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Dated: July 18, 2012.

Martique Jones,

Director, Regulations Development Group, Division B, Office of Strategic Operations and Regulatory Affairs.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-2383-N]

RIN 0938-AR45

Children's Health Insurance Program (CHIP); Final Allotments to States, the District of Columbia, and U.S. Territories and Commonwealths for Fiscal Year 2012

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

ACTION: Notice.

SUMMARY: This notice sets forth the final allotments of Federal funding available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year 2012 (with the qualification that potential increases in such allotments may be available for certain States). Title XXI of the Social Security Act (the Act) authorizes payment of Federal matching funds to States, the District of Columbia,

and the U.S. Territories and Commonwealths to initiate and expand health insurance coverage to uninsured, low-income children under the Children's Health Insurance Program (CHIP). The fiscal year allotments contained in this notice were determined in accordance with the funding provisions and final regulations published in the February 17, 2011 **Federal Register**.

DATES: This notice is effective on August 23, 2012. Final allotments may be available for expenditure by States beginning with October 1, 2011.

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

SUPPLEMENTARY INFORMATION:

I. Purpose of This Notice

This notice sets forth the allotments available to each State, the District of Columbia, and each U.S. Territory and Commonwealth for fiscal year (FY) 2012 under title XXI of the Social Security Act (the Act). States may implement Children's Health Insurance Program (CHIP) through a separate State program under title XXI of the Act, an expansion of a State Medicaid program under title XIX of the Act, or a combination of both. CHIP allotments for FY 2009 and subsequent fiscal years are available to match expenditures under an approved State child health plan for 2 fiscal years, including the year for which the allotments were provided. As specified by the Act, the allotments are available to States for FY 2012, and the unexpended amounts of such allotments for a State may be carried over to FY 2013 for use by the State. Federal funds appropriated for title XXI of the Act are limited, and the law specifies a methodology to divide the total fiscal year 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.

Section 2104(b) of the Act requires States, the District of Columbia, and U.S. Territories and Commonwealths to have an approved child health plan for the fiscal year in order for the Secretary to provide an allotment for that fiscal year. All States, the District of Columbia, and U.S. Territories and Commonwealths have approved plans for FY 2012. Therefore, the FY 2012 allotments contained in this notice pertain to all States, the District of Columbia, and U.S. Territories and Commonwealths.

In general, funding is appropriated under section 2104(a) of the Act for purposes of providing allotments to States under CHIP for each fiscal year.

However, title XXI of the Act as amended by section 10203(d)(1) of the Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148, enacted on March 23, 2010) (the Affordable Care Act) appropriates funding for CHIP fiscal year allotments through FY 2015.

II. Methodology for Determining CHIP Fiscal Year Allotments for the 50 States, the District of Columbia, and the U.S. Territories and Commonwealths

A. Funding Authority for the CHIP Fiscal Year Allotments

Section 2104(a)(1) through (18) of the Act appropriates Federal funds for providing States' allotments for FYs 2009 through 2015. In particular, the appropriated amounts available for allotments for FYs 2009 through 2015, are as follows: \$10,562,000,000 for FY 2009; 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 the Children's Health Insurance Program Reauthorization Act of 2009 (Pub. L. 111-3, enacted on February 4, 2009) (CHIPRA), as amended by section 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).

B. Methodology For Determining State's Fiscal Year Allotments

1. General

Section 2104(m) of the 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.B.7. of this notice.

2. FY 2009 Through FY 2011 Allotments

On February 17, 2011 we published a final rule in the **Federal Register** (76 FR 9233), that set forth the methodologies and procedures to determine the fiscal year allotments of Federal funds under title XXI of the Act. In particular, the methodologies for determining the CHIP allotments for fiscal year FY 2009 through FY 2011 were contained in the final regulations published in that **Federal Register** publication.

3. 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.B.7. of this notice, if necessary. The FY 2012 allotment for each State is 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 by section 2104(n) of the Act.

