

to improve users' understanding of levels of protection to be provided.

Product testing results will be provided to the ASTM Committee on Personal Protective Clothing and Equipment—Biological Subcommittee (a.k.a. ASTM Task Force), which will utilize the data as the scientific basis to develop a standard establishing minimum performance criteria for single-use and reusable isolation gowns. The research objective is to evaluate performance properties, such as strength and barrier properties, of isolation gowns to be provided to the ASTM Task Force as scientific input for establishing minimum performances for conformance to this standard.

In this study, all testing will be conducted blind. Results will be shared with the ASTM Task Force only in a blinded format. Results will be shared with the individual manufacturers for their gowns only. The final summary of the testing will be shared in a blinded format only with all manufacturers that participated.

Randomized samples will be tested by both NIOSH and Nelson Labs. The ASTM Task Force will review and analyze all test results. Establishment of the minimum requirement for each property will be the responsibility of the ASTM Task Force. NIOSH plans to conduct testing to measure the following properties: Fabric weight, breaking strength, tear strength, seam strength, water resistance (impact penetration and hydrostatic pressure), microbial/viral penetration resistance, air permeability, evaporative resistance, and thermal insulation.

Neither this announcement, nor product submittals in response to this announcement, obligates NIOSH to enter into a contractual agreement with any respondent. Inquiries should be sent to Selcen Kilinc at [jqc8@cdc.gov](mailto:jcq8@cdc.gov). NIOSH reserves the right to establish a partnership based on scientific analysis and capabilities found by way of this announcement or other searches, if determined to be in the best interest of the government.

Dated: April 5, 2013.

**John Howard,**

*Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.*

[FR Doc. 2013-08461 Filed 4-10-13; 8:45 am]

**BILLING CODE 4163-19-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### Notice of Hearing: Reconsideration of Disapproval of Maine State Plan Amendments (SPA) 12-010

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

**ACTION:** Notice of hearing.

**SUMMARY:** This notice announces an administrative hearing to be held on May 23, 2013, at the CMS Boston Regional Office, JFK Federal Building, 15 N. Sudbury Street, Room 2050, Boston, Massachusetts 02203-0003 to reconsider CMS' decision to disapprove Maine SPA 12-010.

**DATES: Closing Date:** Requests to participate in the hearing as a party must be received by the presiding officer by (15 days after publication).

**FOR FURTHER INFORMATION CONTACT:** Benjamin Cohen, Presiding Officer, CMS, 2520 Lord Baltimore Drive, Suite L, Baltimore, Maryland 21244, Telephone: (410) 786-3169.

**SUPPLEMENTARY INFORMATION:** This notice announces an administrative hearing to reconsider CMS' decision to disapprove Maine SPA 12-010 which was submitted on August 1, 2012, and disapproved on January 7, 2013. The SPA proposed changes to eligibility for parents, caretaker relatives, and children whose income is at or below 133 percent of the federal poverty level (FPL). The proposal would make eligibility standards, methods, and procedures more restrictive than those in effect on March 23, 2010.

CMS disapproved this SPA after consulting with the Secretary as required by 42 CFR 430.15(c)(2) because it appeared the proposal would have eliminated Medicaid eligibility for parents and caretaker relatives eligible under sections 1902(a)(10)(A)(i)(I) and 1931 whose incomes are between 100 percent and 133 percent of the FPL, and Medicaid eligibility of certain individuals considered "children" under Maine's state Medicaid plan. Both proposals constituted more restrictive eligibility standards than those in effect in Maine as of March 23, 2010, that could not be excepted from the maintenance-of-effort (MOE) mandate that Maine is subject to under section 1902(a)(74) and (gg) of the Social Security Act (hereafter "the Act"). At issue in this appeal are the following issues.

While states generally have authority to modify Medicaid eligibility rules,

sections 1902(a)(74) and (gg) of the Act require that states maintain eligibility standards, methodologies, and procedures that are no more restrictive than those in effect under a state's plan as of the date of enactment of the Patient Protection and Affordable Care Act (March 23, 2010). This MOE requirement applies to adults until a state's health insurance exchange is operational (January 1, 2014) and to children until October 1, 2019.

