

Advisory Committee Act and if deemed appropriate, will redact such information. (4) All disclosures of information concerning third parties will be redacted. (5) If it comes to the attention of the DFO that an individual wishes to share information with the Board but objects to doing so in a public forum, the DFO will work with that individual, in accordance with the Federal Advisory Committee Act, to find a way that the Board can hear such comments.

*Contact Person for More Information:* Dr. Lewis V. Wade, Executive Secretary, NIOSH, CDC, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Phone 513.533.6825, Fax 513.533.6826.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: December 12, 2007.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E7-24644 Filed 12-18-07; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control and Prevention

#### Board of Scientific Counselors, National Center for Health Statistics (NCHS)

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), the CDC announces the following meeting of the aforementioned committee:

*Times and Dates:* 11 a.m.–5:30 p.m., January 23, 2008. 8:30 a.m.–2 p.m., January 24, 2008.

*Place:* NCHS Headquarters, 3311 Toledo Road, Hyattsville, Maryland 20782.

*Status:* This meeting is open to the public; however, visitors must be processed in accordance with established federal policies and procedures. For foreign nationals or non-US citizens, pre-approval is required (please contact Althelia Harris, 301-458-4261, [adw1@cdc.gov](mailto:adw1@cdc.gov) or Virginia Cain, [vcain@cdc.gov](mailto:vcain@cdc.gov) at least 10 days in advance for requirements). All visitors are required to present a valid form of picture identification issued by a state, federal or international

government. As required by the Federal Property Management Regulations, Title 41, Code of Federal Regulations, subpart 101-20.301, all persons entering in or on Federal controlled property and their packages, briefcases, and other containers in their immediate possession are subject to being x-rayed and inspected. Federal law prohibits the knowing possession or the causing to be present of firearms, explosives and other dangerous weapons and illegal substances. The meeting room accommodates approximately 100 people.

*Purpose:* This committee is charged with providing advice and making recommendations to the Secretary, Department of Health and Human Services; the Director, CDC; and the Director, NCHS, regarding the scientific and technical program goals and objectives, strategies, and priorities of NCHS.

*Matters To Be Discussed:* The agenda will include welcome remarks by the Director, NCHS; review of the State and Local Area Integrated Telephone Survey program; presentation of the National Health Interview Survey program; discussion of upcoming program reviews and an open session for comments from the public.

Requests to make oral presentations should be submitted in writing to the contact person listed below. All requests must contain the name, address, telephone number, and organizational affiliation of the presenter.

Written comments should not exceed five single-spaced typed pages in length and must be received by January 9, 2008.

The agenda items are subject to change as priorities dictate.

*Contact Person for More Information:* Virginia S. Cain, Ph.D., Director of Extramural Research, NCHS/CDC, 3311 Toledo Road, Room 7211, Hyattsville, Maryland 20782, telephone (301) 458-4500, fax (301) 458-4020.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: December 12, 2007.

**Elaine L. Baker,**

*Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.*

[FR Doc. E7-24642 Filed 12-18-07; 8:45 am]

**BILLING CODE 4163-18-P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

[CMS-2273-N]

RIN 0938-AO99

#### State Children's Health Insurance Program (SCHIP); Additional Allotments To Eliminate FY 2007 Funding Shortfalls

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

**ACTION:** Notice.

**SUMMARY:** This notice describes the methodology and process we are using for determining the amounts of certain States' remaining SCHIP funding shortfalls in Federal fiscal year (FY) 2007, in accordance with the provisions of the U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007. This notice also contains the amounts of the additional allotments to be provided to such States to eliminate such FY 2007 funding shortfalls, determined in accordance with this methodology.

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

#### SUPPLEMENTARY INFORMATION:

##### I. Background

##### A. Availability and Redistribution of SCHIP Fiscal Year Allotments

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

Section 2104(e) of the Act specifies that the SCHIP allotments for a Federal fiscal year are available for payment to States for their expenditures under an approved State child health plan for an initial 3-fiscal year period of availability, including the fiscal year for which the allotment was provided. Section 2104(f) of the Act specifies that the amounts of States' allotments which are not expended during the initial 3-year period of availability are to be redistributed to those States that have

fully spent these fiscal year allotments during this period of availability in accordance with an appropriate procedure determined by the Secretary. Furthermore, section 2104(e) of the Act specifies that the amounts of the redistributed allotments continue to be available for expenditure by the States receiving these redistributions to the end of the fiscal year in which these funds are redistributed.

