 2105(g) of the Act to elect to use up to 100 percent of their available CHIP fiscal year allotments for FY 2009 and following fiscal years (through FY 2015, as amended by section 10203(d)(2) of the Affordable Care Act) for certain expenditures in Medicaid. Before the enactment of CHIPRA, States were only able to use up to 20 percent of their available fiscal year CHIP allotments for the applicable Medicaid expenditures. With the enactment of CHIPRA, beginning with the FY 2009 allotment, States can use up to 100 percent of their FY 2009 and following fiscal year allotments for the States' qualifying expenditures. In that case, only the Federal share portion of the expenditures which is above the amount that the State would have received under Medicaid will be applied against the CHIP allotment.

Under section 5001 of the American Recovery and Reinvestment Act of 2009 (ARRA, Pub. L. 111–5, enacted on February 17, 2009), and as further amended by the Public Law 111–226 (enacted on August 10, 2010), the FMAP has been increased during the 11-quarter period, October 1, 2009 through June 30, 2011 under the Medicaid program. Therefore, the amount of the Federal share funds that will be applied against the CHIP qualifying States' FY 2009 (and following) allotments will be reduced. For example, a qualifying State's regular Medicaid FMAP rate in FY 2009 is 50 percent, its increased FMAP under ARRA in Medicaid is 60.00 percent, and its CHIP EFMAP is 65.00 percent. The qualifying State will be able to claim the "qualifying" expenditures in FY 2009 at the 65.00 percent EFMAP rate in CHIP, and only 5 percent of such expenditures will apply against the State's FY 2009 allotment, calculated as 65.00 percent (CHIP EFMAP) minus 60.00 percent (increased FMAP under ARRA) claimable under the Medicaid program. In the same example (and assuming the same FMAP for Medicaid and EFMAP in CHIP), after June 30, 2011, 15.00 percent of the qualifying expenditure in FY 2011 will apply against the State's FY 2011 CHIP allotment, calculated as 65.00 percent (CHIP EFMAP) minus 50.00 percent (regular FMAP) claimable under the Medicaid program. We have amended the CHIP regulations to reflect this provision in this final rule.

H. Retrospective Adjustment of FY 2008 Shortfall Allotments

Section 2104(j)(5) of the Act, as amended by MMSEA provides for a potential retrospective adjustment with respect to the amounts of States' FY 2008 shortfall allotments provided to them in FY 2008 and based on expenditure reports for FY 2008 submitted and certified by States to CMS no later than November 30, 2008.

Under section 2104(j)(2) and (3)(A) of the Act, additional FY 2008 shortfall allotments were made available only to those 50 States and the District of Columbia that were initially determined to have a shortfall in CHIP funding in FY 2008 based on their FY 2008 expenditure projections as submitted and certified by the States by November 30, 2007. For those States, section 2104(j)(5) of the Act, the retrospective adjustment to the amounts of their additional FY 2008 shortfall allotments is based on the FY 2008 expenditure projections submitted and certified by such States by November 30, 2008.

Through the end of FY 2008 and based on States' estimated FY 2008 CHIP expenditures, we had provided approximately $1,201 million in total additional FY 2008 shortfall allotments to States to address their projected shortfalls in FY 2008. However, based on the States' actual FY 2008 expenditures, as submitted through November 30, 2008, the final States' shortfalls in FY 2008 were only approximately $995 million. That is, of those States who overestimated their projected shortfalls, final shortfalls for FY 2008 were about $232 million less than were previously estimated, and for States that underestimated their shortfalls, their actual shortfalls were about $26 million higher. Thus, the final net shortfall for States was about $995 million ($1,201 million minus $232 million plus $26 million). Table 4 of the proposed rule published in the **Federal Register** on September 16, 2009 (74 FR 47517) contained the final FY 2008 shortfall allotments after applying the retrospective adjustment under section 2104(j)(5) of the Act.

I. Retrospective Adjustment of FY 2009 Shortfall Allotments

Section 2104(l)(5) of the Act, as amended by MMSEA provides for a potential retrospective adjustment with respect to the amounts of States' FY 2009 shortfall allotments provided to them in FY 2009 prior to April 1, 2009 based on expenditure reports for the first two quarters of FY 2009 as submitted and certified by States to CMS no later than May 31, 2009.

Under section 2104(l)(2) and (3)(A) of the Act, additional FY 2009 shortfall allotments were made available to those States that were initially determined to have a shortfall in CHIP funding in FY 2009 based on their expenditure projections for the first two quarters of FY 2009 as submitted and certified by the States by November 30, 2008. For those States, section 2104(l)(5) of the Act, provided the retrospective adjustment to the amounts of their additional FY 2009 shortfall allotments is based on the FY 2009 expenditures for the first two quarters of FY 2009 as submitted and certified by such States by May 31, 2009.

Before April 1, 2009, and based on States' estimated FY 2009 CHIP expenditures through the end of the second quarter of FY 2009, we had provided approximately $267 million in total additional FY 2009 shortfall allotments to States to address their projected shortfalls in FY 2009 through the end of the second quarter FY 2009 in that amount. However, based on the States' actual FY 2009 expenditures for the first two quarters of FY 2009, as submitted through May 31, 2009, the final States' shortfalls in FY 2009 through the second quarter of FY 2009 for the shortfall States were only approximately $210 million. That is, for the shortfall States initially receiving the additional FY 2009 shortfall allotments, based on their actual FY 2009 reported expenditures for the first two quarters of FY 2009, their final shortfalls for the first two quarters of FY 2009 were about $58 million less than was previously estimated. Table 5 of the proposed rule published in the September 16, 2009 **Federal Register** (74 FR 47517) contained the final FY 2009 shortfall allotments after applying the

retrospective adjustment under section 2104(l)(5) of the Act.

III. Tables

Following are the keys and associated tables for the CHIP funding provisions as discussed in previous sections:

Table 1—Allotment Increase Factor for 2010

Table 2—FY 2010 Children's Health Insurance Program Allotments Under the Children's Health Insurance Program Reauthorization Act Of 2010

Table 3—Allotment Increase Factor for 2011

Table 4—FY 2011 Children's Health Insurance Program Allotments Under the Children's Health Insurance Program Reauthorization Act Of 2011.

A. Table 1—Allotment Increase Factor for 2010

Key to Table 1 Column/Description

Column A = *State*. Column A contains the name of the State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *PCNHE 2009, PCNHE 2010, PCHCG Factor*. Column B contains the calculation of the Per Capita Health Care Growth (PCHCG) Factor for FY 2010, determined as 1 plus the percentage increase in the Per Capital National Health Expenditures (PCNHE) from calendar year 2009 to calendar year 2010.

Columns C through F = *Calculation of the Child Population Growth Factor (CPGF) for FY 2010:*

Column C = *July 1, 2009 Child Population*. Column C contains the population of children in each State or the United States as of July 1, 2009, as provided by the most recent published data of the Census Bureau before the beginning of FY 2010.

Column D = *July 1, 2010 Child Population*. Column D contains the population of children in each State or the United States as of July 1, 2010, as provided by the most recent published data of the Census Bureau before the beginning of FY 2010.

Column E = *Percent Increase 2009–2010*. Column E contains the percentage increase, if any, of the population of children in each State, or the United States, from July 1, 2009 to July 1, 2010, calculated as the difference between the number in Column D minus the number in Column C divided by the number in Column C.

Column F = *FY 2010 Child Population Growth Factor*. Column F contains the Child Population Growth Factor (CPGF) for each State, determined as 1.01 plus the percent in Column E for the State.

Column G = *FY 2010 Allotment Increase Factor*. Column G contains the FY 2010 Allotment Increase Factor, calculated as the PCHCG factor in Column B multiplied by the CPGF percent in Column F.

B. Table 2—FY 2010 Children's Health Insurance Program Allotments Under the Children's Health Insurance Program Reauthorization Act of 2009

Key to Table 2 Column/Description

Column A = *State*. Column A contains the name of the State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *FY 2009 CHIP Allotments*. Column B contains, for the 50 States and the District of Columbia only, the States' FY 2009 CHIP allotments, as were published in the September 16, 2009 **Federal Register** (74 FR 47617).

