List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Volatile organic compounds, Ozone, Sulfur oxides, Nitrogen dioxide.

Dated: November 16, 2009.

J. Scott Jordon,

Acting Regional Administrator, Region 4.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42.U.S.C. 7401 *et seq.*

Subpart S—Kentucky

■ 2. Section 52.920(d), is amended by adding a new entry at the end of the table for ''Source-Specific SIP Revision for Avis Budget Car Rental Group,'' to read as follows:

§ 52.920 Identification of plan.

* * * * *

(d) * * *

EPA-APPROVED KENTUCKY SOURCE-SPECIFIC REQUIREMENTS

Name of source	Permit No.	State effective date	EPA approval date	Explanations
*	*	*	*	*
Source-Specific SIP Revision for Avis Budget Car Rental Group.	N/A	8/9/07	11/30/09 [Insert citation of publication].	Removal of stage II requirements

* * * * *

[FR Doc. E9–28421 Filed 11–27–09; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 440, 447, and 457

[CMS–2232–F3; CMS–2244–F4]

RIN 0938–AP72 and 0938–AP73

Medicaid Program: State Flexibility for Medicaid Benefit Packages and Premiums and Cost Sharing

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

ACTION: Final rule.

SUMMARY: This final rule temporarily delays the effective date of the November 25, 2008 final rule entitled, ''Medicaid Program; Premiums and Cost Sharing'' and the December 3, 2008 final rule entitled, ''Medicaid Program; State Flexibility for Medicaid Benefit Packages'' until July 1, 2010.

DATES: *Effective Date:* This action is effective December 31, 2009. The effective date of the rule amending 42 CFR part 440 published in the December 3, 2008 **Federal Register** (73 FR 73694) is delayed until July 1, 2010. The effective date of the rule amending 42 CFR parts 447 and 457 published in the November 25, 2008 **Federal Register** (73 FR 71828) is delayed until July 1, 2010.

FOR FURTHER INFORMATION CONTACT:

Frances Crystal, (410) 786–1195, for State Flexibility for Medicaid Benefit Packages.

Christine Gerhardt, (410) 786–0693, for Premiums and Cost Sharing.

SUPPLEMENTARY INFORMATION:

I. Background

A. State Flexibility for Medicaid Benefit Packages

On December 3, 2008, we published a final rule in the **Federal Register** (73 FR 73694) entitled ''Medicaid Program; State Flexibility for Medicaid Benefit Packages.'' The December 3, 2008 final rule implements provisions of section 6044 of the Deficit Reduction Act (DRA) of 2005, (Pub. L. 109–171), enacted on February 8, 2006, which amends the Social Security Act (the Act) by adding a new section 1937 related to the coverage of medical assistance under approved State plans. Section 1937 provides States increased flexibility under an approved State plan to provide covered medical assistance through enrollment of certain Medicaid recipients in benchmark or benchmark-equivalent benefit packages. The final rule set forth the requirements and limitations for this flexibility, after consideration of public comments on the February 22, 2008 proposed rule.

Subsequent to the publication of the December 3, 2008 final rule, we published an interim final rule with comment period in the **Federal Register** on February 2, 2009 (74 FR 5808) to temporarily delay for 60 days the effective date of the December 3, 2008 final rule entitled, ''Medicaid Program; State Flexibility for Medicaid Benefit Packages.'' The interim final rule also reopened the comment period on the policies set out in the December 3, 2008 final rule. We received 9 public comments in response to the February 2, 2009 interim final rule.

On February 4, 2009, the Children's Health Insurance Program Reauthorization Act (CHIPRA) of 2009 (Pub. L. 111–3) was enacted. Certain provisions of CHIPRA affect current regulations regarding State Flexibility for Medicaid Benefit Packages, including the December 3, 2008 final rule. Specifically, section 611(a)(1)(C) and section 611(a)(3) of CHIPRA amend section 1937 of the Act, to require that States provide the full range of the Early Periodic Screening, Diagnosis, and Treatment (EPSDT) coverage benefit to children under the age of 21, rather than those under 19 as specified in the DRA of 2005, who are enrolled in benchmark or benchmark-equivalent plans. EPSDT services may be provided through a benchmark or benchmark-equivalent plan or as an additional benefit supplementing coverage under the benchmark or benchmark-equivalent plan. Section 611(a)(1)(A)(i) of CHIPRA amends section 1937 of the Act by changing the language ''Notwithstanding any other provision of this title * * *'' to read ''Notwithstanding section 1902(a)(1) (relating to statewideness), section 1902(a)(10)(B) (relating to comparability), and any other provision of this title which would be directly contrary to the authority * * *'' One effect of this change is to clarify that the requirement, under 42 CFR 431.53 and section 1902(a)(4) of the Act, to assure transportation for Medicaid beneficiaries in order for them to have access to covered State plan services, is applicable to States electing to provide

Medicaid through benchmark or benchmark-equivalent plans.