*B. Enactment of NIHRA, UTRA, and Special Rules for Addressing FY 2007 SCHIP Funding Shortfalls*

In general, under section 2104(e) and (f) of the Act, any unexpended SCHIP allotments remaining following the end of the initial 3-year period of availability would otherwise be redistributed in accordance with an appropriate procedure determined by the Secretary. However, section 201(a) of the National Institutes of Health Reform Act of 2006 (NIHRA) (Pub. L. 109-482, enacted on January 15, 2007) amended the SCHIP statute to add a new section 2104(h) of the Act. This new subsection provided for special rules to address States' FY 2007 SCHIP funding shortfalls. Specifically, in order to address States' FY 2007 SCHIP funding shortfalls, section 2104(h)(1) of the Act provided for the redistribution in FY 2007 of the unexpended FY 2004 allotments remaining at the end of FY 2006. Furthermore, section 2104(h)(2) of the Act provided for the redistribution of certain amounts of unexpended FY 2005 allotments which became available for redistribution in months after March 31, 2007. On May 29, 2007, we published a notice in the **Federal Register** (72 FR 29502) describing the implementation of section 201(a) of the NIHRA and containing the amounts of the States' redistributed FY 2004 and FY 2005 allotments, determined in accordance with the NIHRA.

In accordance with the methodology established under NIHRA, the amounts of the States' projected FY 2007 shortfalls, and the associated FY 2004 and FY 2005 redistributed allotments, were determined on a monthly basis to address the FY 2007 shortfalls. In that regard, and since the total amounts of the FY 2004 and FY 2005 allotments available for redistribution were limited (to about \$146.9 million and \$137.4 million, respectively), the total FY 2007 shortfalls for the 6 States receiving the redistributions were not addressed. That is, the total amounts of the FY 2004 and FY 2005 redistributed allotments that were provided to the 6 recipient States were only sufficient to address the States' FY 2007 shortfalls experienced through May 2007; these amounts were

not sufficient to cover the 6 States' remaining FY 2007 shortfalls occurring in months after May 2007, nor were these amounts sufficient to address other States' FY 2007 projected shortfalls occurring after May 2007.

On May 29, 2007, the U.S. Troop Readiness, Veteran's Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (UTRA, Pub. L. 110-28) was enacted; in particular, title VII of this law amended section 2104(h) of the Act (as amended by NIHRA), to provide for additional allotment amounts to fund States' remaining SCHIP funding shortfalls in FY 2007.

Note, under paragraph 2104(h)(7) of the Act as amended by the NIHRA, the special rules for the redistribution of the unexpended FY 2004 and FY 2005 allotments in FY 2007 to address FY 2007 SCHIP funding shortfalls apply only to a State that receives an allotment for FY 2007 under subsection 2104(b) of the Act. In that regard, under subsection 2104(b) of the Act, a State refers only to the 50 States and the District of Columbia. Therefore, subsection 2104(h) of the Act, as amended by NIHRA and as further amended by UTRA, does not apply to the Commonwealths and Territories, which received SCHIP allotments for FY 2007 under the authority of subsection 2104(c) of the Act. Accordingly, unless otherwise indicated in this notice, in referring to the redistribution of the FY 2004 and FY 2005 allotments or the additional allotments for eliminating FY 2007 shortfalls, the term "State" means only the 50 States and the District of Columbia, as applicable.

**II. Provisions of This Notice**

The purpose of this notice is to set forth the methodology and process we are using to implement the UTRA provision for eliminating States' SCHIP funding Shortfalls in FY 2007.

*A. Methodology for Determining the Amounts of Additional Allotments To Eliminate States' SCHIP Funding Shortfalls in FY 2007*

Section 2104(h)(1) and (2) of the Act, as amended by NIHRA contained the methodology for determining the amounts of States' redistributions of the unexpended FY 2004 allotments remaining at the end of FY 2006 and certain amounts of unexpended FY 2005 allotments, respectively. The methodology for determining these redistributed allotment amounts, and the actual amounts of the redistributed allotments determined in accordance with such methodology, was described

in the **Federal Register** published on May 29, 2007.