Column C = *FY 2006 Redistributed Allotment Payments.* Column C contains for the 50 States and the District of Columbia only, the amounts of redistributed FY 2006 allotments provided in FY 2009 as determined under section 2104(k) of the Act.

Column D = *FY 2009 Additional Allotment Payments.* Column D contains the any additional allotment payments provided to the State in FY 2009 under the provisions of section 2104(l) of the Act, including the retrospective adjustments made under section 2104(l)(5) of the Act.

Column E = *FY 2009 Contingency Fund Payments.* Column E contains any contingency fund payments made to a State for FY 2009, if any, under the provisions of section 2104(n) of the Act.

Column F = *Total.* Column F contains the total of the amounts in Columns B, C, D, E, and F.

Column G = *FY 2010 Allotment Increase Factor.* Column G contains the Allotment Increase Factor for each State as contained in Column G of Table 1.

Column H = *FY 2010 Total × Increase Factor.* Column H contains the product of the total amount in Column F and the amount of the FY 2010 Allotment Increase Factor in Column G. This amount represents the FY 2010 CHIP allotment without the inclusion of any additional amounts available for the FY 2010 allotment indicated in Column I.

Column I = *Additional Amount Available for FY 2010 Allotment.* Column I contains, for the 50 States and the District of Columbia only, the amount of additional amounts available to increase the FY 2010 allotment, if any, as determined under the provisions of section 2014(m)(6) or (7) of the Act.

Column J = *Total FY 2010 Allotment.* Column J contains the total FY 2010 CHIP allotment, determined as the sum of the amounts in Column H and Column I, if any.

C. Table 3—Allotment Increase Factor for 2011

Key to Table 1 Column/Description

Column A = *State*. Column A contains the name of the State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *PCNHE 2010, PCNHE 2011, PCHCG Factor*. Column B contains the calculation of the Per Capita Health Care Growth (PCHCG) Factor for FY 2011, determined as 1 plus the percentage increase in the Per Capital National Health Expenditures (PCNHE) from calendar year 2010 to calendar year 2011.

Columns C through F = *Calculation of the Child Population Growth Factor (CPGF) for FY 2011:*

Column C = *July 1, 2010 Child Population*. Column C contains the population of children in each State or the United States as of July 1, 2010, as provided by the most recent published data of the Census Bureau before the beginning of FY 2011.

Column D = *July 1, 2011 Child Population*. Column D contains the population of children in each State or the United States as of July 1, 2010, as provided by the most recent published data of the Census Bureau before the beginning of FY 2011.

Column E = *Percent Increase 2010–2011*. Column E contains the percentage increase, if any, of the population of children in each State, or the United States, from July 1, 2010 to July 1, 2011, calculated as the difference between the numbers in Column D minus the number in Column C divided by the number in Column C.

Column F = FY 2011 *Child Population Growth Factor.* Column F contains the Child Population Growth Factor (CPGF) determined as 1.01 plus the percent in Column E for the State.

Column G = *FY 2011 Allotment Increase Factor.* Column G contains the FY 2011 Allotment Increase Factor, calculated as the PCHCG factor in Column B multiplied by the CPGF percent in Column F.

D. Table 4—FY 2011 Children's Health Insurance Program Allotments Under the Children's Health Insurance Program Reauthorization Act of 2009

Key to Table 4

Column/Description

Column A = *State*. Column A contains the name of the State, District of Columbia, U.S. Commonwealth or Territory.

Column B = *FY 2010 FS Exp. Applied Against Allotments.* Column B contains the amounts of the Federal share expenditures that were applied against the State's available allotments in FY 2010.

Column C = *Contingency Fund Payments in FY 2010.* Column C contains the amounts of contingency fund payments made to the State in FY 2010, if any.

Column D = *Redistributed Allotments in FY 2010.* Column D contains the amounts of redistributed allotments provided to the State in FY 2010, if any.

Column E = *Total FY 2010 FS Expenditures.* Column E contains the sum of the total amounts of Federal Share expenditures applied against the States available allotments in FY 2010, Contingency Fund payments made in FY 2010, if any, and amounts of Redistributed Allotments in FY 2010, if any, calculated as the sum of the amounts in Columns B, C, and D.

Column F = *FY 2011 Allotment Increase Factor.* Column F contains the Allotment Increase Factor for each State as contained in Column G of Table 3.

Column G = *FY 2011 CHIP Allotment.* Column G contains the FY 2011 CHIP Allotment, calculated as the product of the total amount in Column E and the amount of the FY 2011 Allotment Increase Factor in Column F.

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Table 1 - FY 2010 Allotment Increase Factor

STATE	PCNHE* 2009 $8,160 PCNHE* 2010 $8,458 PCHCG Factor* 1.0365	Child Population Growth Factor (CPGF) for FY 2010				FY 2010 ALLOTMENT INCREASE FACTOR
		July 1, 2009 Population	July 1, 2010 Population	Percent Increase 2009 - 2010	FY 2010 CPGF Col E + 1.01	
				(D-C)/C		Col B x F
A	B	C	D	E	F	G
Alabama	1.0365	1,190,359	1,192,646	0.19%	101.19%	1.0489
Alaska	1.0365	188,599	187,685	0.00%	101.00%	1.0469
Arizona	1.0365	1,829,502	1,864,930	1.94%	102.94%	1.0670
Arkansas	1.0365	745,519	749,562	0.54%	101.54%	1.0525
California	1.0365	9,955,866	9,976,736	0.21%	101.21%	1.0491
Colorado	1.0365	1,290,075	1,310,373	1.57%	102.57%	1.0632
Connecticut	1.0365	857,987	852,532	0.00%	101.00%	1.0469
Delaware	1.0365	221,057	222,256	0.54%	101.54%	1.0525
District of Columbia	1.0365	121,080	120,782	0.00%	101.00%	1.0469
Florida	1.0365	4,226,239	4,219,170	0.00%	101.00%	1.0469
Georgia	1.0365	2,716,139	2,749,158	1.22%	102.22%	1.0595
Hawaii	1.0365	302,462	303,308	0.28%	101.28%	1.0498
Idaho	1.0365	441,426	447,326	1.34%	102.34%	1.0607
Illinois	1.0365	3,372,603	3,371,164	0.00%	101.00%	1.0469
Indiana	1.0365	1,673,220	1,674,982	0.11%	101.11%	1.0480
Iowa	1.0365	756,782	758,769	0.26%	101.26%	1.0496
Kansas	1.0365	743,988	749,557	0.75%	101.75%	1.0546
Kentucky	1.0365	1,065,154	1,067,039	0.18%	101.18%	1.0487
Louisiana	1.0365	1,184,061	1,192,675	0.73%	101.73%	1.0544
Maine	1.0365	288,217	284,503	0.00%	101.00%	1.0469
Maryland	1.0365	1,415,272	1,404,743	0.00%	101.00%	1.0469
Massachusetts	1.0365	1,517,725	1,511,312	0.00%	101.00%	1.0469
Michigan	1.0365	2,493,026	2,449,939	0.00%	101.00%	1.0469
Minnesota	1.0365	1,324,305	1,324,244	0.00%	101.00%	1.0469
Mississippi	1.0365	812,769	815,191	0.30%	101.30%	1.0500
Missouri	1.0365	1,499,003	1,497,080	0.00%	101.00%	1.0469
Montana	1.0365	233,985	235,048	0.45%	101.45%	1.0516
Nebraska	1.0365	474,674	477,489	0.59%	101.59%	1.0530
Nevada	1.0365	708,850	718,418	1.35%	102.35%	1.0609
New Hampshire	1.0365	307,340	303,136	0.00%	101.00%	1.0469
New Jersey	1.0365	2,156,056	2,147,558	0.00%	101.00%	1.0469
New Mexico	1.0365	534,017	536,718	0.51%	101.51%	1.0521
New York	1.0365	4,673,968	4,643,873	0.00%	101.00%	1.0469
North Carolina	1.0365	2,414,875	2,457,086	1.75%	102.75%	1.0650
North Dakota	1.0365	152,902	153,203	0.20%	101.20%	1.0489
Ohio	1.0365	2,865,334	2,843,969	0.00%	101.00%	1.0469
Oklahoma	1.0365	961,557	968,976	0.77%	101.77%	1.0549
Oregon	1.0365	923,294	930,398	0.77%	101.77%	1.0549
Pennsylvania	1.0365	2,925,260	2,904,746	0.00%	101.00%	1.0469
Rhode Island	1.0365	243,636	241,052	0.00%	101.00%	1.0469
South Carolina	1.0365	1,143,523	1,153,988	0.92%	101.92%	1.0564
South Dakota	1.0365	210,465	211,842	0.65%	101.65%	1.0537
Tennessee	1.0365	1,567,030	1,574,325	0.47%	101.47%	1.0517
Texas	1.0365	7,204,032	7,340,397	1.89%	102.89%	1.0665
Utah	1.0365	916,065	937,758	2.37%	103.37%	1.0714
Vermont	1.0365	136,222	134,265	0.00%	101.00%	1.0469
Virginia	1.0365	1,938,873	1,942,588	0.19%	101.19%	1.0489
Washington	1.0365	1,638,877	1,651,161	0.75%	101.75%	1.0547
West Virginia	1.0365	408,840	408,055	0.00%	101.00%	1.0469
Wisconsin	1.0365	1,387,170	1,383,049	0.00%	101.00%	1.0469
Wyoming	1.0365	138,140	140,560	1.75%	102.75%	1.0650
Total States	1.0365	78,497,420	78,737,320	0.30%	101.30%	1.0500
American Samoa	1.0365	28,110	27,929	0.00%	101.00%	1.0469
Guam	1.0365	62,331	62,461	0.21%	101.21%	1.0490
N. Mariana Islands	1.0365	17,108	15,897	0.00%	101.00%	1.0469
Puerto Rico	1.0365	1,026,441	1,009,250	0.00%	101.00%	1.0469
Virgin Islands	1.0365	29,175	28,373	0.00%	101.00%	1.0469
Total Territories	1.0365	1,163,165	1,143,910	0.00%	101.00%	1.0469
Total States/Territories	1.0365	79,660,585	79,881,230	0.28%	101.28%	1.0497