On April 3, 2009, we published a second final rule (74 FR 15221) in the **Federal Register** further delaying implementation of the December 3, 2008 rule until December 31, 2009 and reopening the comment period to permit additional comments on the policies set forth in the December 3, 2008 final rule and the statutory changes contained in CHIPRA. This second delay specifically requested comments on the provisions of CHIPRA enacted on February 4, 2009, which corrected language in the DRA as if these amendments were included in the DRA, and amended section 1937 of the Act, ''State Flexibility for Medicaid Benefit Packages.'' We received 7 timely items of correspondence in response to the April 3, 2009 interim final rule.

B. Premiums and Cost Sharing

On November 25, 2008, we published a final rule entitled, ''Medicaid Program; Premiums and Cost Sharing'' in the **Federal Register** (73 FR 71828) to implement and interpret sections 6041, 6042 and 6043 of the DRA, as amended by section 405 of the Tax Relief and Health Care Act of 2006 (TRHCA). These provisions amended the Social Security Act to add section 1916A which provides State Medicaid agencies with increased flexibility to impose premium and cost sharing requirements on certain Medicaid recipients. These DRA provisions specifically addressed cost sharing for non-preferred drugs and non-emergency care furnished in a hospital emergency department. The DRA was amended by TRHCA to limit cost sharing for individuals with family incomes at or below 100 percent of the Federal poverty line. The November 25, 2008 final rule integrated into CMS regulations the statutory flexibility to impose premiums and cost sharing that was added by the DRA. In addition, in the November 25, 2008 final rule, we responded to public comments on the February 22, 2008 proposed rule.

Subsequent to the publication of the November 25, 2008 final rule, we published a final rule in the **Federal Register** on January 27, 2009 (74 FR 4888) that temporarily delayed for 60 days the effective date of the November 25, 2008 final rule. The final rule also reopened the comment period on the policies set out in the November 25, 2008 final rule.

On February 17, 2009, the American Recovery and Reinvestment Act of 2009 (the Recovery Act) was enacted subsequent to the publication of the January 27, 2009 delay of effective date. Certain provisions of the Recovery Act amended the provisions of section 1916A of the Social Security Act that were added by the DRA. As a result, the regulations published on November 25, 2008 were not consistent with statutory authority governing Medicaid and CHIP premiums and cost sharing. Specifically, under the Recovery Act, effective July 1, 2009, Medicaid and CHIP programs are prohibited from imposing premiums or other cost sharing payments on Indians who are provided services or items covered under the Medicaid State plan by Indian Health providers or through referral under contract health services. Similarly, payments to Indian Health providers or to a health care provider through referral under contract health services for Medicaid services or items furnished to Indians cannot be reduced by the amount of any enrollment fee, premium, or cost sharing that otherwise would be due from the Indians.

On March 27, 2009, we published a second final rule in the **Federal Register** (74 FR 13346) that further delayed the effective date of the November 25, 2008 final rule until December 31, 2009. The final rule reopened the comment period to give the public an additional opportunity to submit comments on the policy set forth in the final rule as well as the provisions of the Recovery Act. Comments were specifically solicited on the effect of certain provisions of the Recovery Act related to the exclusion of Indians from payments of premiums and cost sharing.