Section 1902(gg)(3) of the Act offers a partial non-application of the MOE requirement during the period between January 1, 2011, and December 31, 2013, when a state certifies to the Secretary that it has a budget deficit during the fiscal year for which it is seeking a non-application, or projects a budget deficit during the succeeding fiscal year. This provision limits the non-application to "nonpregnant, nondisabled adults who are eligible for medical assistance under the state plan or under a waiver of the plan at the option of the state and whose income exceeds 133 percent of the poverty line."

Maine certified a projected budget deficit for state fiscal year 2013 in December 2011 and requested a non-application of the MOE requirement for the period of July 1, 2012, through June 30, 2013. On February 10, 2012, CMS notified Maine that it qualified for the non-application for the requested period.

Maine submitted SPA #12-010 on August 1, 2012, which proposed changes to its Medicaid eligibility rules for parents, caretaker relatives, children, and to Medicare savings programs (MSPs). Specifically, Maine proposed: Reducing the income eligibility limit from 150 percent of the FPL to 100 percent for parents and caretaker relatives who may qualify under section 1902(a)(10)(A)(i)(I) and 1931 of the Act; lowering the age limit of eligibility from 20 to 18 for children who meet the eligibility requirements for the aid to families with dependent children (AFDC) state plan but who would not have received AFDC based on age; and reducing income eligibility for the MSPs through the elimination of certain income disregards. Maine eventually split the SPA into two, with the proposal relating to families, caretaker relatives, and children identified as SPA #12-010, and the proposal relating to MSPs identified as SPA #12-010A.

On January 7, 2013, CMS approved SPA #12-010A, but disapproved SPA #12-010. CMS determined that Maine's SPAs proposed eligibility rules more restrictive than Maine's rules in effect on March 23, 2010. However, due to Maine's FY 2013 budget deficit

certification, CMS determined that non-application of the MOE requirement could apply to the changes to the MSP eligibility rules in SPA #12-010A. (The SPA will be effective only through June 30, 2013, unless the state certifies that in the fiscal year beginning July 1, 2013, it again projects a budget deficit.) CMS concluded that SPA #12-010A did not reduce eligibility for any group of individuals eligible for Medicaid on the basis of a disability, pregnancy, or status as a child. (On February 20, 2013, Louis Bourgoïn and others filed suit in the United States District Court for the District of Maine against the U.S. Department of Health & Human Services seeking to set aside the agency's approval of Maine SPA #12-010A.)

However, CMS determined that Maine was not permitted an exception from the MOE for the eligibility rule changes proposed by SPA #12-010. The changes proposed by SPA #12-010 applied to individuals who are exempted from the non-application provisions of the MOE requirement, specifically, adults whose incomes are below 133 percent of the FPL and children.

Section 1116 of the Act and federal regulations at 42 CFR part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a state plan or plan amendment. CMS is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as *amicus curiae* must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Maine announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mary C. Mayhew, Commissioner  
Department of Health and Human  
Services

Commissioner's Office  
221 State Street  
11 State House Station  
Augusta, ME 04333-0011

Dear Ms. Mayhew:

I am responding to your request for reconsideration of the decision to disapprove the Maine State Plan Amendment (SPA) 12-010 which was submitted on August 1, 2012, and disapproved on January 7, 2013. The SPA proposed changes to eligibility for parents, caretaker relatives, and children whose income is at or below 133 percent of the federal poverty level (FPL). The proposal would make eligibility standards, methods, and procedures more restrictive than those that were in effect on March 23, 2010.

I disapproved Maine SPA 12-010 because the proposal would have eliminated Medicaid eligibility for parents and caretaker relatives eligible under sections 1902(a)(10)(A)(i)(I) and 1931 whose incomes are between 100 percent and 133 percent of the FPL, and Medicaid eligibility of certain individuals considered "children" under Maine's state Medicaid plan. Both proposals constituted more restrictive eligibility standards than those in effect in Maine as of March 23, 2010, that could not be excepted from the maintenance-of-effort (MOE) mandate that Maine is subject to under section 1902(a)(74) and (gg) of the Social Security Act (hereafter "the Act"). At issue in this appeal are the following issues, which are more detailed than set out in the disapproval letter:

While states generally have authority to modify Medicaid eligibility rules, sections 1902(a)(74) and (gg) of the Act require that states maintain eligibility standards, methodologies, and procedures that are no more restrictive than those in effect under a state's plan as of the date of enactment of the Patient Protection and Affordable Care Act (March 23, 2010). This MOE requirement applies to adults until a state's health insurance exchange is operational (January 1, 2014) and to children until October 1, 2019.