Footnotes:
*"PCNHE" is Per Capita National Health Expenditures
"PCHCG FACTOR" is "Per Capita Health Care Growth Factor", Calculated as:
1 + ($8,458 - $8,160)/$8,160; $8,160 is PCNHE for 2009 and $8,458 is PCNHE for 2010

TABLE 2 - CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FY:									2010
STATE	FY 2009 CHIP Allotments /1	FY 2006 Redistributed Allotment Payments /2	FY 2009 Additional Allotment Payments /3	FY 2009 Contingency Fund Payments	Total Col B + C + D + E	FY 2010 Allotment Increase Factor	FY 2010 Tot. Fed. Pmts x Incr. Factor Col F x G	Additional Amount Available for FY 2010 Allotment /5	Total FY 2010 Allotment Col H + I
A	B	C	D	E	F	G	H	I	J
Alabama	$140,300,600	$0	$0	$0	$140,300,600	1.0489	$147,157,965	$0	$147,157,965
Alaska	$24,565,200	$0	$0	$0	$24,565,200	1.0469	$25,716,935	$0	$25,716,935
Arizona	$171,133,218	$0	$0	$0	$171,133,218	1.0670	$182,591,756	$0	$182,591,756
Arkansas	$133,752,696	$0	$0	$0	$133,752,696	1.0525	$140,775,504	$0	$140,775,504
California	$1,552,909,600	$0	$0	$0	$1,552,909,600	1.0491	$1,629,091,633	$0	$1,629,091,633
Colorado	$100,696,200	$0	$0	$0	$100,696,200	1.0632	$107,059,532	$15,792,228	$122,851,760
Connecticut	$45,644,506	$0	$0	$0	$45,644,506	1.0469	$47,784,540	$0	$47,784,540
Delaware	$15,096,397	$0	$0	$0	$15,096,397	1.0525	$15,889,061	$0	$15,889,061
District of Columbia	$14,180,255	$0	$0	$0	$14,180,255	1.0469	$14,845,093	$0	$14,845,093
Florida	$356,095,478	$0	$0	$0	$356,095,478	1.0469	$372,790,945	$0	$372,790,945
Georgia	$302,054,500	$0	$0	$0	$302,054,500	1.0595	$320,022,318	$0	$320,022,318
Hawaii	$20,888,564	$0	$0	$0	$20,888,564	1.0498	$21,928,480	$0	$21,928,480
Idaho	$44,514,800	$0	$0	$0	$44,514,800	1.0607	$47,218,571	$0	$47,218,571
Illinois	$344,561,804	$0	$0	$0	$344,561,804	1.0469	$360,716,517	$0	$360,716,517
Indiana	$137,584,700	$0	$0	$0	$137,584,700	1.0480	$144,185,508	$0	$144,185,508
Iowa	$65,255,300	$0	$0	$0	$65,255,300	1.0496	$68,492,373	$0	$68,492,373
Kansas	$57,163,700	$0	$0	$0	$57,163,700	1.0546	$60,287,325	$0	$60,287,325
Kentucky	$126,013,800	$0	$0	$0	$126,013,800	1.0487	$132,153,083	$0	$132,153,083
Louisiana	$207,402,800	$0	$9,861,967	$0	$217,264,767	1.0544	$229,089,499	$0	$229,089,499
Maine	$39,271,706	$0	$1,102,937	$0	$40,374,643	1.0469	$42,267,600	$0	$42,267,600
Maryland	$194,773,700	$0	$11,630,784	$0	$206,404,484	1.0469	$216,081,718	$0	$216,081,718
Massachusetts	$321,658,700	$11,182,289	$52,237,721	$0	$385,078,710	1.0469	$403,133,050	$0	$403,133,050
Michigan	$221,124,200	$0	$0	$0	$221,124,200	1.0469	$231,491,565	$0	$231,491,565
Minnesota	$83,960,234	$0	$0	$0	$83,960,234	1.0469	$87,896,693	$0	$87,896,693
Mississippi	$192,938,900	$0	$11,001,844	$0	$203,940,744	1.0500	$214,132,390	$0	$214,132,390
Missouri	$158,829,000	$0	$0	$0	$158,829,000	1.0469	$166,275,667	$0	$166,275,667
Montana	$32,989,000	$0	$0	$0	$32,989,000	1.0516	$34,691,026	$61,690,640	$96,381,666
Nebraska	$41,955,100	$0	$0	$0	$41,955,100	1.0530	$44,180,053	$8,798,433	$52,978,486
Nevada	$61,397,036	$0	$0	$0	$61,397,036	1.0609	$65,134,621	$0	$65,134,621
New Hampshire	$14,844,500	$0	$0	$0	$14,844,500	1.0469	$15,540,481	$0	$15,540,481
New Jersey	$505,395,000	$20,993,064	$79,929,758	$0	$606,317,822	1.0469	$634,744,914	$0	$634,744,914
New Mexico	$280,720,000	$3,591,754	$43,893,031	$0	$328,204,785	1.0521	$345,313,250	$0	$345,313,250
New York	$433,472,600	$0	$0	$0	$433,472,600	1.0469	$453,795,878	$0	$453,795,878
North Carolina	$241,660,100	$0	$0	$0	$241,660,100	1.0650	$257,368,666	$93,787,005	$351,155,671
North Dakota	$15,821,554	$0	$0	$0	$15,821,554	1.0489	$16,595,628	$0	$16,595,628
Ohio	$285,275,100	$0	$0	$0	$285,275,100	1.0469	$298,650,167	$0	$298,650,167
Oklahoma	$151,399,600	$0	$0	$0	$151,399,600	1.0549	$159,708,741	$0	$159,708,741
Oregon	$100,197,900	$0	$0	$0	$100,197,900	1.0549	$105,694,755	$175,363,884	$281,058,639
Pennsylvania	$310,308,900	$0	$0	$0	$310,308,900	1.0469	$324,857,672	$0	$324,857,672
Rhode Island	$69,525,150	$2,532,441	$0	$0	$72,057,591	1.0469	$75,435,997	$0	$75,435,997
South Carolina	$106,862,800	$0	$0	$0	$106,862,800	1.0564	$112,886,716	$0	$112,886,716
South Dakota	$20,655,800	$0	$0	$0	$20,655,800	1.0537	$21,764,322	$0	$21,764,322
Tennessee	$156,629,000	$0	$0	$0	$156,629,000	1.0517	$164,728,304	$0	$164,728,304
Texas	$867,350,000	$0	$0	$0	$867,350,000	1.0665	$925,033,169	$0	$925,033,169
Utah	$65,264,100	$0	$0	$0	$65,264,100	1.0714	$69,925,931	$0	$69,925,931
Vermont	$9,489,700	$0	$0	$0	$9,489,700	1.0469	$9,934,623	$0	$9,934,623
Virginia	$175,860,300	$0	$0	$0	$175,860,300	1.0489	$184,454,740	$0	$184,454,740
Washington	$94,285,111	$0	$0	$0	$94,285,111	1.0547	$99,438,161	$0	$99,438,161
West Virginia	$43,263,469	$0	$0	$0	$43,263,469	1.0469	$45,291,868	$0	$45,291,868
Wisconsin	$204,275,500	$0	$0	$0	$204,275,500	1.0469	$213,852,917	$0	$213,852,917
Wyoming	$11,326,700	$0	$0	$0	$11,326,700	1.0650	$12,063,423	$0	$12,063,423
States/DC Total	$9,372,594,578	$38,299,548	$209,658,042	$0	$9,620,552,168		$10,120,161,344	$355,432,190	$10,475,593,534
Commonwealths and Territories /4									
American Samoa	$852,152	$0	$0	$0	$852,152	1.0469	$892,105	$0	$892,105
Guam	$3,777,242	$0	$0	$0	$3,777,242	1.0490	$3,962,503	$0	$3,962,503
N. Mariana Islands	$781,139	$0	$0	$0	$781,139	1.0469	$817,763	$0	$817,763
Puerto Rico	$112,002,755	$0	$0	$0	$112,002,755	1.0469	$117,253,982	$0	$117,253,982
Virgin Islands	$2,289,167	$0	$0	$0	$2,289,167	1.0469	$2,396,494	$0	$2,396,494
Total	$119,702,455	$0	$0	$0	$119,702,455		$125,322,847	$0	$125,322,847
NATIONAL TOTAL	$9,492,297,033	$38,299,548	$209,658,042	$0	$9,740,254,623		$10,245,484,191	$355,432,190	$10,600,916,381