For the 50 States and the District of Columbia, in accordance with section 2104(m)(6) of the Act, the FY 2012 allotment may also include additional amounts under specified conditions for which States have submitted an expansion allotment adjustment request before August 31, 2011.

4. 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.B.7. of this notice, if necessary. Section 2104(m)(2)(B)(i) of the Act, as amended by the Affordable Care Act requires a "rebasings" 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.

5. 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 section II.B.7. of this notice, if necessary. Under section 2104(m)(2)(B)(ii) of the Act, 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.

6. FY 2015 Allotments

Under section 2104(m)(3) of the Act, 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.B.7. of this notice, 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. 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 the sum of \$2,850,000,000 (the appropriation for the second half of FY 2015) and \$18,211,000,000).

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.

7. Proration Rule

Under section 2104(m)(4) of the Act, if the amount of States' (including the 50 States, the District of Columbia, and the Commonwealths and Territories) allotments for a fiscal year, 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.

8. 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 2 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) of the Act 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.

9. Allotments for the Commonwealths and Territories

Section 2104(m)(1)(B) of the Act provided for 2009 allotments for the commonwealths and territories based upon the highest amount available for any fiscal year from 1999 through 2008, multiplied by the allotment increase factor with the term “United States” substituted for the term “the State” (so that the increase for the commonwealths and territories will be based on the CPFG rate for the entire country rather than specific to the commonwealth or territory). For fiscal years *after* FY 2009, using the same methodology described above for the 50 States and District of Columbia. The 2009 change to the allotment increase factor does not apply, and thus we will determine a commonwealth or territory-specific allotment increase factor, based on the CPFG for each commonwealth or territory, 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.

C. FY 2012 Allotments Determined in Accordance With Such Methodologies and Procedures

We calculated the FY 2012 allotments as discussed in section II.B.3. of this notice and in accordance with section 2104(m) of the Act and final regulations

at 42 CFR 457.609 (published in the February 17, 2011 **Federal Register**. That calculation is presented in 2 tables described in section III. of this notice. Table 1 provides the calculation of the allotment increase factor for FY 2012, and Table 2 provides the calculation of the FY 2012 allotment.

At this time, table 2 does not contain the amounts of increases, if any, to the FY 2012 allotments for certain States that applied for such increases in accordance the provisions of section 2104(m)(6) of the Act. The amounts of such increases to the FY 2012 allotments for any affected States will be determined at a later date.

III. Tables

Following are the keys and associated tables for the CHIP funding provisions as discussed in previous sections (note that for purposes of presentation and due to rounding, not all numbers following decimals are shown in the following tables):

Table 1—Allotment Increase Factor for 2012

Table 2—FY 2012 Children’s Health Insurance Program Allotments Under the Children’s Health Insurance Program

A. Table 1—Allotment Increase Factor for 2012

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 2011, PCNHE 2012, PCHCG Factor*. Column B contains the calculation of the per

Capita Health Care Growth (PCHCG) Factor for FY 2012, determined as 1 plus the percentage increase in the per Capital National Health Expenditures (PCNHE) from calendar year 2011 to calendar year 2012.

Columns C through F = *Calculation of the Child Population Growth Factor (CPGF) for FY 2012*:

Column C = *July 1, 2011 Child Population*. Column C contains the population of children in each State or the United States as of July 1, 2011, as provided by the most recent published data of the Census Bureau before the beginning of FY 2012.

Column D = *July 1, 2012 Child Population*. Column D contains the population of children in each State or the United States as of July 1, 2012, as provided by the most recent published data of the Census Bureau before the beginning of FY 2012.

Column E = *Percent Increase 2011–2012*. Column E contains the percentage increase, if any, of the population of children in each State, or the United States, from July 1, 2011 to July 1, 2012, 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 2012 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 2012 Allotment Increase Factor*. Column G contains the FY 2012 Allotment Increase Factor, calculated as the PCHCG factor in Column B multiplied by the CPGF percent in Column F.