Section 1902(gg)(3) of the Act offers a partial non-application of the MOE requirement during the period between January 1, 2011, and December 31, 2013, when a state certifies to the Secretary that it has a budget deficit during the fiscal year for which it is seeking a non-application, or projects a budget deficit during the succeeding fiscal year. This provision limits the non-application to "nonpregnant, nondisabled adults who are eligible for medical assistance under the state plan or under a waiver of the plan at the option of the state and whose income exceeds 133 percent of the poverty line."

Maine certified a projected budget deficit for state fiscal year 2013 in December 2011 and requested a non-

application of the MOE requirement for the period of July 1, 2012, through June 30, 2013. On February 10, 2012, the Centers for Medicare & Medicaid Services (CMS) notified Maine that it qualified for the non-application for the requested period.

Maine submitted SPA #12-010 on August 1, 2012, which proposed changes to its Medicaid eligibility rules for parents, caretaker relatives, children, and to Medicare savings programs (MSPs). Specifically, Maine proposed: reducing the income eligibility limit from 150 percent of the FPL to 100 percent for parents and caretaker relatives who may qualify under section 1902(a)(10)(A)(i)(I) and 1931 of the Act; lowering the age limit of eligibility from 20 to 18 for children who meet the eligibility requirements for the aid to families with dependent children (AFDC) state plan but who would not have received AFDC based on age; and reducing income eligibility for the MSPs through the elimination of certain income disregards. Maine eventually split the SPA into two, with the proposal relating to families, caretaker relatives and children identified as SPA #12-010, and the proposal relating to MSPs identified as SPA #12-010A.

On January 7, 2013, CMS approved SPA #12-010A, but disapproved SPA #12-010. CMS determined that Maine's SPAs proposed eligibility rules more restrictive than Maine's rules in effect on March 23, 2010. However, due to Maine's FY 2013 budget deficit certification, CMS determined that non-application of the MOE requirement could apply to the changes to the MSP eligibility rules in SPA #12-010A. (The SPA will be effective only through June 30, 2013, unless the state certifies that in the fiscal year beginning July 1, 2013, it again projects a budget deficit.) CMS concluded that SPA #12-010A did not reduce eligibility for any group of individuals eligible for Medicaid on the basis of a disability, pregnancy, or status as a child. (On February 20, 2013, Louis Bourgoïn and others filed suit in the United States District Court for the District of Maine against the U.S. Department of Health & Human Services seeking to set aside the agency's approval of Maine SPA #12-010A.)

However, CMS determined that Maine was not permitted an exception from the MOE for the eligibility rule changes proposed by SPA #12-010. The changes proposed by SPA #12-010 applied to individuals who are exempted from the non-application provisions of the MOE requirement, specifically, adults whose incomes are below 133 percent of the FPL and children.

In its letter of disapproval, CMS responded to Maine's claim that *National Federation of Independent Business v. Sebelius*, 567 U.S. \_\_\_, 132 S. Ct. 2566 (2012), directed approval of the SPA. CMS pointed out that the Supreme Court did not strike down any provision of the Patient Protection and Affordable Care Act, including the MOE requirement, and that the MOE requirement is unrelated to the Medicaid eligibility expansion.

I am scheduling a hearing on your request for reconsideration to be held on May 23, 2013, at the CMS Boston Regional Office, JFK Federal Building, 15 N. Sudbury Street, Room 2050, Boston, Massachusetts 02203-0003 to reconsider CMS' decision to disapprove Maine SPA #12-010.

If this date is not acceptable, I would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed by federal regulations at 42 CFR Part 430.

I am designating Mr. Benjamin Cohen as the presiding officer. If these arrangements present any problems, please contact Mr. Cohen at (410) 786-3169. In order to facilitate any communication that may be necessary between the parties prior to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the state at the hearing.

Sincerely,  
Marilyn Tavenner  
Acting Administrator

Section 1116 of the Social Security Act (42 U.S.C. 1316; 42 CFR 430.18)

(Catalog of Federal Domestic Assistance program No. 13.714, Medicaid Assistance Program.)