Footnotes:

/1 Final FY 2009 Allotments determined in accordance with section 1902(m)(4) of the Social Security Act(the Act)

/2 FY 2006 redistributed allotments in FY 2009 determined under section 2104(k) of the Act

/3 FY 2009 additional allotments determined under section 2104(l) of the Act, including retrospective adjustment under section 2104(l)(5) of the Act

/4 The total amount alloted to the Territories for FY 2009 included a total of $40,000,000 provided under section 2104(c)(4)(B) of the Act; such amount was in addition to the amount of the FY 2009 allotments determined and available under section 2104(m)(1)(B) of the Act. The FY 2010 allotments for the Territories, as provided under section 2104(m)(2)(A) of the Act, is determined based only on the amount of the Territories' FY 2009 allotments determined under section 2104(m)(1)(B) of the Act, a total of $119,702,455; such amount was not based on the $40,000,000 amount available only through FY 2009. There is no additional $40,000,000 available for allotment to the Territories for FY 2010 under section 2104(c)(4)(B) of the Act.

/5 Additional amount for FY 2010 allotment: For Colorado, Montana, Nebraska and Oregon determined under section 2104(m)(6) of the Act; for North Carolina, determined under section 2104(m)(7) of the Act

Table 3 - FY 2011 Allotment Increase Factor

STATE	PCNHE 2010 $8,290 PCNHE 2011 $8,643 PCHCG Factor* 1.0426	Child Population Growth Factor (CPGF) for FY 2011				FY 2011 ALLOTMENT INCREASE FACTOR
		July 1, 2010 Population	July 1, 2011 Population	Percent Increase 2009 - 2010 (D-C)/C	FY 2011 CPGF Col E + 1.01	Col B x F
A	B	C	D	E	F	G
Alabama	1.0426	1,195,649	1,197,428	0.15%	101.15%	1.0546
Alaska	1.0426	195,481	197,114	0.84%	101.84%	1.0617
Arizona	1.0426	1,836,192	1,853,452	0.94%	101.94%	1.0628
Arkansas	1.0426	753,695	757,899	0.56%	101.56%	1.0588
California	1.0426	10,016,933	10,059,217	0.42%	101.42%	1.0574
Colorado	1.0426	1,313,119	1,332,393	1.47%	102.47%	1.0683
Connecticut	1.0426	854,734	850,233	0.00%	101.00%	1.0530
Delaware	1.0426	220,278	220,860	0.26%	101.26%	1.0558
District of Columbia	1.0426	125,030	126,109	0.86%	101.86%	1.0620
Florida	1.0426	4,282,351	4,279,319	0.00%	101.00%	1.0530
Georgia	1.0426	2,746,697	2,770,529	0.87%	101.87%	1.0621
Hawaii	1.0426	307,375	309,159	0.58%	101.58%	1.0591
Idaho	1.0426	446,346	450,097	0.84%	101.84%	1.0618
Illinois	1.0426	3,362,106	3,362,523	0.01%	101.01%	1.0531
Indiana	1.0426	1,679,271	1,678,815	0.00%	101.00%	1.0530
Iowa	1.0426	757,430	758,969	0.20%	101.20%	1.0551
Kansas	1.0426	748,452	752,898	0.59%	101.59%	1.0592
Kentucky	1.0426	1,072,878	1,074,033	0.11%	101.11%	1.0541
Louisiana	1.0426	1,195,354	1,201,825	0.54%	101.54%	1.0587
Maine	1.0426	284,448	280,037	0.00%	101.00%	1.0530
Maryland	1.0426	1,432,364	1,430,806	0.00%	101.00%	1.0530
Massachusetts	1.0426	1,528,515	1,526,838	0.00%	101.00%	1.0530
Michigan	1.0426	2,457,188	2,420,923	0.00%	101.00%	1.0530
Minnesota	1.0426	1,332,649	1,333,441	0.06%	101.06%	1.0536
Mississippi	1.0426	811,592	812,248	0.08%	101.08%	1.0538
Missouri	1.0426	1,511,476	1,509,752	0.00%	101.00%	1.0530
Montana	1.0426	232,744	232,484	0.00%	101.00%	1.0530
Nebraska	1.0426	480,843	484,315	0.72%	101.72%	1.0605
Nevada	1.0426	718,215	722,709	0.63%	101.63%	1.0595
New Hampshire	1.0426	303,883	299,803	0.00%	101.00%	1.0530
New Jersey	1.0426	2,154,517	2,151,634	0.00%	101.00%	1.0530
New Mexico	1.0426	544,483	550,463	1.10%	102.10%	1.0645
New York	1.0426	4,685,203	4,668,942	0.00%	101.00%	1.0530
North Carolina	1.0426	2,434,939	2,461,231	1.08%	102.08%	1.0643
North Dakota	1.0426	154,871	155,853	0.63%	101.63%	1.0596
Ohio	1.0426	2,854,307	2,835,537	0.00%	101.00%	1.0530
Oklahoma	1.0426	981,469	993,045	1.18%	102.18%	1.0653
Oregon	1.0426	927,049	931,391	0.47%	101.47%	1.0579
Pennsylvania	1.0426	2,941,287	2,925,214	0.00%	101.00%	1.0530
Rhode Island	1.0426	241,646	239,370	0.00%	101.00%	1.0530
South Carolina	1.0426	1,154,490	1,161,575	0.61%	101.61%	1.0594
South Dakota	1.0426	212,193	213,522	0.63%	101.63%	1.0595
Tennessee	1.0426	1,581,977	1,587,767	0.37%	101.37%	1.0568
Texas	1.0426	7,387,811	7,526,972	1.88%	102.88%	1.0726
Utah	1.0426	932,060	950,855	2.02%	103.02%	1.0740
Vermont	1.0426	133,972	132,151	0.00%	101.00%	1.0530
Virginia	1.0426	1,970,352	1,982,054	0.59%	101.59%	1.0592
Washington	1.0426	1,671,093	1,685,645	0.87%	101.87%	1.0621
West Virginia	1.0426	409,792	409,173	0.00%	101.00%	1.0530
Wisconsin	1.0426	1,386,200	1,382,964	0.00%	101.00%	1.0530
Wyoming	1.0426	142,978	146,372	2.37%	103.37%	1.0778
Total States	1.0426	79,105,977	79,377,958	0.34%	101.34%	1.0566
American Samoa	1.0426	27,929	27,669	0.00%	101.00%	1.0530
Guam	1.0426	62,461	62,538	0.12%	101.12%	1.0543
N. Mariana Islands	1.0426	15,897	14,968	0.00%	101.00%	1.0530
Puerto Rico	1.0426	1,004,491	986,362	0.00%	101.00%	1.0530
Virgin Islands	1.0426	28,346	27,563	0.00%	101.00%	1.0530
Total Territories	1.0426	1,139,124	1,119,100	0.00%	101.00%	1.0530
Total States/Territories	1.0426	80,245,101	80,497,058	0.31%	101.31%	1.0563