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Table 1 - FY 2012 Allotment Increase Factor

Table 1 - FY 2012 Allotment Increase Factor							
STATE	PCNHE* 2011	Child Population Growth Factor (CPGF) for FY 2012			FY 2012		FY 2012 ALLOTMENT INCREASE FACTOR
	\$8,649	July 1, 2011 Population	July 1, 2012 Population	Percent Increase 2011 - 2012 (D-C)/C	FY 2012 CPGF		
	PCNHE* 2012						
	\$8,937						
	PCHCG Factor*						
	1.0333						
A	B	C	D	E	F	G	
Alabama	1.0333	1,197,930	1,195,232	0.00%	101.00%	1.0436	
Alaska	1.0333	200,957	203,995	1.51%	102.51%	1.0593	
Arizona	1.0333	1,740,148	1,753,611	0.77%	101.77%	1.0516	
Arkansas	1.0333	756,842	761,253	0.58%	101.58%	1.0497	
California	1.0333	9,904,911	9,940,141	0.36%	101.36%	1.0473	
Colorado	1.0333	1,310,431	1,326,171	1.20%	102.20%	1.0560	
Connecticut	1.0333	858,466	852,874	0.00%	101.00%	1.0436	
Delaware	1.0333	219,074	218,671	0.00%	101.00%	1.0436	
District of Columbia	1.0333	111,641	112,529	0.80%	101.80%	1.0519	
Florida	1.0333	4,264,361	4,274,098	0.23%	101.23%	1.0460	
Georgia	1.0333	2,647,927	2,659,281	0.43%	101.43%	1.0481	
Hawaii	1.0333	321,512	322,407	0.28%	101.28%	1.0465	
Idaho	1.0333	454,637	456,580	0.43%	101.43%	1.0480	
Illinois	1.0333	3,302,365	3,297,624	0.00%	101.00%	1.0436	
Indiana	1.0333	1,698,020	1,695,285	0.00%	101.00%	1.0436	
Iowa	1.0333	771,059	771,448	0.05%	101.05%	1.0442	
Kansas	1.0333	773,018	779,308	0.81%	101.81%	1.0520	
Kentucky	1.0333	1,083,080	1,084,850	0.16%	101.16%	1.0453	
Louisiana	1.0333	1,189,754	1,196,280	0.55%	101.55%	1.0493	
Maine	1.0333	286,516	282,237	0.00%	101.00%	1.0436	
Maryland	1.0333	1,432,936	1,434,145	0.08%	101.08%	1.0445	
Massachusetts	1.0333	1,510,514	1,507,346	0.00%	101.00%	1.0436	
Michigan	1.0333	2,447,034	2,413,513	0.00%	101.00%	1.0436	

Table 1 - FY 2012 Allotment Increase Factor

Minnesota	1.0333	1,354,631	1,354,212	0.00%	101.00%	1.0436
Mississippi	1.0333	797,495	794,911	0.00%	101.00%	1.0436
Missouri	1.0333	1,506,651	1,504,795	0.00%	101.00%	1.0436
Montana	1.0333	236,262	236,018	0.00%	101.00%	1.0436
Nebraska	1.0333	488,656	492,530	0.79%	101.79%	1.0518
Nevada	1.0333	700,805	700,802	0.00%	101.00%	1.0436
New Hampshire	1.0333	300,596	296,579	0.00%	101.00%	1.0436
New Jersey	1.0333	2,173,825	2,170,361	0.00%	101.00%	1.0436
New Mexico	1.0333	555,284	560,651	0.97%	101.97%	1.0536
New York	1.0333	4,577,506	4,563,872	0.00%	101.00%	1.0436
North Carolina	1.0333	2,430,493	2,444,094	0.56%	101.56%	1.0494
North Dakota	1.0333	161,176	162,609	0.89%	101.89%	1.0528
Ohio	1.0333	2,863,960	2,844,304	0.00%	101.00%	1.0436
Oklahoma	1.0333	993,343	1,003,154	0.99%	101.99%	1.0538
Oregon	1.0333	918,986	921,708	0.30%	101.30%	1.0467
Pennsylvania	1.0333	2,954,664	2,940,768	0.00%	101.00%	1.0436
Rhode Island	1.0333	238,723	236,809	0.00%	101.00%	1.0436
South Carolina	1.0333	1,150,093	1,151,948	0.16%	101.16%	1.0453
South Dakota	1.0333	216,578	218,418	0.85%	101.85%	1.0524
Tennessee	1.0333	1,583,373	1,583,969	0.04%	101.04%	1.0440
Texas	1.0333	7,382,188	7,498,276	1.57%	102.57%	1.0599
Utah	1.0333	934,547	950,334	1.69%	102.69%	1.0611
Vermont	1.0333	136,701	134,731	0.00%	101.00%	1.0436
Virginia	1.0333	1,976,806	1,989,078	0.62%	101.62%	1.0500
Washington	1.0333	1,684,003	1,693,855	0.59%	101.59%	1.0497
West Virginia	1.0333	410,002	409,410	0.00%	101.00%	1.0436
Wisconsin	1.0333	1,410,790	1,405,047	0.00%	101.00%	1.0436
Wyoming	1.0333	143,312	143,570	0.18%	101.18%	1.0455
Total States	1.0333	78,764,582	78,945,692	0.23%	101.23%	1.0460