Subsequent to the enactment of NIHRA, section 7001(a) of UTRA amended section 2104(h)(4) of the Act (as amended by NIHRA) to provide for additional allotment amounts to eliminate the FY 2007 SCHIP funding shortfalls remaining after the redistributions of the unexpended FY 2004 and FY 2005 allotments in FY 2007, both for States that received the FY 2004 and FY 2005 redistributions, as well as for other States that did not receive such redistributions, but which also have projected FY 2007 shortfalls. Under the amended section 2104(h)(4) of the Act, a "remaining shortfall State" is defined as a State for which the Secretary estimates on the basis of the most recent data available to the Secretary as of the date of enactment (of UTRA) that the projected FY 2007 Federal SCHIP expenditures will exceed the sum of:

- The amounts of the State's allotments for FY 2005 and FY 2006 that were not expended by the end of FY 2006.
- The amount of the State's allotment for FY 2007.
- The amounts, if any, of the FY 2004 and FY 2005 allotments that were redistributed to the State in FY 2007, in accordance with section 2104(h)(1) and (2) of the Act, respectively.

Section 2104(h)(7) of the Act as amended by the NIHRA indicates that the provisions of subsection 2104(h) of the Act apply only to the 50 States and the District of Columbia; that is, these provisions do not apply to the Commonwealths and Territories. Therefore, the FY 2004 and FY 2005 shortfall redistributions, and the FY 2007 shortfall allotments, are only available for the 50 States and the District of Columbia. Accordingly, unless otherwise indicated in this notice, the term "State" means only the 50 States and the District of Columbia, as applicable.

Before enactment of UTRA, section 2104(h)(4) of the Act (as amended by NIHRA) required that the FY 2004 and FY 2005 redistributed allotments could only be used to make payments by States with respect to their expenditures for (1) providing child health assistance or other health benefits coverage for populations eligible under the State child health plan (including under a waiver of this plan) on October 1, 2006; and (2) providing child health assistance or other health benefits coverage to an individual who is not a child or a pregnant woman at the regular Federal medical assistance percentage (FMAP, referenced in section

1905(b) of the Act) only (not the enhanced FMAP, referenced in section 2105(b) of the Act). Under the NIHRA, the FY 2004 and FY 2005 redistributed allotments were available for States' expenditures for a child or a pregnant woman only, at the enhanced FMAP rate. However, the UTRA amended section 2104(h)(4) of the Act to remove both of these limitations. Under the revised section 2104(h)(4) of the Act, the Federal matching rate for expenditures related to all the populations indicated is the enhanced FMAP rate.

As indicated above, under section 2104(h)(4) of the Act, as amended by UTRA, the amount of a State's remaining FY 2007 shortfall, if any, is determined by comparing each State's allotment funds available in FY 2007 (including FY 2004 and FY 2005 redistributed allotments, if any) to its projected FY 2007 expenditures, based on the State's most recent estimates available as of May 25, 2007, the date of enactment of UTRA. In this regard, we determined the amounts of States' projected FY 2007 expenditures, by using their estimated expenditures as reported and certified by the State to CMS on their quarterly budget submissions of Forms CMS-37 and CMS-21B. By May 25, 2007, most States had submitted their certified estimates of their FY 2007 expenditures on their May 2007 Forms CMS-37 and CMS-21B. However, there were 3 States that had not submitted and certified their May 2007 submissions of these reports by May 25, 2007; for those 3 States, we are using the projected FY 2007 expenditures as provided in their February 2007 submissions of such reports, as those represented the most recent certified estimates of their FY 2007 expenditures available as of May 25, 2007.

As described in the notice published in the **Federal Register** on May 29, 2007, the amounts of the States' FY 2004 and FY 2005 redistributed allotments were determined in accordance with the provisions of section 2104(h)(1) and (2) of the Act respectively, based on the States' other available allotments in FY 2007 (that is, the unexpended FY 2005 and FY 2006 allotments carried into FY 2007 and the FY 2007 allotments) and the States' projected FY 2007 allotments using the States' February FY 2007 estimates. This determination did not include any additional FY 2007 shortfall allotments as provided under the recently enacted UTRA, since as provided in section 2104(h)(2) of the Act, we used the information available as of March 31, 2007, and UTRA was not enacted until May 25, 2007.