II. Provisions of the Proposed Rule and Response to Public Comments

On October 30, 2009, we published a proposed rule in the **Federal Register** (73 FR 71828) to solicit public comments on further delaying the effective date of the November 25, 2008 and the December 3, 2008 final rules (collectively, ''the 2008 final rules'') until July 1, 2010. We proposed to further delay the effective date of the 2008 final rules from December 31, 2009 to July 1, 2010 to allow us sufficient time to revise a substantial portion of the final rules based on our review and consideration of the new provision of CHIPRA, the Recovery Act, and the public comments received during the reopened comment periods. To allow time to make these revisions, the Department determined that we need several more months to fully consider the changes needed to the rules. In the proposed rule, we noted that the comments received during the reopened comment periods were complex and presented numerous policy issues, which require extensive consultation, review, and analysis. Additionally, because both CHIPRA and the Recovery Act contain provisions that impact the American Indian and Alaska Native community, we stated that the development of the final rules requires collaboration with other HHS agencies and the Tribal governments.

We believed that this time period would allow us sufficient time to further consider public comments, analyze the impact of the revisions on affected stakeholders, and develop appropriate revisions to the regulations.

We received 1 timely item of correspondence in response to the October 30, 2009 proposed rule. The comment did not directly address our proposal to delay the effective date of the 2008 final rules until July 1, 2010. The comment was limited to the exemption of the benchmark and benchmark-equivalent packages from the assurance of transportation requirements. Because the comment is outside the scope of the proposed rule on the delay of the effective dates of the 2008 final rules, but instead addresses the issue of revisions that are needed to comply with statutory changes, we will address the comment when we issue revisions to the final rule on State flexibility for Medicaid benefit packages. Because this comment highlighted the need for such revisions, we view this comment as indirectly supporting our proposal to delay the effective date of the 2008 final rules in order to issue needed revisions.

III. Provisions of This Final Rule

This rule further delays the effective date of the 2008 final rules until July 1, 2010. The provisions of the November 25, 2008 final rule and the December 3, 2008 final rule, which were to become effective on December 31, 2009, will now become effective July 1, 2010. We note that, although we are finalizing the delay in the effective date of the 2008 final rules jointly because it is more efficient to do so, revisions to the 2008 final rules will be published as two separate revised final rules.

IV. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995.

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

Dated: November 20, 2009.

Charlene Frizzera,

Acting Administrator, Centers for Medicare & Medicaid Services.

Approved: November 23, 2009.

Kathleen Sebelius,

Secretary.

[FR Doc. E9–28569 Filed 11–27–09; 8:45 am]

BILLING CODE 2244–F4–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

49 CFR Parts 190, 192, 195 and 198

[Docket No. PHMSA–2009–0265; Amdt Nos. 190–15; 192–111; 195–92, 198–5)]

RIN 2137–AE51

Pipeline Safety: Editorial Amendments to the Pipeline Safety Regulations.

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: This final rule corrects editorial errors, makes minor changes in the regulatory text, reflects changes in governing laws, and improves the clarity of certain provisions in the pipeline safety regulations. This rule is intended to enhance the accuracy and reduce misunderstandings of the specified regulations. The amendments contained in this rule are non-substantive changes.

DATES: *Effective date:* The effective date of this final rule is January 29, 2010.

FOR FURTHER INFORMATION CONTACT: Dana Register at (202) 366–4046.

SUPPLEMENTARY INFORMATION:

I. Background

PHMSA regularly reviews the Pipeline Safety Regulations (49 CFR Parts 186–199) to identify typographical errors, outdated contact information, or similar errors. In this final rule, we are correcting typographical errors; incorrect CFR references and citations; and clarifying certain regulatory requirements. Because these amendments do not impose new requirements, notice and public comment procedures are unnecessary.

II. Amendments Included in This Final Rule

A. In 49 CFR 190.3, which contains definitions, we are now updating the location of the Eastern Regional Office to reflect a recent location change.

1. In § 190.3, under the definition of ''Regional Director'' we are correcting the Eastern Regional Office location by replacing the location ''Washington, DC'' with ''Trenton, NJ.''

B. On October 17, 2008, PHMSA issued a final rule, under Docket No. PHMSA–2005–23447, that amended the Pipeline Safety Regulations (49 CFR Parts 186–199) to prescribe safety requirements for the operation of certain gas transmission pipelines at pressures based on higher operating stress levels. The rule allowed for an increase of maximum allowable operating pressure (MAOP) over that previously allowed in the regulations for pipelines that could meet certain criteria. On December 1, 2008, PHMSA stayed the effective date of this final rule until December 22, 2008 (73 FR 72737).