Table 1 - FY 2012 Allotment Increase Factor

American Samoa	1.0333	27,669	27,367	0.00%	101.00%	1.0436
Guam	1.0333	62,538	62,507	0.00%	101.00%	1.0436
N. Mariana Islands	1.0333	14,968	14,295	0.00%	101.00%	1.0436
Puerto Rico	1.0333	936,626	918,667	0.00%	101.00%	1.0436
Virgin Islands	1.0333	27,563	26,844	0.00%	101.00%	1.0436
Total Territories	1.0333	1,069,364	1,049,680	0.00%	101.00%	1.0436

Total States/Territories	1.0333	79,833,946	79,995,372	0.20%	101.20%	1.0457
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Footnotes:

*"PCNHE" is Per Capita National Health Expenditures

"PCHCG FACTOR" is "Per Capita Health Care Growth Factor", Calculated as:

$$1 + (\$8,937 - \$8,649) / \$8,649; \$8,649 \text{ is PCNHE for 2011 and } \$8,937 \text{ is PCNHE for 2012}$$

B. Table 2—FY 2012 Children's Health Insurance Program

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 2011 CHIP Allotments*. Column B contains, for the 50 States and the District of Columbia only, the States' FY 2011 CHIP allotments, as were published in the February 17, 2011 **Federal Register** (76 FR 9233).

Column C = *FY 2011 Contingency Fund Payments*. Column C contains the amounts of any contingency funds

payments made to a State for FY 2011 determined in accordance with the provisions of section 2104(n) of the Act.

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

Column E = *FY 2012 Allotment Increase Factor*. Column E contains the Allotment Increase Factor for each State as contained in Column G of Table 1.

Column F = *FY 2012 Total × Increase Factor*. Column F contains the product of the total amount in Column D and the amount of the FY 2012 Allotment Increase Factor in Column E. This amount represents the FY 2012 CHIP allotment without the inclusion of any additional amounts available for the FY 2012 allotment indicated in Column G.

Column G = *Additional Amount Available for FY 2012 Allotment*.

Column G contains, for the 50 States and the District of Columbia only, the amount of additional amounts available to increase the FY 2012 allotment, if any, as determined under the provisions of section 2014(m)(6) or (7) of the Act. Amounts of additional CHIP allotments, if any, will be determined at a later date based on updated information that must be obtained from affected States.

Column H = *Total FY 2012 Allotment*. Column H contains the total FY 2012 CHIP allotment, determined as the sum of the amounts in Column F and Column G, if any.