Dated: April 4, 2013.

**Marilyn Tavenner,**

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

[FR Doc. 2013-08524 Filed 4-10-13; 8:45 am]

**BILLING CODE 4120-01-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Community Living

#### Expansion Funds for the Support of the Senior Medicare Patrol (SMP) Program

**ACTION:** Notice of intent to provide expansion and capacity building funding to the incumbent Senior Medicare Patrol (SMP) grantees under limited competition.

**SUMMARY:** The Administration for Community Living is announcing the availability of expansion funds for the support of the Senior Medicare Patrol (SMP) Program. This additional funding opportunity will be used to expand the reach of the SMP program with the explicit purpose of expanding current program capacity to recruit, train, and support the SMP volunteer network. In addition, this funding opportunity will increase targeted collaborative efforts with the Centers for Medicare and Medicaid Services, Office of Inspector General and other law enforcement entities in identified high fraud states.

*Funding Opportunity Title/Program Name:* Health Care Fraud Prevention Program Expansion and SMP Capacity Building Grants.

*Announcement Type:* Health Care Fraud Prevention Program Expansion Capacity.

*Funding Opportunity Number:* Program Announcement No. HHS-2013-ACL-AoA-SP-0049

**Statutory Authority:** HIPAA of 1996 (Pub. L. 104-191).

*Catalog of Federal Domestic Assistance (CFDA) Number:* 93.048 Discretionary Projects

**DATES:** The deadline date for comments on this program announcement is May 13, 2013. Other important dates:

- The application due date May 27, 2013.
- The anticipated start date is September 30, 2013.

#### I. Funding Opportunity Description

During the past several years, the Department of Health and Human Services has increased efforts to fight Medicare and Medicaid fraud. The Administration for Community Living (ACL), Administration on Aging (AoA), through the SMP program, has worked in partnership with the Centers for Medicare and Medicaid Services (CMS), the Office of Inspector General (OIG), and the Department of Justice to expand strategies to eliminate waste, fraud, and abuse in these Federal programs. This additional funding opportunity will be used to expand the reach of the SMP program with the explicit purpose of expanding efforts to target collaborative efforts with CMS, OIG and other law enforcement entities in high fraud states and to expand current capacity to recruit, train, and support the SMP volunteer network.

#### *Justification for the Exception to Competition*

It is necessary to limit competition for this program to the current SMP grantees to expand their implementation

efforts. In order for the outcomes expected to be produced within the allotted timeframe of the program, the infrastructure for achieving these results must already be in place. This infrastructure includes:

- A proven SMP volunteer management, training, and recruiting program;
- Expertise in capturing data in the SMP management, tracking, and reporting system (SMART FACTS);
- Established partnership relationships between the SMP program and state and local fraud control partners, including CMS, OIG, Attorney General, and State Insurance Commissioners offices;
- Developed and tested SMP program public awareness materials, brochures, PSAs, and other resources to use in outreach and educational efforts;
- Expertise and experience in reaching targeted populations with the SMP message, among others.

The current SMP projects are uniquely qualified to address the requirements contained in this funding opportunity. Their established infrastructure and expertise will enable them to successfully meet the challenging and time-sensitive requirements of this program. It is essential that the infrastructure, foundation of expertise, and proven experience is in place to assure the grant objectives are achieved.

#### II. Award Information

*A. Purpose of the Program:* Health Care Fraud Prevention Program Expansion.

*B. Amount of the Awards:* \$20,000 to \$372,000 per budget period.

*C. Project Period:* September 30, 2013–September 29, 2015.

#### III. Eligible Applicants

Incumbent Senior Medicare Patrol (SMP) grantees.

#### IV. Evaluation Criteria

*A. Project Relevance & Current Need—Weight: 5 points*

*B. Approach—Weight: 35 points*

*C. Budget—Weight: 10 points*

*D. Project Impact—Weight: 25 points*

*E. Organizational Capacity—Weight: 25 points*

#### V. Application and Submission Requirements

*A. SF 424—Application for Federal Assistance.*

*B. SF 424A—Budget Information.*

*C. Separate Budget Narrative/Justification.*

*D. SF 424B—Assurances. Note: Be sure to complete this form according to*