In accordance with section 2104(h)(4) of the Act, as amended by UTRA, the amounts of the FY 2007 shortfall allotments were determined based on the amounts of each State's other available allotments in FY 2007 (that is, the unexpended FY 2005 and FY 2006 allotments carried into FY 2007 and the FY 2007 allotments), the previously determined FY 2004 and FY 2005 redistributed allotments, and the States' projected FY 2007 expenditures available as of the date of enactment of UTRA. Because the UTRA provided for an additional \$650 million to address the shortfalls in FY 2007 remaining after the provision of such FY 2004 and FY 2005 redistributed allotments, and furthermore, since such redistributed allotments were required to be based on the FY 2007 shortfalls determined with the data available at the times indicated above and in the May 29, 2007 **Federal Register** notice (that is, using the February 2007 estimates), we are not recalculating the amounts of the States' FY 2004 and FY 2005 redistributed allotments in order to determine the amounts of the additional FY 2007 shortfall allotments. Rather, since the \$650 million is available and intended to cover the States' full remaining FY 2007 shortfalls, we determined the amounts of the FY 2007 shortfall allotments by subtracting each shortfall State's allotments available in FY 2007 (including the FY 2004 and FY 2005 redistributed allotments, if any) from its projected FY 2007 expenditures; the difference (for the shortfall States with projected FY 2007 expenditures greater than their available allotments) represents the amount of the State's FY 2007 shortfall allotment.

#### *B. Retrospective Adjustment*

Section 2104(h)(5) of the Act provides that the Secretary may adjust the estimates and determinations of the amounts of the FY 2004 redistributed allotments (section 2104(h)(1) of the Act), the FY 2005 redistributed allotments (section 2104(h)(2) of the Act), the amounts available for the FY 2005 redistribution (section 2104(h)(3) of the Act), and the additional FY 2007 shortfall allotments (section 2104(h)(4) of the Act) on the basis of the amounts reported by States not later than November 30, 2007 on Forms CMS-64 and CMS-21. However, in no case may the amounts of the FY 2005 allotments redistributed from States (as determined under section 2104(h)(3) of the Act) exceed the amounts that were determined based on the most recent data available as of March 31, 2007. As described in the May 29, 2007 **Federal Register**, these amounts were

determined based on the States' submissions of the February 2007 quarterly estimate reports of their FY 2007 expenditures, and using those estimates would not exceed the lesser of 50 percent of the States' available FY 2005 allotments as were determined available as of March 31, 2007 or \$20 million. Furthermore, under section 2104(h)(5)(B) of the Act, in providing for any additional FY 2005 redistributed allotments under any retrospective adjustment, only the actual unexpended FY 2005 allotments remaining at the end of FY 2007 (as determined following the submission of States' fourth quarter FY 2007 expenditure reports submitted by November 30, 2007) may be used. The additional funds made available under UTRA to eliminate FY 2007 shortfalls may be available for any retrospective adjustments. Finally, under section 2104(h)(5)(C) of the Act, any retrospective adjustment may not provide for the reduction of any States' FY 2006 or FY 2007 allotments.

#### *C. Ordering of Expenditures*

In applying State's expenditures against their available SCHIP allotments, expenditures are ordered as provided under section 2105(a)(1)(A) through (D) and 2105(a)(2) of the Act as follows:

- Title XIX SCHIP-related expenditures for which payment is made at the enhanced FMAP (section 2105(a)(1)(A) of the Act);
- Title XIX expenditures for medical assistance provided during a presumptive eligibility period under section 1920A of the Act (section 2105(a)(1)(B) of the Act);
- Child health assistance for targeted low-income children in the form of providing health benefits coverage that meets the requirements of section 2103 (per section 2105(a)(1)(C) of the Act);
- Expenditures listed in section 2105(a)(1)(D)(i) through (iv) of the Act, respectively: Other child health assistance for targeted low-income children; health services initiatives under the plan for improving the health of children (including targeted low-income children and other low-income children); expenditures for outreach activities; and administration expenditures.

In accordance with the ordering of allotments and expenditures provisions described above, the expenditures of States will be applied against the FY 2004 and FY 2005 redistributed allotments, the additional FY 2007 shortfall allotments, and any other allotments available to the States in FY

2007 (that is, the FY 2005, FY 2006 and FY 2007 allotments).