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TABLE 2 - CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FY: 2012							
STATE	FY 2011 CHIP Allotments /1	FY 2011 Contingency Fund Payments /3	Total Col B + C	FY 2012 Allotment Increase Factor	FY 2012 Total x Incr. Factor Col D x E	Additional Amount Available for FY 2012 Allotment /2	Total FY 2012 Allotment Col F + G
A	B	C	D	E	F	G	H
Alabama	\$135,448,405	\$0	\$135,448,405	1.0436	\$141,358,240	\$0	\$141,358,240
Alaska	\$19,830,170	\$0	\$19,830,170	1.0593	\$21,005,161	\$0	\$21,005,161
Arizona	\$61,462,234	\$0	\$61,462,234	1.0516	\$64,635,280	\$0	\$64,635,280
Arkansas	\$90,852,696	\$0	\$90,852,696	1.0497	\$95,363,884	\$0	\$95,363,884
California	\$1,254,894,664	\$0	\$1,254,894,664	1.0473	\$1,314,259,831	\$0	\$1,314,259,831
Colorado	\$123,498,650	\$0	\$123,498,650	1.0560	\$130,419,874	\$0	\$130,419,874
Connecticut	\$31,319,750	\$0	\$31,319,750	1.0436	\$32,686,282	\$0	\$32,686,282
Delaware	\$13,570,030	\$0	\$13,570,030	1.0436	\$14,162,113	\$0	\$14,162,113
District of Columbia	\$11,989,462	\$0	\$11,989,462	1.0519	\$12,611,122	\$0	\$12,611,122
Florida	\$324,871,259	\$0	\$324,871,259	1.0460	\$339,812,416	\$0	\$339,812,416
Georgia	\$239,369,074	\$0	\$239,369,074	1.0481	\$250,873,702	\$0	\$250,873,702
Hawaii	\$33,256,672	\$0	\$33,256,672	1.0465	\$34,803,375	\$0	\$34,803,375
Idaho	\$36,205,733	\$0	\$36,205,733	1.0480	\$37,945,335	\$0	\$37,945,335
Illinois	\$273,211,456	\$0	\$273,211,456	1.0436	\$285,132,118	\$0	\$285,132,118
Indiana	\$94,539,496	\$0	\$94,539,496	1.0436	\$98,664,409	\$0	\$98,664,409
Iowa	\$75,497,451	\$29,517,883	\$105,015,334	1.0442	\$109,652,069	\$0	\$109,652,069
Kansas	\$55,864,250	\$0	\$55,864,250	1.0520	\$58,771,399	\$0	\$58,771,399
Kentucky	\$129,600,603	\$0	\$129,600,603	1.0453	\$135,474,139	\$0	\$135,474,139
Louisiana	\$186,019,342	\$0	\$186,019,342	1.0493	\$195,189,993	\$0	\$195,189,993
Maine	\$35,489,739	\$0	\$35,489,739	1.0436	\$37,038,214	\$0	\$37,038,214
Maryland	\$168,778,027	\$0	\$168,778,027	1.0445	\$176,289,232	\$0	\$176,289,232
Massachusetts	\$316,954,868	\$0	\$316,954,868	1.0436	\$330,784,127	\$0	\$330,784,127
Michigan	\$120,969,799	\$0	\$120,969,799	1.0436	\$126,247,909	\$0	\$126,247,909
Minnesota	\$20,498,108	\$0	\$20,498,108	1.0436	\$21,392,474	\$0	\$21,392,474