Footnotes:
*"PCNHE" is Per Capita National Health Expenditures
"PCHCG FACTOR" is "Per Capita Health Care Growth Factor", Calculated as:
1 + ($8,643 - $8,290)/$8,290; $8,290 is PCNHE 2010 and $8,643 is PCNHE 2011

Table 4 - CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENT FOR FY:						2011
STATE	FY 2010 FS Expenditures Applied Against Allotments*	Contingency Fund Payments in FY 2010	Redistributed Allotments in FY 2010	Total FY 2010 FS Expenditures Col B + C + D	FY 2011 Allotment Increase Factor	FY 2011 CHIP Allotment Col E x F
A	B	C	D	E	F	G
Alabama	$128,440,865	$0	$0	$128,440,865	1.0546	$135,448,405
Alaska	$18,677,459	$0	$0	$18,677,459	1.0617	$19,830,170
Arizona	$57,830,078	$0	$0	$57,830,078	1.0628	$61,462,234
Arkansas	$85,805,399	$0	$0	$85,805,399	1.0588	$90,852,696
California	$1,186,764,601	$0	$0	$1,186,764,601	1.0574	$1,254,894,664
Colorado	$115,601,855	$0	$0	$115,601,855	1.0683	$123,498,650
Connecticut	$29,743,148	$0	$0	$29,743,148	1.0530	$31,319,750
Delaware	$12,853,306	$0	$0	$12,853,306	1.0558	$13,570,030
District of Columbia	$11,289,463	$0	$0	$11,289,463	1.0620	$11,989,462
Florida	$308,517,594	$0	$0	$308,517,594	1.0530	$324,871,259
Georgia	$225,383,296	$0	$0	$225,383,296	1.0621	$239,369,074
Hawaii	$31,402,114	$0	$0	$31,402,114	1.0591	$33,256,672
Idaho	$34,099,448	$0	$0	$34,099,448	1.0618	$36,205,733
Illinois	$259,426,431	$0	$0	$259,426,431	1.0531	$273,211,456
Indiana	$89,780,481	$0	$0	$89,780,481	1.0530	$94,539,496
Iowa	$71,553,044	$0	$0	$71,553,044	1.0551	$75,497,451
Kansas	$52,741,906	$0	$0	$52,741,906	1.0592	$55,864,250
Kentucky	$122,945,604	$0	$0	$122,945,604	1.0541	$129,600,603
Louisiana	$175,713,531	$0	$0	$175,713,531	1.0587	$186,019,342
Maine	$33,703,224	$0	$0	$33,703,224	1.0530	$35,489,739
Maryland	$160,281,925	$0	$0	$160,281,925	1.0530	$168,778,027
Massachusetts	$300,999,705	$0	$0	$300,999,705	1.0530	$316,954,868
Michigan	$114,880,311	$0	$0	$114,880,311	1.0530	$120,969,799
Minnesota	$19,454,808	$0	$0	$19,454,808	1.0536	$20,498,108
Mississippi	$152,439,816	$0	$0	$152,439,816	1.0538	$160,648,691
Missouri	$107,037,283	$0	$0	$107,037,283	1.0530	$112,711,034
Montana	$36,529,632	$0	$0	$36,529,632	1.0530	$38,465,967
Nebraska	$36,719,692	$0	$0	$36,719,692	1.0605	$38,942,532
Nevada	$22,725,505	$0	$0	$22,725,505	1.0595	$24,078,374
New Hampshire	$12,175,306	$0	$0	$12,175,306	1.0530	$12,820,685
New Jersey	$562,377,795	$0	$0	$562,377,795	1.0530	$592,187,888
New Mexico	$230,626,135	$0	$0	$230,626,135	1.0645	$245,491,788
New York	$499,365,983	$0	$0	$499,365,983	1.0530	$525,835,994
North Carolina	$359,249,180	$0	$0	$359,249,180	1.0643	$382,336,267
North Dakota	$14,399,213	$0	$0	$14,399,213	1.0596	$15,257,665
Ohio	$263,972,238	$0	$0	$263,972,238	1.0530	$277,964,677
Oklahoma	$113,009,015	$0	$0	$113,009,015	1.0653	$120,388,959
Oregon	$86,116,203	$0	$0	$86,116,203	1.0579	$91,101,501
Pennsylvania	$305,645,638	$0	$0	$305,645,638	1.0530	$321,847,069
Rhode Island	$28,817,047	$0	$0	$28,817,047	1.0530	$30,344,559
South Carolina	$92,529,778	$0	$0	$92,529,778	1.0594	$98,026,552
South Dakota	$18,939,715	$0	$0	$18,939,715	1.0595	$20,067,331
Tennessee	$127,008,451	$0	$0	$127,008,451	1.0568	$134,225,460
Texas	$776,318,012	$0	$0	$776,318,012	1.0726	$832,714,327
Utah	$59,510,267	$0	$0	$59,510,267	1.0740	$63,915,866
Vermont	$5,502,112	$0	$0	$5,502,112	1.0530	$5,793,764
Virginia	$165,440,327	$0	$0	$165,440,327	1.0592	$175,234,257
Washington	$42,713,979	$0	$0	$42,713,979	1.0621	$45,365,924
West Virginia	$39,190,968	$0	$0	$39,190,968	1.0530	$41,268,373
Wisconsin	$97,561,547	$0	$0	$97,561,547	1.0530	$102,733,015
Wyoming	$9,267,890	$0	$0	$9,267,890	1.0778	$9,988,524
States/DC Total	$7,913,078,323	$0	$0	$7,913,078,323		$8,373,748,981
Commonwealths and Territories						
American Samoa	$892,105	$0	$0	$892,105	1.0530	$939,393
Guam	$3,962,503	$0	$0	$3,962,503	1.0543	$4,177,637
N. Mariana Islands	$817,763	$0	$0	$817,763	1.0530	$861,110
Puerto Rico	$94,554,476	$0	$0	$94,554,476	1.0530	$99,566,548
Virgin Islands	$0	$0	$0	$0	1.0530	$0
Total	$100,226,847	$0	$0	$100,226,847		$105,544,688
NATIONAL TOTAL	$8,013,305,170	$0	$0	$8,013,305,170		$8,479,293,669

Footnotes:

* FY 2010 expenditures based on the expenditures reported for the 4 quarters of FY 2010 and the associated Federal payments attributable and countable towards States' allotments available in FY 2010

BILLING CODE 4120–01–C

V. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. 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.