*D. No Ordering Election for Amounts of States' FY 2004 Redistributed Allotments, FY 2005 Redistributed Allotments, and FY 2007 Shortfall Allotments*

In the past, for purposes of applying States' expenditures against the redistributed allotments, States receiving redistributed allotment amounts were given flexibility to decide the ordering of the redistributed allotments with respect to the States' other available allotments. This allowed the redistribution States to optimize the use of these redistributed funds. However, because of the statutory provisions made by the NIHRA and UTRA on the identification of shortfall States and the determination of the amount of the funding shortfalls on a monthly basis, and the requirement that these redistributed allotments and additional allotments be available only after the States' other SCHIP allotment funds have been exhausted, we believe that the FY 2004 and FY 2005 redistributed allotments and the FY 2007 shortfall allotments must be ordered after the States' other available allotments are exhausted. Therefore, shortfall States must spend their available FY 2005, FY 2006, and FY 2007 allotments first, before any amounts of redistributed FY 2004 allotments, redistributed FY 2005 allotments, and FY 2007 shortfall allotments. Furthermore, since the unexpended FY 2004 allotments must be redistributed before any redistribution of the FY 2005 allotments, and the FY 2007 shortfall allotments are available for any remaining shortfalls, the amounts of any FY 2004 redistributed allotment must be ordered prior to any FY 2005 redistributed allotments, and the FY 2005 redistributed allotments must be ordered prior to any FY 2007 shortfall allotments.

As specified in section 2104(h)(6) of the Act, as added by section 201(a) of the NIHRA, and as amended by UTRA, the amounts of the unexpended FY 2004 and FY 2005 allotments redistributed to a State in FY 2007, and the amounts of the FY 2007 shortfall allotments, are only available for expenditure by the State through September 30, 2007; and any amounts of these redistributed allotments or additional allotments remaining at the end of FY 2007, shall not be subject to redistribution under section 2104(f) of the Act. This provision does not limit the authority of the Secretary to make any retrospective

adjustments under section 2104(h)(5) of the Act, as discussed above.

The amounts of the FY 2004 and FY 2005 redistributed allotment amounts, the reduction of the FY 2005 allotments, and the amounts of the additional FY 2007 shortfall allotments, will be incorporated into the Form CMS-21C (Allocation of Title XIX and Title XXI Expenditures to the SCHIP Fiscal Year Allotment). Form CMS-21C is used for tracking States' expenditures against their available SCHIP allotments. The Medicaid and SCHIP expenditure system will then automatically apply expenditures reported on the quarterly expenditure reports for FY 2007 against the revised FY 2005 allotments, the other SCHIP allotments available in FY 2007, the FY 2004 and FY 2005 redistributed amounts, and the additional FY 2007 shortfall allotments available in FY 2007.

*E. Repeal of Special Rule for Coverage for Populations Eligible on October 1, 2006*

Section 2104(h)(4)(A) of the Act, was added by the NIHRA and under which States could only use amounts of FY 2004 allotments or FY 2005 allotments, redistributed under section 2104(h) of the Act, only for expenditures for providing child health assistance or other health benefits coverage for populations eligible for assistance or benefits under its approved State child health assistance plan (including a waiver of this plan) as in effect on October 1, 2006, has been repealed by UTRA.

*F. Table for Determination of the Additional FY 2007 Shortfall Allotments*

In the table included in this notice we set forth the determination of the additional FY 2007 shortfall allotments. In the **Federal Register** notice published on May 29, 2007, we provided the amounts of the States' FY 2004 and FY 2005 redistributed allotments; those amounts are incorporated into the calculation of the additional FY 2007 shortfall allotments to eliminate States remaining FY 2007 shortfalls.

The following describes the table for determining the FY 2007 shortfall allotments to eliminate the remaining FY 2007 shortfalls. Based on the States' most recent estimates of their FY 2007 expenditures available as of May 25, 2007, the date of enactment for UTRA, there are 12 States with projected shortfalls in SCHIP funds in FY 2007.

**Key to Table—Additional FY 2007 Allotments to Eliminate the Remaining FY 2007 Shortfalls**

This Table presents the determination of the amounts of the additional FY 2007 shortfall allotments to eliminate the shortfalls remaining in FY 2007 for the 50 States and DC based on the most recent expenditure projections for FY 2007, after the provision of the FY 2004 and FY 2005 redistributed allotments.

*Column/Description*

*Column A = State.* Name of State, District of Columbia, the Commonwealth or Territory.