TABLE 2 - CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FY: 2012							
STATE	FY 2011 CHIP Allotments /1	FY 2011 Contingency Fund Payments /3	Total Col B + C	FY 2012 Allotment Increase Factor E	FY 2012 Total x Incr. Factor Col D x E F	Additional Amount Available for FY 2012 Allotment /2 G	Total FY 2012 Allotment Col F + G H
A	B	C	D	E	F	G	H
Mississippi	\$160,648,691	\$0	\$160,648,691	1.0436	\$167,658,056	\$0	\$167,658,056
Missouri	\$112,711,034	\$0	\$112,711,034	1.0436	\$117,628,801	\$0	\$117,628,801
Montana	\$38,465,967	\$0	\$38,465,967	1.0436	\$40,144,300	\$0	\$40,144,300
Nebraska	\$38,942,532	\$0	\$38,942,532	1.0518	\$40,960,670	\$0	\$40,960,670
Nevada	\$24,078,374	\$0	\$24,078,374	1.0436	\$25,128,953	\$0	\$25,128,953
New Hampshire	\$12,820,685	\$0	\$12,820,685	1.0436	\$13,380,072	\$0	\$13,380,072
New Jersey	\$592,187,888	\$0	\$592,187,888	1.0436	\$618,026,013	\$0	\$618,026,013
New Mexico	\$245,491,788	\$0	\$245,491,788	1.0536	\$258,654,763	\$0	\$258,654,763
New York	\$525,835,994	\$0	\$525,835,994	1.0436	\$548,779,077	\$0	\$548,779,077
North Carolina	\$382,336,267	\$0	\$382,336,267	1.0494	\$401,229,015	\$0	\$401,229,015
North Dakota	\$15,257,665	\$0	\$15,257,665	1.0528	\$16,063,553	\$0	\$16,063,553
Ohio	\$277,964,677	\$0	\$277,964,677	1.0436	\$290,092,730	\$0	\$290,092,730
Oklahoma	\$120,388,959	\$0	\$120,388,959	1.0538	\$126,870,371	\$0	\$126,870,371
Oregon	\$91,101,501	\$0	\$91,101,501	1.0467	\$95,355,233	\$0	\$95,355,233
Pennsylvania	\$321,847,069	\$0	\$321,847,069	1.0436	\$335,889,782	\$0	\$335,889,782
Rhode Island	\$30,344,559	\$0	\$30,344,559	1.0436	\$31,668,542	\$0	\$31,668,542
South Carolina	\$98,026,552	\$0	\$98,026,552	1.0453	\$102,466,984	\$0	\$102,466,984
South Dakota	\$20,067,331	\$0	\$20,067,331	1.0524	\$21,119,066	\$0	\$21,119,066
Tennessee	\$134,225,460	\$0	\$134,225,460	1.0440	\$140,134,143	\$0	\$140,134,143
Texas	\$832,714,327	\$0	\$832,714,327	1.0599	\$882,577,834	\$0	\$882,577,834
Utah	\$63,915,866	\$0	\$63,915,866	1.0611	\$67,820,283	\$0	\$67,820,283
Vermont	\$5,793,764	\$0	\$5,793,764	1.0436	\$6,046,555	\$0	\$6,046,555
Virginia	\$175,234,257	\$0	\$175,234,257	1.0500	\$184,004,091	\$0	\$184,004,091
Washington	\$45,365,924	\$0	\$45,365,924	1.0497	\$47,619,557	\$0	\$47,619,557
West Virginia	\$41,268,373	\$0	\$41,268,373	1.0436	\$43,068,980	\$0	\$43,068,980

TABLE 2 - CHILDREN'S HEALTH INSURANCE PROGRAM ALLOTMENTS FOR FY: 2012							
STATE	FY 2011 CHIP Allotments /1	FY 2011 Contingency Fund Payments /3	Total Col B + C	FY 2012 Allotment Increase Factor	FY 2012 Total x Incr. Factor Col D x E	Additional Amount Available for FY 2012 Allotment /2	Total FY 2012 Allotment Col F + G
A	B	C	D	E	F	G	H
Wisconsin	\$102,733,015	\$0	\$102,733,015	1.0436	\$107,215,424	\$0	\$107,215,424
Wyoming	\$9,988,524	\$0	\$9,988,524	1.0455	\$10,442,920	\$0	\$10,442,920
States/DC Total	\$8,373,748,981	\$29,517,883	\$8,403,266,864		\$8,804,618,466	\$0	\$8,804,618,466
Commonwealths and Territories /4							
American Samoa	\$1,200,298	\$0	\$1,200,298	1.0436	\$1,252,669	\$0	\$1,252,669
Guam	\$4,177,637	\$0	\$4,177,637	1.0436	\$4,359,914	\$0	\$4,359,914
N. Mariana Islands	\$861,110	\$0	\$861,110	1.0436	\$898,682	\$0	\$898,682
Puerto Rico	\$99,566,548	\$0	\$99,566,548	1.0436	\$103,910,799	\$0	\$103,910,799
Virgin Islands	\$0	\$0	\$0	1.0436	\$0	\$0	\$0
Total	\$105,805,593	\$0	\$105,805,593		\$110,422,064	\$0	\$110,422,064
NATIONAL TOTAL							
NATIONAL TOTAL	\$8,479,554,574	\$29,517,883	\$8,509,072,457		\$8,915,040,530	\$0	\$8,915,040,530