As discussed above, on September 16, 2009, we issued a proposed rule that set forth the methodologies and procedures to determine CHIP allotments in accordance with applicable federal laws on that date. Since that date, the Affordable Care Act was enacted into law. The Affordable Care Act made technical changes to the CHIP funding provisions and extended CHIP funding through the end of federal fiscal year 2015. The Affordable Care Act did not make any fundamental changes to the overall funding mechanism. Because there was no fundamental change to the funding mechanism, we believe it is unnecessary to reopen for public comment the methodologies and procedures to determine CHIP allotments set out in the proposed rule and made final in this rule. The changes made in the Affordable Care Act to extend the period of funding do not open up any new issues or concerns as to the calculation methodology or procedures.

Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule.

VI. Collection of Information Requirements

This document does not impose any 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).

VII. Regulatory Impact Analysis

A. Overall

We have examined the impacts of this final rule as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Public Law 96–354), section 1102(b) of the Social Security Act, section 202 of the Unfunded Mandates Reform Act of 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). We have determined that this final rule is economically significant, since it provides the methodologies under which State allotments for FYs 2009 through 2015 are calculated. In particular, this final rule implements the CHIP statute as amended by CHIPRA and the Affordable Care Act, under which approximately up to $74 billion in additional Federal funds may be made available for FYs 2009 through 2016 in addition to the amount of funds previously appropriated for States' CHIPs in accordance with the methodology established in the CHIP statute. This final rule also includes the actual State fiscal year CHIP allotments for FYs 2010 and 2011 determined in accordance with the methodology set out in this final rule. The methodologies for determining the States' CHIP allotments was established in accordance with the methodologies specified in statute and does not put forward any discretionary administrative policies for determining such allotments. Therefore, we have determined that there are no policy options that require an analysis beyond that which is presented in section II of this final rule.

The RFA requires agencies to analyze options for regulatory relief of small entities, if a rule has a significant impact on a substantial number of small entities. For purposes of the RFA, we estimate that most hospitals and most other providers and suppliers are small entities as that term is used in the RFA nonprofit organizations. The great majority of hospitals and most other health care providers and suppliers are small entities, either by being nonprofit organizations or by meeting the SBA definition of a small business having revenues of less than $7.0 million to $34.5 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this final rule will not have a significant economic impact on a substantial number of small entities.

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. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this final rule will not have 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) 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 2011, that threshold is approximately $136 million. This final rule will not create an unfunded mandate on States, tribal, or local governments in the aggregate, or by the private sector in the amount of $136 million in any one year.

Executive Order 13132 establishes certain requirements that an agency must meet when it promulgates 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 determined that this final rule will 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 final rule 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 additional funds provided by the FY 2009 allotment amounts.

B. Anticipated Effects

1. Effects on the CHIP program. This final rule provides the methodologies established in accordance with the CHIP statute, for determining the amounts of States' CHIP FY allotments through FY 2015. In accordance with such methodologies, CMS will determine and issue CHIP allotments to States each FY. States will be able to administer their CHIP programs with the appropriate levels of funding made available determined in accordance with the methodologies provided in this rule.

2. Effects on other entities. This final rule will have no effects on other entities; it is only promulgating the methodologies for determining the amounts of States' CHIP allotments.

C. Anticipated Effects

1. Effects on the CHIP program. This final rule provides the methodologies established in accordance with the CHIP statute, for determining the amounts of States' CHIP FY 2009 allotments through FY 2015. In accordance with such methodologies, CMS will determine and issue CHIP allotments to States each FY. States will be able to administer their CHIP programs with the appropriate levels of funding made available determined in accordance with the methodologies provided in this rule.

2. Effects on other entities. This final rule will have no effects on other entities; it is only promulgating the methodologies for determining the amounts of States' CHIP allotments.

D. Alternatives Considered

The methodologies for determining the States' fiscal year CHIP allotments, as reflected in the previously published proposed rule, and in final rule, were established in accordance with the methodologies and formula for determining States' allotments as specified in statute. As indicated above, the only comments we received with respect to proposed rule either agreed with the substance of the proposed rule or were outside the scope of the rule. This final rule does not put forward any further discretionary administrative policies for determining such allotments. The main difference from the notice of proposed rule published in the Federal Register on September 16, 2009, is that this final rule reflects the extension of funding for the CHIP and associated conforming changes in the CHIP statute for determining States' FY allotments, as amended by the Affordable Care Act.

E. Accounting Statement

As required by OMB Circular A–4 (available at *http://www.whitehouse.gov/omb/circulars/a004/a-4.pdf*), in Table 6, we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this rule. This table provides our best impact estimate of the rule, as it implements the CHIP statute as amended by CHIPRA, under which approximately up to $74 billion in additional Federal funds may be made available for fiscal years 2009 through 2015, in addition to the amount of funds previously appropriated for States' CHIPs. All expenditures are classified as transfers from the Federal Government to States.

TABLE 6—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FROM FY 2009 TO FY 2015

[In $millions]

Category	Transfers			
	Year dollar	Units discount rate		Period covered
		7%	3%	
Annualized Monetized Transfers	2009	$13,348.90	$13,381.15	FYs 2009–2015.
From Whom To Whom?	Federal Government to States			

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

List of Subjects in 42 CFR Part 457

Administrative practice and procedure, Grant programs—health, Health insurance, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 457—ALLOTMENTS AND GRANTS TO STATES

■ 1. The authority citation for part 457 continues to read as follows:

Authority: Section 1102 of the Social Security Act (42 U.S.C. 1302).

Subpart F—Payments to States

§ 457.600 [Amended]

■ 2. Amend § 457.600(a) by removing the date "2007" and adding in its place "2015".

§ 457.608 [Amended]

■ 3. Amend the section heading in § 457.608 by removing the phrase "for a fiscal year" and adding in its place "prior to FY 2009".

■ 4. Section 457.609 is added to subpart F to read as follows:

§ 457.609 Process and calculation of State allotments for a fiscal year after FY 2008.

(a) *General.* For each of the 50 States and the District of Columbia and for each Commonwealth and Territory with an approved State child health plan, the State allotments for FY 2009 through FY 2015 are determined by CMS as described in paragraphs (b) through (g) of this section. Unless otherwise indicated in this section, the reference to "State" refers to the 50 States and the District of Columbia and the Commonwealths and Territories (American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands).

(b) *Amounts available for allotment.* The total amounts available for allotment for each fiscal year are as follows:

(1) FY 2009: $10,562,000,000.

(2) FY 2010: $12,520,000,000.

(3) FY 2011: $13,459,000,000.

(4) FY 2012: $14,982,000,000.

(5) FY 2013: $17,406,000,000.

(6) FY 2014: $19,147,000,000.

(7) FY 2015, for the period beginning October 1, 2014 and ending March 31, 2015, the following amounts are available for allotment:

(i) $2,850,000,000.

(ii) 15,361,000,000.

(8) FY 2015, for the period beginning April 1, 2013 and ending on September 30, 2013, $2,850,000,000.

(c) *Determination of a State allotment for FY 2009.*

(1) *For the 50 States and the District of Columbia.* From the amount in paragraph (b)(1) of this section as appropriated for the fiscal year under section 2104(a) of the Act, subject to paragraph (e) related to proration, and paragraph (c)(3) of this section relating to coordination of funding, the allotment for FY 2009 is equal to 110 percent of the highest of the following amounts for each State and the District of Columbia:

(i) The total Federal payments to the State under title XXI of the Act for FY 2008 as reported by the State and

certified to the Secretary through the November 2008 submission of the quarterly expenditure reports, Forms CMS–21 (OMB # 0938–0731) and CMS–64 (OMB # 0938–0067), multiplied by the allotment increase factor determined under paragraph (f) of this section.