*Column B = FY 2007 Expenditures.* MAY 2007 Estimates. Column B contains the projected FY 2007 Federal expenditures based on the most recent data available submitted as of May 25, 2007, the date of enactment for UTRA. For most States this data was obtained from the certified May 2007 submissions of the Forms CMS-37 and CMS-21B. For 3 States, the certified May 2007 submission was not available as of May 25, 2007; for those States, the certified February 2007 submission of these forms was used.

*Column C = Tot. Allotments in FY 2007 NOT Including FY 04/05 Redists.* Column C contains the total allotments available to each State in FY 2007, not including any FY 2004 or FY 2005 redistributed allotments. These allotments include: the unexpended FY 2005 allotments remaining at the end of FY 2006 and carried into FY 2007 (and further reduced, as applicable, by the provisions of section 2104(h)(3) of the Act, as amended by NIHRA); the unexpended FY 2006 allotments remaining at the end of FY 2006 and carried into FY 2007; and the FY 2007 allotments.

*Column D = Tot. FY 07 SF Before Redist. or Adttl Allots.* Column D contains the amounts of the States' FY 2007 shortfalls, if any, determined before the provision of any redistributed FY 2004 or FY 2005 allotments, and is equal to the difference between the amounts in Column B and Column C. For States whose available allotments in FY 2007 in Column C is greater than or equal to the projected FY 2007 expenditures in Column B, the entry in Column D is \$0.

*Column E = For SF States FY 2004 Redistributions u/NIHRA.* Column E contains the total FY 2004 redistributed allotments as published in the May 29, 2007 **Federal Register** in Table 3 (72 FR 29513). With respect to States for which there is no redistribution of FY 2004 allotments, the entry in Column E is \$0.

*Column F = For SF States FY 2005 Redistributions u/NIHRA.* Column F

contains the total FY 2005 redistributed allotments as published in the May 29, 2007 **Federal Register** in Table 3 (72 FR 29513). With respect to States for which there is no redistribution of FY 2005 allotments, the entry in Column F is \$0.

*Column G = Tot. FY 04/05 Redist. Amounts.* Column G contains the total FY 2004 and FY 2005 redistributed allotments, if any, determined as the

sum of the entries is Column E and Column F.

*Column H = Tot. FY 07 SF AFTER FY 04/05 Redist.* Column H contains the amount of the States' FY 2007 shortfalls, if any, remaining after the provision of any FY 2004 or FY 2005 redistributed allotments, and is determined as the difference between the amounts in Column D and Column G. The amount in Column H represents the amount of

the States' additional FY 2007 shortfall allotment, provided to eliminate the States' remaining projected FY 2007 shortfall after the provision of the FY 2004 and FY 2005 redistributed allotments. With respect to States for which there is no additional FY 2007 shortfall allotment, the entry in Column H is \$0.

