5146 PL. VF

SECTION-BY-SECTION ANALYSIS OF THE ACCESS TO COMMUNITY HEALTH CARE ACT[1]

TITLE 1 -- ASSURING EQUITABLE TREATMENT OF UNDERSERVED POPULATIONS AND ESSENTIAL COMMUNITY PROVIDERS

Section 101. Assuring Equitable Distribution of Risk Adjustments.

Section 1351 (c) is amended by adding a new paragraph (2) to require health plans to pay Federally-qualified health centers they have contracted with on a prospective capitated basis an amount to enable the health center to furnish all medically necessary and appropriate services, and to assure that the risk incurred by the health center is no greater than to those for whom no risk adjustment payments are necessary. For Federally-qualified health centers paid on a fee-for-service basis, health plans shall pay a fee adjusted to account for greater resources and time necessary to furnish services to high-risk enrollees.

Section 1322(c)(1) and (3) are amended to require Alliances and states to develop fee-for-service schedules that are risk-adjusted. Section 1329(a) is amended to clarify that a medically underserved area or population as designated under Section 330(b) of the Public Health Service Act is a service area with inadequate health services, for the purpose of the regional alliance providing incentives to health plans to serve those areas. Section 1543 is amended to include essential community providers representatives among those on the risk adjustment advisory committee to the Board.

Section 102. Improving Essential Community Provider Provisions.

Section 1431 is amended to clarify that the essential community provider in a health plan's service area has the option of a written provider participation agreement or a written agreement for payment for out-of-plan services for any services provided by the health plan that the essential provider elects to perform or arrange. The terms of these agreements must be at least equivalent to the most favorable terms and conditions that apply to other participating providers. Section 1432 is deleted (sunset requirement).

Section 103. Community Health Security Payment.

Title I, Subtitle F, Part 2 is amended to add a new subpart C, which requires the Secretary to provide community health security payments to Federally qualified health centers for services described under Section 330 of the Public Health Service Act that (1) are provided to Alliance-ineligible individuals, (2) that are not covered services

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under Title I, or (3) are covered services but are furnished in greater amount, scope or duration than covered under Title I. Payments shall be in the amount of the difference between the health center's reasonable costs and payments received from health plans for such services. Reasonable costs are to be determined in accordance with Section 1876(h) of the Social Security Act. The Secretary shall use $950 million from funds appropriated under Section 3481, as amended by this Act, for this purpose.

This requirement shall also apply to services provided by health centers to Medicare beneficiaries in a state with an approved application to integrate Medicare beneficiaries into regional alliance plans. The source of payment for this purpose shall be as provided in Section 1893(d)(2) of the Social Security Act, as amended by Section 4001 of the Health Security Act.

In the event that payments for a calendar year exceed amounts available, the Secretary will reduce payments to health centers the next year by an equal proportion to cover the difference.

Section 104. Improving Health Plan Compliance With Essential Provider Contracting Requirements.

Section 1203(a)(2)(D) is amended to require participating states to include requirements relating to health plans contracting with essential community providers in their establishment and publishing of health plan certification criteria.

Section 5240(b) is amended to state that an aggrieved essential community provider shall be entitled to recover compensatory damages, including lost revenues. Section 5240(c) is amended to require the court to award attorney's fees if the essential community provider prevails. A new subsection (d) is added to require states to make available to aggrieved essential community providers the opportunity to file a complaint in the review office established in Section 5202. The Secretary is required to prescribe regulations governing grievance actions by essential providers which shall be consistent with Section 5204.

Section 1321 is amended to limit Alliance contracting with a health plan that is subject of an outstanding administrative or judicial action by one or more essential providers.

Section 105. Assuring Continuous Coverage for Migratory Agricultural Farmworkers and Members of Their Families.