Footnotes:
/1 Final FY 2011 Allotments determined in accordance with section 1902(m)(2) of the Social Security Act(the Act)
/2 Additional amount for FY 2012 allotment under section 2104(m)(6) of the Act to be determined at a later date
/3 Contingency Fund Payments for FY 2011 determined in accordance with section 2104(n) of the Social Security Act

Footnotes:

1 Final FY 2011 Allotments determined in accordance with section 1902(m)(2) of the Social Security

Act(the Act)

2/2 Additional amount for FY 2012 allotment under section 2104(m)(6) of the Act to be determined at a

later date

2/3 Contingency Fund Payments for FY 2011 determined in accordance with section 2104(n) of the Social Security Act

IV. Collection of Information Requirements

This document does not impose any information collection or recordkeeping requirements. Consequently, it is not subject to Office of Management and Budget review under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

V. Waiver of Notice With Comment

We ordinarily publish a notice with comment in the **Federal Register** and invite public comment. 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 notice issued.

On February 17, 2011 we issued a final rule in the **Federal Register** (76 FR 9233) that set forth the methodologies and procedures to determine CHIP allotments in accordance with applicable Federal laws on that date. The CHIP allotments for FY 2012 contained in this **Federal Register** notice were determined in accordance with the existing statute and the final regulations.

Therefore, we find good cause to waive the notice with comment and to issue this final notice.

VI. Regulatory Impact Analysis

A. Overall

We have examined the impacts of this notice as required by Executive Order 12866 on Regulatory Planning and Review (September 30, 1993), the Regulatory Flexibility Act (RFA) (September 19, 1980, Pub. L. 96–354), section 1102(b) of the Act, section 202 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) (UMRA), 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 notice is not economically significant, since it does not provide the methodologies under which State allotments for FY 2012 are calculated; rather, this notice contains the FY 2012 CHIP allotments determined in accordance with existing statute and regulations.

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 notice 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 notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the 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 2012, that threshold is approximately \$139 million. This notice will not create an unfunded mandate on States, tribal, or local governments in the aggregate, or by the private sector in the amount of \$139 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 notice 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 notice 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 notice provides the FY 2012 CHIP allotments determined in accordance with the CHIP statute and regulations. States will be able to administer their CHIP programs with the appropriate levels of funding made available by such allotments.

2. Effects on Other Entities

This notice will have no effects on other entities; it is only promulgating the FY 2012 CHIP allotments determined in accordance with existing statute and regulations.

C. Alternatives Considered

The FY 2012 CHIP allotments contained in this notice were determined in accordance with existing statute and regulations; accordingly, no alternatives were considered.

D. Accounting Statement

As required by OMB Circular A–4 (available at <http://www.whitehouse.gov/sites/default/files/omb/assets/omb/circulars/a004/a-4.pdf>), in table 3, 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, under which approximately up to \$8.9 billion in additional Federal funds is made available for FY 2012. All expenditures are classified as transfers from the Federal Government to States.

TABLE 3—ACCOUNTING STATEMENT: CLASSIFICATION OF ESTIMATED EXPENDITURES, FY 2012
[In \$billions]

Category	TRANSFERS			
	Year dollar	Units discount rate		Period covered
Annualized Monetized Transfers		7%	3%	
	2012	\$8.9	\$8.9	FY-2012
From Whom To Whom?	Federal Government to States.			

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

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: May 14, 2012.

Marilyn Tavenner,

Acting Administrator, Centers for Medicare & Medicaid Services.