**BILLING CODE 4120-01-P**

TABLE - ADDITIONAL FY 2007 ALLOTMENTS TO ELIMINATE THE REMAINING FY 2007 SHORTFALLS							
STATE	FY 2007 Expenditures MAY 2007 Estimates	Tot. Allotments in FY 2007 NOT Including FY 04/05 Redists	Tot. FY 07 SF Before Redist. or Addtl Allots. B - C	For SF States FY 2004 Redistributions w/NIHRA	For SF States FY 2005 Redistributions w/NIHRA	Tot. FY 04/05 Redist. Amounts E + F	Tot. FY 07 SF AFTER FY 04/05 Redist. D - G
A	B	C	D	E	F	G	H
Alabama	\$95,969,000	\$141,039,112	\$0	\$0	\$0	\$0	\$0
Alaska*	\$20,969,000	\$18,805,064	\$4,163,946	\$0	\$0	\$0	\$4,163,946
Arizona	\$112,910,000	\$150,766,464	\$0	\$0	\$0	\$0	\$0
Arkansas	\$69,646,000	\$125,275,689	\$0	\$0	\$0	\$0	\$0
California	\$1,165,089,000	\$1,276,822,586	\$0	\$0	\$0	\$0	\$0
Colorado	\$62,832,000	\$165,607,030	\$0	\$0	\$0	\$0	\$0
Connecticut*	\$26,530,000	\$98,877,966	\$0	\$0	\$0	\$0	\$0
Delaware	\$8,802,000	\$26,566,133	\$0	\$0	\$0	\$0	\$0
District of Columbia	\$7,427,000	\$27,596,651	\$0	\$0	\$0	\$0	\$0
Florida	\$258,931,000	\$714,807,904	\$0	\$0	\$0	\$0	\$0
Georgia	\$340,657,000	\$183,665,565	\$156,991,435	\$7,033,401	\$28,653,319	\$35,686,720	\$121,304,715
Hawaii	\$18,861,000	\$32,682,482	\$0	\$0	\$0	\$0	\$0
Idaho	\$28,211,000	\$64,124,159	\$0	\$0	\$0	\$0	\$0
Illinois	\$449,186,000	\$213,025,189	\$236,160,811	\$18,116,576	\$37,071,617	\$55,188,193	\$180,972,618
Indiana	\$69,467,000	\$207,347,908	\$0	\$0	\$0	\$0	\$0
Iowa	\$55,701,000	\$41,699,950	\$14,001,050	\$0	\$0	\$0	\$14,001,050
Kansas	\$46,099,000	\$64,554,292	\$0	\$0	\$0	\$0	\$0
Kentucky	\$78,824,000	\$144,083,358	\$0	\$0	\$0	\$0	\$0
Louisiana	\$113,298,000	\$156,828,239	\$0	\$0	\$0	\$0	\$0
Maine	\$26,489,000	\$24,499,802	\$1,989,198	\$0	\$0	\$0	\$1,989,198
Maryland	\$142,536,000	\$71,673,127	\$70,862,873	\$10,784,498	\$15,638,266	\$26,422,766	\$44,440,107
Massachusetts*	\$215,893,000	\$73,335,132	\$142,557,868	\$40,642,921	\$21,616,185	\$62,259,106	\$80,298,762
Michigan	\$179,073,000	\$215,279,053	\$0	\$0	\$0	\$0	\$0
Minnesota	\$67,127,000	\$62,920,824	\$4,206,176	\$0	\$0	\$0	\$4,206,176
Mississippi	\$120,460,000	\$96,926,889	\$23,533,111	\$0	\$0	\$0	\$23,533,111
Missouri	\$92,086,000	\$95,388,416	\$0	\$0	\$0	\$0	\$0
Montana	\$18,672,000	\$32,247,788	\$0	\$0	\$0	\$0	\$0
Nebraska	\$32,983,000	\$33,598,136	\$0	\$0	\$0	\$0	\$0
Nevada	\$30,844,000	\$120,726,161	\$0	\$0	\$0	\$0	\$0
New Hampshire	\$9,945,000	\$25,875,630	\$0	\$0	\$0	\$0	\$0
New Jersey	\$290,921,000	\$107,884,569	\$183,036,431	\$50,484,114	\$27,706,720	\$78,192,834	\$104,843,597
New Mexico	\$47,188,000	\$124,457,074	\$0	\$0	\$0	\$0	\$0
New York	\$340,770,000	\$771,328,011	\$0	\$0	\$0	\$0	\$0
North Carolina	\$168,650,000	\$182,381,005	\$0	\$0	\$0	\$0	\$0
North Dakota	\$11,528,000	\$12,393,167	\$0	\$0	\$0	\$0	\$0
Ohio	\$190,587,000	\$249,327,282	\$0	\$0	\$0	\$0	\$0
Oklahoma	\$100,166,000	\$130,156,434	\$0	\$0	\$0	\$0	\$0
Oregon	\$70,627,000	\$130,485,202	\$0	\$0	\$0	\$0	\$0
Pennsylvania	\$196,795,000	\$339,146,938	\$0	\$0	\$0	\$0	\$0
Rhode Island	\$74,130,000	\$20,211,483	\$53,918,517	\$19,818,422	\$7,144,187	\$26,962,609	\$26,955,908
South Carolina	\$41,571,000	\$153,892,749	\$0	\$0	\$0	\$0	\$0
South Dakota	\$13,615,000	\$15,645,484	\$0	\$0	\$0	\$0	\$0
Tennessee	\$25,526,000	\$236,771,054	\$0	\$0	\$0	\$0	\$0
Texas	\$388,016,000	\$1,442,693,933	\$0	\$0	\$0	\$0	\$0
Utah	\$45,177,000	\$79,238,025	\$0	\$0	\$0	\$0	\$0
Vermont	\$3,611,000	\$13,414,065	\$0	\$0	\$0	\$0	\$0
Virginia	\$109,980,000	\$176,094,475	\$0	\$0	\$0	\$0	\$0
Washington	\$27,385,000	\$189,294,266	\$0	\$0	\$0	\$0	\$0
West Virginia	\$35,187,000	\$58,719,242	\$0	\$0	\$0	\$0	\$0
Wisconsin	\$96,387,000	\$96,235,163	\$151,837	\$0	\$0	\$0	\$151,837
Wyoming	\$7,725,000	\$17,529,923	\$0	\$0	\$0	\$0	\$0
<b>TOTAL STATES ONLY</b>	<b>\$6,251,059,000</b>	<b>\$9,251,946,143</b>	<b>\$891,573,253</b>	<b>\$146,879,932</b>	<b>\$137,832,296</b>	<b>\$284,712,228</b>	<b>\$606,861,025</b>