Section 1012 is amended by adding a new subsection (g), which states that the Board shall develop special rules in applying the Health Security Act to ensure that migrant farmworkers and their families shall have continuous coverage and access to comprehensive benefits. The Board's rules for migrant farmworkers and their families will allow them to continue coverage through the health plan in which they enrolled, and shall assure the continuous provision of, and payment for, services to them in a manner which assures their mobility does not impede access to services. Section

1902 is amended by adding a new subsection (38) to define "migratory agricultural worker." Section 1541(b)(2) is amended to require the Board to consider migratory farmworker status among its factors when developing its risk adjustment methodology.

A new subsection (h) is added to require the Board to develop special rules in applying the Health Security Act to ensure that individuals who move in and out of the service area for employment or to seek employment, and their families, shall have continuous coverage and access to comprehensive benefits.

TITLE II -- FACILITATING THE PARTICIPATION OF ESSENTIAL COMMUNITY PROVIDERS IN HEALTH PROFESSIONS TRAINING

Section 201. Inclusion of Essential Community Providers in Training Efforts.

Section 3001(c)(1) is amended to include essential providers among those to have membership on the National Council on Graduate Medical Education. Section 3011(b)(3) is amended by adding a new subparagraph (D), which makes essential community providers eligible for payments under Section 3031 for participation in an approved training program. Section 3012(d)(1) is amended by adding a new subparagraph (D), to include among the factors considered by the National Council in designating specialty positions the number of primary care physicians needed to serve medically underserved populations and health professional shortage areas. Section 3013(c)(1) is amended to require that preference be given to programs offering training experience serving medically underserved populations and using essential community providers as training sites when the National Council considers making allocations for eligible programs.

Section 3031(a)(1), (a)(2) and (b) are amended, and a new subsection (d) is added, to require the Secretary to make payments to essential community providers that participate in approved training programs. Section 3032(a) is amended by adding a new paragraph (4) to require that applications for payments identify each eligible essential community provider participating in the programs and describe the scope of each essential provider's participation in the program. Section 3033(b) is amended by adding a new paragraph (3) which requires the Secretary to make payments directly to essential community providers for costs of training upon submission of reasonable documentation. Sections 3041 and 3061(b) are amended to clarify the definition of "eligible essential community provider." Section 3062(c) is amended by adding a new paragraph (4) to require the Secretary to make similar payments, and give similar preference, to essential providers that participate in nurse training efforts.

Sections 3071(a) and 3072(a) are amended to require the Secretaries of Health and Human Services and Labor to give priority to applications in which essential providers participate in training. Section 3073(d)(2) is amended to include essential providers among those to have membership on the National Institute for Health Care Workforce Development advisory board.

Section 202. Distribution of Academic Health Center Payments.

Section 3101(c) is amended to include an essential community provider as an eligible entity that may receive payments for specialized costs they incur in providing health services. Section 3103(b) and (b)(1) are amended to reduce payments to academic health centers by the amount needed to make payments to eligible essential community providers. Payment to an essential community provider (ECP) is equal to the ECP's actual and reasonable indirect costs associated with training.

TITLE III -- DEVELOPING EFFECTIVE PRIMARY AND OTHER HEALTH SERVICE CAPACITY FOR UNDERSERVED POPULATIONS AND COMMUNITIES

Section 301. Grants for the Development and Operation of Health Centers and Community Health Networks and Health Plans.

(a) Title III, Subtitle E is amended by deleting Parts 1 and 2 and inserting a new subtitle:

Subtitle E -- Health Services for Medically Underserved Populations
Part I -- Community Health Centers

Section 3401. Amendments to Community Health Center Authority.

(a) Amends Section 330(a) of the Public Health Service Act to include services of outreach workers and enabling services (defined as services that promote access to health and social services and that increase the capacity of individuals to utilize those items and services in the comprehensive benefits package) as allowable uses of funds under Section 330.

(b) Amends Section 330(a) of the Public Health Service Act to include services provided at schools and other appropriate sites as allowable uses of funds.