Dated: June 11, 2012.

Kathleen Sebelius,

Secretary, Department of Health and Human Services.

[FR Doc. 2012-17953 Filed 7-20-12; 11:15 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-2384-N]

RIN 0938-AR46

Medicaid Program; Disproportionate Share Hospital Allotments and Institutions for Mental Diseases Disproportionate Share Hospital Limits for FYs 2010, 2011, and Preliminary FY 2012 Disproportionate Share Hospital Allotments and Limits

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

ACTION: Notice.

SUMMARY: This notice announces the final Federal share disproportionate share hospital (DSH) allotments for Federal FY (FY) 2010, 2011 and the preliminary Federal share DSH allotments for FY 2012. This notice also announces the final FY 2010, 2011 and the preliminary FY 2012 limits on aggregate DSH payments that States may

make to institutions for mental diseases (IMD) and other mental health facilities. In addition, this notice includes background information describing the methodology for determining the amounts of States' FY DSH allotments.

DATES: *Effective Date:* This notice is effective on August 23, 2012. The final allotments and limitations set forth in this notice are effective for the fiscal years specified.

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

SUPPLEMENTARY INFORMATION:

I. Background

Under section 1923(f)(3) of the Social Security Act (the Act), States' Federal fiscal year (FY) 2003 disproportionate share hospital (DSH) allotments were calculated by increasing the amounts of the FY 2002 allotments for each State (as specified in the chart, entitled "DSH Allotment (in millions of dollars)", contained in section 1923(f)(2) of the Act) by the percentage change in the Consumer Price Index for all Urban Consumers (CPI-U) for the prior fiscal year. The allotment, determined in this way, is subject to the limitation that an increase to a State's DSH allotment for a FY cannot result in the DSH allotment exceeding the greater of the State's DSH allotment for the previous FY or 12 percent of the State's total medical assistance expenditures for the allotment year (this is referred to as the 12 percent limit).

However, section 1001(a) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Pub. L. 108-173, enacted on December 8, 2003) (MMA) amended section 1923(f)(3) of the Act to provide for a "Special, Temporary Increase In Allotments On A One-Time, Non-Cumulative Basis." Under this provision, States' FY 2004 DSH allotments were determined by increasing their FY 2003 allotments by 16 percent and the FY DSH allotment amounts determined were not subject to the 12 percent limit.

Also, under section 1923(h) of the Act, Federal financial participation (FFP) is not available for DSH payments to institutions for mental diseases (IMDs) and other mental health facilities that are in excess of State-specific aggregate limits. Under this provision, this aggregate limit for DSH payments to IMDs and other mental health facilities is the lesser of a State's FY 1995 total computable (State and Federal share) IMD and other mental health facility DSH expenditures applicable to the State's FY 1995 DSH allotment (as reported on the Form CMS-64 as of January 1, 1997), or the amount equal to the product of the State's current year total computable DSH allotment and the applicable percentage.

In general, we initially determine States' DSH allotments and IMD DSH limits for a FY using estimates of medical assistance expenditures, including DSH expenditures in their Medicaid programs. These estimates are provided by States each year on the August quarterly Medicaid budget reports (Form CMS-37) before the FY for which the DSH allotments and IMD DSH limits are being determined. Also, as part of the basic determination of preliminary DSH allotments for a FY, we use the available CPI-U percentage increase that is available before the beginning of the FY for which the allotment is being determined to determine the preliminary FY DSH allotment. For example, in determining the preliminary FY 2012 DSH allotment, we would apply the CPI-U percentage increase for FY 2011 that was available just before the beginning of FY 2012 on October 1, 2011.

Section 5002 of the American Recovery and Reinvestment Act of 2009 (Pub. L. 111-5, enacted on February 17, 2009) (Recovery Act), added a new section 1923(f)(3)(E) of the Act; that provided fiscal relief to States during the recent national economic downturn. In that regard, section 1923(f)(3)(E)(i)(I) of the Act, as created by section 5002 of the Recovery Act, required that, in general, States' DSH allotments for FY