\* February 2007 Estimate

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### III. Regulatory Impact Statement

We have examined the impact of this rule as required by Executive Order 12866 (September 1993, Regulatory Planning and Review), the Regulatory Flexibility Act (RFA) (September 19, 1980 Pub. L. 96-354), section 1102(b) of the Social Security Act, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104-4) and Executive Order 13132.

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 one year). We have determined that with respect to the additional FY 2007 shortfall allotments totaling about \$606.9 million, this notice is economically significant. However, because this notice only announces the provision of additional allotment funds determined based on the formula specified in statute and does not put forward any administrative policies, we have not performed an analysis beyond that which is presented in section II. above.

Because State participation in the SCHIP program is voluntary, any payments and expenditures States make or incur on behalf of the program that are not reimbursed by the Federal Government are made voluntarily.

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of \$6 million to \$29 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 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. For purposes of section 1102(b) of the Act, we define a small rural hospital

as a hospital that is located outside of a Core-Based Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 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. That threshold level is currently approximately \$120 million. This notice will not create an unfunded mandate on States, tribal, or local governments. Therefore, we are not required to perform an assessment of the costs and benefits of this notice.

Executive Order 13132 establishes certain requirements that an agency must meet when it publishes 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 reviewed this notice and have determined that it does 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 FY 2007 shortfall allotment amounts.

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

### IV. Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a proposed notice in the **Federal Register** to provide a period of public comment before the provisions of a notice, such as this, are effective in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). We also ordinarily provide a 30-day delay in the effective date of the provisions of a notice in accordance with section 553(d) of the APA (5 U.S.C. 553(d)). However, we can waive both the notice of proposed rulemaking and the 30-day delay in effective date if the Secretary finds, for good cause, that it is

impracticable, unnecessary, or contrary to the public interest, and incorporates a statement of the finding and the reasons in the notice.

We find there is good cause to waive notice of proposed rulemaking and the delay in the effective date of this issuance of the additional FY 2007 allotments and the methodology for the additional allotments to eliminate the FY 2007 funding shortfalls in SCHIP because the delay required for a notice of proposed rulemaking and the delay in the effective date would be contrary to the public interest in light of the pressing financial needs faced by some States that could result in disruption of program operations.

We determined the amounts of the additional FY 2007 allotments to eliminate the FY 2007 SCHIP funding shortfall as expeditiously as possible in order to make them available to the States as soon as possible. In determining the amounts of the additional FY 2007 allotments we used State FY 2007 projected Federal expenditures as contained in the most recent available States' quarterly budget report submissions as certified by the States as of May 25, 2007, the date of enactment of UTRA. The additional FY 2007 shortfall allotments make available Federal funds to the recipient shortfall States, which is especially important for those shortfall States that may need these funds.

We are waiving notice of proposed rulemaking and the 30-day delay in effective date, and are publishing this issuance of the **Federal Register** as a notice.

In accordance with the provisions of this notice, we have determined the amounts of the additional FY 2007 shortfall allotments to eliminate the FY 2007 shortfalls in SCHIP funding available to shortfall States are effective immediately upon publication of this notice.

**Authority:** (Section 1102 of the Social Security Act (42 U.S.C. 1302) (Catalog of Federal Domestic Assistance Program No. 93.767, State Children's Health Insurance Program))

Dated: July 6, 2007.

**Leslie V. Norwalk,**  
*Acting Administrator, Centers for Medicare & Medicaid Services.*

Dated: July 12, 2007.

**Michael O. Leavitt,**  
*Secretary.*

**(Editorial Note:** This document was received at the **Federal Register** on December 14, 2007.)

[FR Doc. 07-6092 Filed 12-14-07; 12:13 pm]

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