(c) Section 330 of the Public Health Service Act is amended by adding a new subsection (m) --

(1) Authorizes the Secretary to make grants to community and Federally-qualified health centers to support development of community health service networks or plans. Allowable costs for which a grant may be made include: costs of developing the network or plan as a corporate entity; costs of developing internal management and systems implementation; costs of developing additional sites to enhance access for medically underserved populations; costs of recruitment, training, and compensation of health professionals and administrative staff; costs associated with facilities, hospital capacity conversion to primary care, construction

of new facilities and purchase of major equipment; reserves required for furnishing services on a prepaid basis; such other necessary costs to ensure the network or plan will be ready to assume operational status by the end of the development phase.

(2) The Secretary may also make grants to support the operation of community health service networks or plans. Allowable costs include those listed above, and the otherwise unreimbursed costs of furnishing enabling and outreach services.

(3)(A) A community health service network is defined as a public or nonprofit private consortium of health care providers which principally provides some of the items and services of the basic benefit package to medically underserved populations, and residents of health professional shortage areas, and has an agreement with one or more health plans. A community health service plan is defined as a public or nonprofit private entity which principally provides all of the items and services of the basic benefit package to medically underserved populations, and residents of health professional shortage areas, and is a participant in one or more health alliances.

(B) A community health service network or plan must be governed by individuals, a majority of whom are registered patients and representative of those served by the network or plan, assure the provision of services through participating providers and be of sufficient size to meet the needs of its service area. The network or plan must include all willing health centers in its service area and a reasonable combination of essential community providers, physicians, public health agencies and other entities to ensure that services will be comprehensive and accessible. All participating providers must agree to provide services regardless of the patient's ability to pay.

(4)(A) No grant may be made unless an application for one is submitted and approved by the Secretary. Grant applications shall be submitted in the form and contain the information prescribed by the Secretary.

(B) In evaluating applications the Secretary shall consider the extent to which the applicant proposes to provide primary care, covered benefits and enabling services in a coordinated, accessible manner; the relative need of the populations and areas proposed to be served; evidence of state and local support for the network or plan; whether the proposed network or plan is sufficient in size and will address such other needs as the Secretary may identify.

(5) No more than two grants may be made for planning and developing the same network or plan.

(d) Section 330 of the Public Health Service Act is amended by adding a new subsection (n) --

(1) The Secretary is authorized to make grants to public and nonprofit private that meet the requirements for community networks or plans for the purpose of planning, development and operation of health networks and plans to serve medically underserved populations and health professional shortage areas.

(2) An application for planning and development grants must demonstrate the extent to which the applicant proposes to provide primary care, covered benefits and enabling services in a coordinated, accessible manner; the relative need of the populations and areas proposed to be served; evidence of state and local support for the network or plan; whether the proposed network or plan is sufficient in size and will address such other needs as the Secretary may identify; and must demonstrate how it will meet the definition of network or plan. An application for an operations grant must demonstrate how the applicant will meet the requirements for a public or nonprofit private entity which principally provides the items and services of the basic benefit package to medically underserved populations, and residents of health professional shortage areas, and is a participant in one or more health alliances.

(3)(A) In evaluating applications the Secretary will consider whether the applicant's proposed network or plan will be governed by individuals a majority of whom are registered patients and representative of those served by the network or plan, whether the proposal assures the provision of services through participating providers and is of sufficient size to meet the needs of its service area; whether the network or plan includes all willing health centers in its service area and a reasonable combination of essential community providers, physicians, public health agencies and other entities to ensure that services will be comprehensive and accessible; and whether all participating providers agree to provide services regardless of the patient's ability to pay.

(B) The Secretary may not approve an application unless it is determined that the network or plan will assure significant community involvement, demonstrated by governance by a board of directors, at least one-third of whom are registered patients and are representative of individuals served by the plan or network; or has established a patient advisory council composed of registered patients, through which patients can participate in operational decisionmaking. The Secretary shall give preference to applicants with a consumer board of directors over those with advisory councils.