(ii) The amount allotted to the State for FY 2008, multiplied by the allotment increase factor determined under paragraph (f) of this section;

(iii) The projected total Federal payments to the State under title XXI of the Act for FY 2009, subject to paragraph (c)(1)(iv) of this section, as determined based on the February 2009 projections certified by the State to CMS by no later than March 31, 2009.

(iv) In the case of a State described in section 2105(g) of the Act and electing the option under paragraph (4) of such section, for purposes of the projections described in paragraph (c)(1)(iii) of this section, such projections would include an amount equal to the difference between the following amounts:

(A) the amount of Federal payments for the expenditures described in section 2105(g)(4)(B) of the Act made after February 4, 2009 that would have been paid to the State if claimed at the enhanced Federal medical assistance percentage determined under section 2105(b) of the Act.

(B) the amount of Federal payments for the expenditures described in section 2105(g)(4)(B) of the Act made after February 4, 2009 that would have been paid to the State if claimed at the Federal medical assistance percentage defined in section 1905(b) of the Act; during the recession adjustment period described in section 5001(h) of the American Recovery and Reinvestment Act of 2009 (ARRA), as amended the Federal medical assistance percentage is as determined for the State under section 5001 of ARRA.

(2) *For the Commonwealths or Territories.*

(i) From the amount in paragraph (b)(1) of this section, as appropriated for the FY 2009 under section 2104(a) of the Act, subject to paragraph (e) of this section related to proration, and paragraph (c)(3) of this section relating to coordination of funding, an amount equal to the highest amount of Federal payments made to the Commonwealth or Territory under title XXI of the Social Security Act for any fiscal year occurring during the period for FY 1999 through FY 2008, multiplied by the allotment increase factor determined under paragraph (f) of this section, plus the additional amount for the fiscal year specified in paragraph (c)(2)(ii) of this section.

(ii) *Additional Amounts for FY 2009.* From the amount appropriated for the fiscal year under section 2104(c)(4)(B) of the Act, the additional amount for each Commonwealth or Territory is equal to $40,000,000 multiplied by the following percentage as specified in section 2104(c)(2) of the Act:

(A) For Puerto Rico, 91.6 percent.

(B) For Guam, 3.5 percent.

(C) For the Virgin Islands, 2.6 percent.

(D) For American Samoa, 1.2 percent.

(E) For the Northern Mariana Islands, 1.1 percent.

(3) *Coordination of CHIP Funding for FY 2009.* The amount of the CHIP allotment for FY 2009 available for payment for a States' expenditures may be reduced by the amounts appropriated and obligated before April 1, 2009 for States' FY 2009 allotments, FY 2006 allotments redistributed to the State in FY 2009 determined under section 2104(k) of the Act, and the amounts of additional FY 2009 shortfall allotments determined under section 2104(l) of the Act.

(d) *Determination of a State allotment for FY 2010 through FY 2015.*

(1) *General.* Subject to the provisions of paragraph (e) of this section relating to proration and paragraph (g) of the section relating to increases in a fiscal year allotment for approved program expansions, the State allotments for FY 2010 through FY 2015 are determined as follows.

(2) *Determination of a State Allotment for FY 2010.* (i) For the 50 States and the District of Columbia, and for the Commonwealths and Territories subject to paragraph (d)(2)(ii) of this section, the State allotment for FY 2010 is equal to the product of the following:

(A) The sum of:

(*1*) The State Allotment for FY 2009, as determined under paragraph (c) of the section.

(*2*) The amount of any Federal payments made as redistributions of unexpended FY 2006 allotments under section 2104(k) of the Act.

(*3*) The amount of any Federal payments made as additional FY 2009 allotments under section 2104(l) of the Act.

(*4*) The amount of any Federal payments made as contingency fund payments for FY 2009 under section 2104(n) of the Act.

(B) The State allotment increase factor for FY 2010 as determined under paragraph (f) of the section.

(ii) In determining the amount of the FY 2010 allotment for each Commonwealth and Territory, for purposes of determining the amount of the FY 2009 allotment under paragraph (d)(2)(i)(A)(1) of this section, the amount of such FY 2009 allotment will not include the additional amount determined under paragraph (c)(2)(ii).

(3) *Determination of a State Allotment for FY 2011.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2011 is equal to the product of:

(i) The amount of Federal payments attributable and countable toward the available State allotments in FY 2010, including:

(A) Any amount redistributed to the State in FY 2010, and

(B) Any Federal payments made as contingency fund payments for FY 2010 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2011 as determined under paragraph (f) of the section.

(4) *Determination of a State Allotment for FY 2012.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2012 is equal to the product of:

(i) The sum of:

(A) The State Allotment for FY 2011, as determined under paragraph (d)(3) of this section.

(B) The amount of any Federal payments made as contingency fund payments for FY 2011 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2012 as determined under paragraph (f) of this section.

(5) *Determination of a State Allotment for FY 2013.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2013 is equal to the product of:

(i) The amount of Federal payments attributable and countable toward the available State allotments in FY 2012, including:

(A) Any amount redistributed to the State in FY 2012, and

(B) Any Federal payments made as contingency fund payments for FY 2012 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2013 as determined under paragraph (f) of the section.

(6) *Determination of a State Allotment for FY 2014.* For the 50 States and the District of Columbia, and the Commonwealths and Territories, the State allotment for FY 2014 is equal to the product of:

(i) The sum of:

(A) The State Allotment for FY 2013, as determined under paragraph (d)(5) of this section.

(B) The amount of any Federal payments made as contingency fund payments for FY 2013 under section 2104(n) of the Act.

(ii) The State allotment increase factor for FY 2014 as determined under paragraph (f) of this section.

(7) *Determination of a State Allotment for FY 2015.*

(i) *General.* There are two State allotments for FY 2015; one for the period beginning October 1, 2014 and ending March 31, 2015 and the second beginning April 1, 2015 and ending September 30, 2015. These State allotments are determined for each of the 50 States and the District of Columbia, and the Commonwealths and Territories.

(ii) The State allotment for FY 2015 for the period October 1, 2014 and ending March 31, 2015 is determined as the product of the following:

(A) The first half ratio determined as the amount in paragraph (d)(7)(ii)(A)(*1*) of this section divided by the amount in paragraph (d)(7)(ii)(A)(*2*) of this section as follows:

(*1*) $18,211,000,000 (calculated as the sum of the amount in paragraph (b)(7)(i) of this section, $2,850,000,000 (appropriated in section 2104(a)(18)(A) of the Act) and the amount in paragraph (b)(7)(ii) of this section, $15,361,000,000 (appropriated in section 108 of Pub. L. 111–3, as amended by section 10203 of Pub. L. 111–148)).

(*2*) $21,061,000,000, determined as the sum of the amount determined in paragraph (*1*) of this section, $18,211,000,000, and $2,850,000,000, the amount in paragraph (b)(8) of this section, as appropriated in section 2104(a)(18)(B) of the Act, as amended by section 10203 Of Public Law 111–148.

(B) The product of:

(*1*) The amount of Federal payments attributable and countable toward the total amount of available State allotments in FY 2014, to include:

(*i*) Any amount redistributed to the State in FY 2014; and

(*ii*) Any Federal payments made as contingency fund payments for FY 2014 under section 2104(n) of the Act.

(*2*) The State allotment increase factor for FY 2015 as determined under paragraph (f) of this section.

(iii) The State allotment for FY 2015 for the period April 1, 2015 and ending September 30, 2015 is determined as the product of the following:

(A) $2,850,000,000 the amount in paragraph (b)(8) of this section, as appropriated in section 2104(a)(18)(B) of the Act; and

(B) The ratio determined as the amount in paragraph (d)(7)(iii)(B)(*1*) of this section divided by the amount in paragraph (d)(7)(iii)(B)(*2*) of this section:

(*1*) The amount of the State allotment determined in paragraph (d)(7)(ii) of this section.

(*2*) The total of all the State allotments determined in paragraph (d)(7)(ii) of this section.