We are now correcting several editorial errors that we discovered after this final rule was published. Specifically:

2. In § 192.112, we are correcting paragraph (c)(2)(i) by replacing the phrase ''[the effective date of the final rule]'' with ''December 22, 2008.''

3. In § 192.112, we are correcting paragraph (e)(2) by replacing the phrase ''November 17, 2008'' with ''December 22, 2008.''

4. In § 192.620, we are correcting the following paragraphs:

(a) In paragraph (a)(1)(i), we are replacing the phrase ''November 17, 2008'' with ''December 22, 2008'';

(b) In footnote 1 of paragraph (a)(2)(ii), we are replacing the phrase ''November 17, 2008'' with ''December 22, 2008''

(c) In paragraph (b)(3), we are adding a reference to § 192.620(d)(3) to clarify the intent with respect to remotely operable valves;

(d) In paragraph (b)(7) we are replacing the phrase ''November 17, 2008'' with ''December 22, 2008'';

(e) In paragraph (c)(4)(ii) we are replacing the phrase ''November 17, 2008'' with ''December 22, 2008'';

(f) In paragraph (c)(6), we are clarifying that the construction requirements only apply to construction that occurred after the effective date of this rule, December 22, 2008;

(g) In paragraph (d)(3)(i), we are correcting the reference from ''(d)(1)(i)'' to ''(d)(2)(i)'';

(h) In paragraph (d)(5)(iv), we are clarifying the language to note that sampling of accumulated liquids is required whenever cleaning pigs are used and corrosion inhibitors are required if corrosive gas or liquids are present;

(i) In paragraph (d)(7)(iii), we are correcting the reference to ''paragraph (8)'' to ''(d)(9)'' and the reference from ''(6)(i)'' to ''(d)(7)(i)'';

(j) In paragraph (d)(7)(iv)(C), we are correcting the reference from ''(d)(8)'' and ''(d)(9)'' to ''(d)(9)'' and ''(d)(10)'';

(k) In paragraph (d)(8)(ii), we are clarifying that a close interval survey must be used to confirm restoration of cathodic protection unless the problem is a rectifier connection or power input remediation that can be verified by other means.

(l) In the introductory text of (d)(9)(i), we are correcting the reference from ''(d)(8)(iii)'' to ''(d)(9)(iii)'';

(m) In paragraph (d)(9)(ii), we are correcting the reference from ''(d)(8)(iii)'' to ''(d)(9)(iii)'';

(n) In paragraph (d)(10)(ii), we are correcting the reference from ''(d)(9)(i)'' to ''(d)(10)(i)'';

(o) In paragraph (d)(10)(iii), we are correcting the reference from ''(d)(8)(iii)'' to ''(d)(9)(iii)'';

(p) In paragraph (d)(11)(ii)(A), we are correcting the reference from ''(d)(8)'' to ''(d)(9)'';

(q) In the introductory text of (d)(11)(iii), we are correcting the reference from ''(d)(10)(ii)'' to ''(d)(11)(ii)''; and

(r) In paragraph (d)(11)(iv), we are correcting the reference from ''(d)(10)(ii) or (iii)'' to ''(d)(11)(ii) or (iii).''

C. On December 24, 2008, PHMSA issued a final rule under Docket No. PHMSA–2005–21305, that amended the pipeline safety regulations to allow operators to design pipelines made from new Polyamide-11 (PA–11) thermoplastic pipe using a higher design factor and to raise the design pressure limit for such pipelines. PHMSA believes that the current wording in 49 CFR 192.121 could be incorrectly interpreted to mean that the 0.40 design factor is not limited only to PA–11 pipe. Therefore, PHMSA has concluded that the formula should be clarified so that the 0.40 design factor only applies to PA–11. Therefore, we are making the following clarification:

''= 0.40 for PA–11 pipe produced after January 23, 2009 with a nominal pipe size (IPS or CTS) 4-inch or less, SDR–11 or greater (i.e. thicker pipe wall).''

D. In section 195.12, we are redesignating paragraph (d), entitled Record Retention, as paragraph (e).

E. The laws governing pipeline safety regulation provide the authority for PHMSA to issue grants to states to carry out pipeline safety programs under certification or agreement. The Pipeline Inspection, Protection, Enforcement, and Safety Act of 2006 (Pub. L. 109–468) modified 49 U.S.C. 60107 to increase the maximum allowed amount