(4) No more than two grants may be made for planning and developing the same network or plan.

(5) Allowable costs for planning and development grants include costs of developing the network or plan as a corporate entity; costs of developing internal management and systems implementation; costs of developing additional sites to enhance access for medically underserved populations; costs of recruitment, training, and compensation of health professionals and administrative staff; costs

associated with facilities, hospital capacity conversion to primary care, construction of new facilities and purchase of major equipment; reserves required for furnishing services on a prepaid basis; and such other necessary costs to ensure the network or plan will be ready to assume operational status by the end of the development phase. Allowable costs for operations grants include those listed above, and the otherwise unreimbursed costs of furnishing enabling and outreach services.

(e)(1) Section 330(g)(1)(A) of the Public Health Service Act is amended to authorize $925 million for FY95, $1.425 billion for FY96, $1.625 billion for FY97, $1.725 billion for FY98, FY99, and FY2000, and such sums equal to or greater than $1.725 billion for each of the five years thereafter. This funding is obligated spending and is not subject to offset or reprogramming for any reason.

(2) Section 330(g)(1) of the Public Health Service Act is amended by adding a new subparagraph (C), which authorizes the Secretary to expend up to 15% of appropriated amounts in excess of $625 million each fiscal year for planning, development, and operation of community health networks and plans. The Secretary shall not expend less than $625 million per year for grants for the planning, development and operation of community health centers, and no less than $100 million each fiscal year for loans and loan guarantees established below.

(f) Section 330(k) of the Public Health Service Act is amended to require the Secretary to give preference to applications for community health service plans or networks over applications for health plans or networks serving the same medically underserved population when making grant awards. Between two applications for health plans or networks to serve the same medically underserved population, the Secretary shall give preference to the application that includes the greatest number of Federally-funded health centers.

(g) Several miscellaneous and conforming amendments are made to Section 330 of the Public Health Service Act.

(h) A new Section 330A is added to the Public Health Service Act establishing a new federal loan and loan guarantee program --

(a)(1) The Secretary may make loans and loan guarantees from the fund established below to any public or nonprofit that receives a grant under sections 329, 330, or 340 for costs associated with facilities, hospital capacity conversion to primary care, construction of new facilities and purchase of major equipment; reserves required for furnishing services on a prepaid basis; such other capital costs the Secretary may determine necessary.

(2) In making loans and loan guarantees the Secretary shall give preference to applications of community health centers and community health service networks or plans. Priority shall be given to applications to renovate or replace existing medical facilities. Loans for construction of new facilities may be given only if the

Secretary determines that appropriate facilities are not available through existing buildings, or would cost less.

(3) The Secretary may pay to loans recipients amounts to reduce up to 75% of the interest on the loan if the Secretary finds the project could not be undertaken without assistance.

(4) Loans may add up to 100% of costs when added to other assistance under sections 329, 330, or 340.

(5) Loans and loan guarantees may not exceed limitations as may be specified in Appropriations acts.

(6) The Secretary may not approve a loan guarantee unless he determines that the terms are reasonable and protect the financial interests of the U.S. Loan guarantees will be subject to such further terms and conditions as the Secretary determines to be necessary.

(7)(A) The Secretary may approve a loan only if he is satisfied the applicant could make timely payments, and if the applicant provides the Secretary with assurance that other funds as may be necessary are available to complete the project. (B) Any loan shall have such security, maturity date, repayment installments, and other terms as the Secretary determines necessary to carry out the purposes of this section and sections 329, 330, or 340, while protecting the interest of the U.S. (C) The Secretary may for good cause waive any right of recovery if the loan grantee fails to make adequate payment.