(e) *Proration.*

(1) If for a fiscal year the sum of the State allotments for the 50 States and the District of Columbia, and the State allotments for the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section), exceeds the total amount available for allotment for the fiscal year in paragraph (b) of this section, the amount of the allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section) will be reduced on a proportional basis as indicated in paragraph (e)(2) of this section.

(2) The amount of the allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined in paragraph (c)(2)(ii) of this section) is equal to the product of:

(i) The percentage determined by dividing the amount in paragraph (e)(2)(i)(A) by the amount in paragraph (e)(2)(i)(B) of this section.

(A) The amount of the State allotment for each of the 50 States and the District of Columbia, and for each of the Commonwealths and Territories (not including the additional amount for FY 2009 determined under paragraph (c)(2)(ii) of this section).

(B) The sum of the amounts for each of the 50 States and the District of Columbia, and the Commonwealths and Territories in paragraph (e)(2)(i) of this section.

(ii) The total amount available for allotment for the fiscal year under paragraph (b) of this section.

(f) *Allotment increase factor.* The allotment increase factor for a fiscal year is equal to the product of the following:

(1) Per capita health care growth factor. The per capita health care growth factor for a fiscal year is equal to 1 plus the percentage increase in the projected per capita amount of the National Health Expenditures from the calendar year in which the previous fiscal year ends to the calendar year in which the fiscal year involved ends, as most recently published by CMS before the beginning of the fiscal year involved.

(2) *Child Population Growth Factor* (CPGF). The CPGF for a fiscal year is equal to 1 plus the percentage increase (if any) in the population of children in the State from July 1 in the previous fiscal year to July 1 in the fiscal year involved, as determined by CMS based on the most recent published estimates of the Census Bureau available before the beginning of the fiscal year involved plus 1 percentage point. For purposes of determining the CPGF for FY 2009 for the Commonwealths and Territories only, in applying the previous sentence, "United States" is substituted for "the State".

(g) *Increase in State allotment for the 50 States and the District of Columbia for FY 2010 through FY 2015 to account for approved program expansions.* In the case of the 50 States and the District of Columbia, the State allotment for FY 2010 through FY 2015, as determined in accordance with the provisions of this section, may be increased under the following conditions and amounts:

(1) The State has submitted to the Secretary, and has approved by the Secretary a State plan amendment or waiver request relating to an expansion of eligibility for children or benefits under title XXI of the Act that becomes effective for a fiscal year (beginning with FY 2010 and ending with FY 2015).

(2) The State has submitted to the Secretary, before the August 31 preceding the beginning of the fiscal year, a request for an expansion allotment adjustment under this paragraph for such fiscal year that specifies.

(i) The additional expenditures that are attributable to the eligibility or benefit expansion provided under the amendment or waiver described in paragraph (g)(1) of this section, as certified by the State and submitted to the Secretary by not later than August 31 preceding the beginning of the fiscal year.

(ii) The extent to which such additional expenditures are projected to exceed the allotment of the State or District for the year.

(3) Subject to paragraph (e) of this section relating to proration, the amount of the allotment of the State or District under this section for such fiscal year shall be increased by the excess amount described in paragraph (g)(2)(i)of this section. A State or District may only obtain an increase under paragraph (g)(2)(ii) of this section for an allotment for FY 2010, FY 2012, or FY 2014.

(h) *CHIP Fiscal Year Allotment Process.* As determined by the Secretary, the CHIP allotments for a fiscal year may be published as Preliminary Allotments or Final Allotments in the **Federal Register**.

§ 457.610 [Amended]

■ 5. Amend the section heading for § 457.610 by—

■ A. Amending the section heading by removing the phrase "for a fiscal year" and adding in its place "prior to FY 2009".

■ B. Removing the phrase "for a fiscal year" and add in its place "prior to FY 2009"in the first line of the paragraph.

■ 6. Section 457.611 is added to subpart F to read as follows:

§ 457.611 Period of availability for State allotments for a fiscal year after FY 2008.

The amount of a final allotment for a fiscal year after FY 2008, as determined under § 457.609 and reduced to reflect certain Medicaid expenditures in accordance with § 457.616, remains available until expended for Federal payments based on expenditures claimed during a 2-year period of availability, beginning with the fiscal year of the final allotment and ending with the end of the succeeding fiscal year following the fiscal year.

Authority: (Section 1102 of the Social Security Act (42 U.S.C. 1302).

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

(Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program)

Dated: November 3, 2010.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

Approved: November 30, 2010.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2011–3639 Filed 2–14–11; 4:15 pm]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 11–8; MB Docket No. 05–162; RM–11227, RM–11284]

Radio Broadcasting Services; Enfield, NH; Hartford, VT; Keeseville and Morrisonville, NY; White River Junction, VT

AGENCY: Federal Communications Commission.

ACTION: Final rule; application for review.

SUMMARY: This document grants the Application for Review filed by Hall Communications, Inc. of the *Report and Order* in this proceeding to the extent of rescinding the staff action reallotting FM Channel 231A to Morrisonville, New York, and reinstating the allotment of Channel 231A at Keeseville, New York, because an interest had been expressed in retaining the allotment at Keeseville. The document also affirms the Report and Order in all other respects. Finally, the document modifies the FM allotment processing policies so that, on a going forward basis, the Commission will no longer accept proposals involving the reallotment, class down-grade, or deletion of a vacant FM allotment. *See* **SUPPLEMENTARY INFORMATION,** *supra.*

DATES: Effective March 30, 2011.

FOR FURTHER INFORMATION CONTACT: Andrew J. Rhodes, Media Bureau, (202) 418–2180.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Opinion and Order,* MB Docket No. 05–162, adopted January 25, 2011, and released January 26, 2011. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *http://www.BCPIWEB.com.*

The *Memorandum Opinion and Order* agreed that the *Report and Order*'s deletion of Channel 231A at Keeseville was inconsistent with existing Commission case law, which states that the Commission will not remove a vacant FM allotment form a community if a potential applicant has expressed an interest in applying to build a station on that channel, absent a compelling reason to do so. *See* 71 FR 30827, May 31, 2006. Because an interest had been expressed in retaining the channel at Keeseville, the channel should not have been deleted and reallotted to Morrisonville, New York. The reference coordinates for Channel 231A at Keeseville are 44–31–45 NL and 73–32–00 WL.

The *Memorandum Opinion and Order* also affirmed the *Report and Order* insofar as it (1) Allotted Channel 282A to Enfield, New Hampshire as its first local aural transmission service; (2) reallotted Channel 282C3, Station WWOD(FM), from Hartford, Vermont, to Keeseville, New York, and modified the license of FM Station WWOD(FM) accordingly; and (3) reallotted Channel 237A, Station WXLF(FM), from White River Junction, Vermont, to Hartford, Vermont and modified the license of FM Station WXLF(FM) accordingly.

Next, prompted by the circumstances that gave rise to Hall's Application for Review, the Commission concluded to discontinue the practice of considering rulemaking requests for the reallotment, class down-grade or deletion of a vacant FM allotment. The Commission determined that this practice is disruptive to the orderly auctioning of vacant FM spectrum, wastes limited staff resources, and undermines the finality of the actions adopting the initial allotment. However, the Commission will permit parties to propose same-class channel substitutions for vacant FM allotments in order to accommodate proposals in technically related FM allotment and/or application filings because same-class channel substitutions do not disturb final section 307(b) determinations on which the allotments were based.

Finally, we note that, although the *Report and Order* in this proceeding removed Channel 231A at Keeseville, New York, § 73.202(b), the Table of FM Allotments, inadvertently did not reflect this change, and the channel continues to appear in the Table. Accordingly, there is no need for a further revision to the Table of FM Allotments with respect to Keeseville, New York.

The Commission will send a copy of this *Memorandum Opinion and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

§ 73.202 [Amended]

■ 2. Section 73.202(b), the Table of FM Allotments under New York, is amended by removing Morrisonville, Channel 231A.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2011–3640 Filed 2–16–11; 8:45 am]

BILLING CODE 6712–01–P