(b)(1) A loan and loan guarantee fund is established in the Treasury to enable the Secretary to make loans and loan guarantees for the purposes of this section. (2) A maximum of $100 million is authorized each fiscal year and such additional amounts necessary to provide sums for the fund. This is obligated spending.

(c)(1) The Secretary may take such action as may be necessary to prevent a default on a loan made or guaranteed. (2) The Secretary may take such action, consistent with state law respecting foreclosure procedures, to protect the interest of the United States in the event of a default.

(d) No loan or loan guarantee may be made unless an application is submitted to and approved by the Secretary, and shall be in the form and manner and contain such information as the Secretary may prescribe.

(e)(1) If any facility to which a grant, loan or loan guarantee was made under this section or sections 329, 330, or 340, shall at any time within 20 years after completion be sold or transferred to an ineligible entity, or cease to be an eligible entity, the U.S. is entitled to recover from the recipient of the grant, loan or loan guarantee the full amount plus interest. (2) The Secretary may shall waive the right

of recovery from a grant, loan or loan guarantee, where the facility is being used as security for a new loan to make improvements to that facility, or where the facility is being sold to finance a new facility.

Part II -- Migrant Health Centers and Health Care for the Homeless Programs

Section 3411. Amendments to Grant Authorizations.

(a)(1) Section 329(a)(1) of the Public Health Service Act is amended to include services provided at schools and other appropriate sites, and services of outreach workers and enabling services (defined as services that promote access to health and social services and that increase the capacity of individuals to utilize those items and services in the comprehensive benefits package) as allowable uses of funds. (2) Section 340(i) is amended to permit grant funds to be expended for facility acquisition, expansion, modernization, or construction. (3) Section 340(r)(l) of the Public Health Service Act is amended to include supplemental health services and enabling services. (4) Section 340(r)(6) is amended to define primary health services, supplemental health services, and enabling services as they are defined in Section 330(a) of the Act.

(b)(1) Section 329(h)(1)(A) is amended to authorize $100 million for FY95, $110 million for FY96, $120 million for FY97, $130 million for FY98, $140 million for FY99, $150 million for FY2000, and such sums equal to or greater than $150 million as may be necessary for each of the five fiscal years thereafter. This funding is obligated spending and is not subject to offset or reprogramming for any reason. (2) Section 340(q)(1) is amended to authorize $100 million for FY95, $110 million for FY96, $120 million for FY97, $130 million for FY98, $140 million for FY99, $150 million for FY2000, and such sums equal to or greater than $150 million as may be necessary for each of the five fiscal years thereafter. This funding is obligated spending and is not subject to offset or reprogramming for any reason.

Section 302. National Health Service Corps Amendments.

Section 3471(a) is amended to make authorized funding for the National Health Service Corps obligated spending and not subject to offset or reprogramming for any reason. A new Section 3473 is added to require the Secretary to give preference to Federally-funded health centers and Federally-qualified health centers when assigning new individuals participating in the National Health Service Corps over the number of individuals who participated in FY94.

Section 303. Assuring Availability of Funding.

Part 4 of Subtitle E of Title III is amended to clarify that the section provides payments to both hospitals and certain entities serving vulnerable populations. Section 3481(a) is amended to include Federally-funded and qualified health centers as eligible entities for funding. Section 3481(b)(1) is amended to authorize a minimum of $2.175 billion

for FY95, $2.695 billion for FY96, $2.915 billion for FY97, $3.035 billion for FY98, $3.055 billion for FY99, $3.075 billion for FY2000, and such sums equal to or greater than $3.075 billion as may be necessary for each of the five fiscal years thereafter to support activities authorized under Parts 1 and 2 of this subtitle and to make community health assurance payments under Section 1586. Section 3483 is renamed "Amount of Payments to Hospitals." A new Section 3485 is added to define eligible entities as Federally-funded and qualified health centers. The Secretary shall make payments to an eligible entity in accordance with the requirements of Sections 329, 330, 330A, and 340 of the Public Health Service Act and Section 1586.