§ 1395rr–1. Medicare coverage for individuals exposed to environmental health hazards

(a) Deeming of individuals as eligible for medicare benefits

(1) In general

For purposes of eligibility for benefits under this subchapter, an individual determined under subsection (c) to be an environmental exposure affected individual described in subsection (e)(2) shall be deemed to meet the conditions specified in section 426 (a) of this title.

(2) Discretionary deeming

For purposes of eligibility for benefits under this subchapter, the Secretary may deem an individual determined under subsection (c) to be an environmental exposure affected individual described in subsection (e)(3) to meet the conditions specified in section 426 (a) of this title.

(3) Effective date of coverage

An Individual who is deemed eligible for benefits under this subchapter under paragraph (1) or (2) shall be—

(A) entitled to benefits under the program under Part A as of the date of such deeming; and

(B) eligible to enroll in the program under Part B beginning with the month in which such deeming occurs.

(b) Pilot program for care of certain individuals residing in emergency declaration areas

(1) Program; purpose

(A) Primary pilot program

The Secretary shall establish a pilot program in accordance with this subsection to provide innovative approaches to furnishing comprehensive, coordinated, and cost-effective care under this subchapter to individuals described in paragraph (2)(A).

(B) Optional pilot programs

The Secretary may establish a separate pilot program, in accordance with this subsection, with respect to each geographic area subject to an emergency declaration (other than the declaration of June 17, 2009), in order to furnish such comprehensive, coordinated and cost-effective care to individuals described in subparagraph (2)(B) who reside in each such area.

(2) Individual described

For purposes of paragraph (1), an individual described in this paragraph is an individual who enrolls in part B, submits to the Secretary an application to participate in the applicable pilot program under this subsection, and—

(A) is an environmental exposure affected individual described in subsection (e)(2) who resides in or around the geographic area subject to an emergency declaration made as of June 17, 2009; or

(B) is an environmental exposure affected individual described in subsection (e)(3) who—

(i) is deemed under subsection (a)(2); and

(ii) meets such other criteria or conditions for participation in a pilot program under paragraph (1)(B) as the Secretary specifies.

(3) Flexible benefits and services
A pilot program under this subsection may provide for the furnishing of benefits, items, or services not otherwise covered or authorized under this subchapter, if the Secretary determines that furnishing such benefits, items, or services will further the purposes of such pilot program (as described in paragraph (1)).

(4) **Innovative reimbursement methodologies**

For purposes of the pilot program under this subsection, the Secretary—

(A) shall develop and implement appropriate methodologies to reimburse providers for furnishing benefits, items, or services for which payment is not otherwise covered or authorized under this subchapter, if such benefits, items, or services are furnished pursuant to paragraph (3); and

(B) may develop and implement innovative approaches to reimbursing providers for any benefits, items, or services furnished under this subsection.

(5) **Limitation**

Consistent with section 1395y (b) of this title, no payment shall be made under the pilot program under this subsection with respect to benefits, items, or services furnished to an environmental exposure affected individual (as defined in subsection (e)) to the extent that such individual is eligible to receive such benefits, items, or services through any other public or private benefits plan or legal agreement.

(6) **Waiver authority**

The Secretary may waive such provisions of this subchapter and subchapter XI as are necessary to carry out pilot programs under this subsection.

(7) **Funding**

For purposes of carrying out pilot programs under this subsection, the Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund under section 1395i of this title and the Federal Supplementary Medical Insurance Trust Fund under section 1395t of this title, in such proportion as the Secretary determines appropriate, of such sums as the Secretary determines necessary, to the Centers for Medicare & Medicaid Services Program Management Account.

(8) **Waiver of budget neutrality**

The Secretary shall not require that pilot programs under this subsection be budget neutral with respect to expenditures under this subchapter.

(c) **Determinations**

(1) **By the Commissioner of Social Security**

For purposes of this section, the Commissioner of Social Security, in consultation with the Secretary, and using the cost allocation method prescribed in section 401 (g) of this title, shall determine whether individuals are environmental exposure affected individuals.

(2) **By the Secretary**

The Secretary shall determine eligibility for pilot programs under subsection (b).

(d) **Emergency declaration defined**

For purposes of this section, the term “emergency declaration” means a declaration of a public health emergency under section 9604 (a) of this title.

(e) **Environmental exposure affected individual defined**

(1) **In general**

For purposes of this section, the term “environmental exposure affected individual” means—

(A) an individual described in paragraph (2); and

(B) an individual described in paragraph (3).
(2) Individual described

(A) In general

An individual described in this paragraph is any individual who—

(i) is diagnosed with 1 or more conditions described in subparagraph (B);

(ii) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to an emergency declaration specified in subsection (b)(2)(A), during a period ending—

(I) not less than 10 years prior to such diagnosis; and

(II) prior to the implementation of all the remedial and removal actions specified in the Record of Decision for Operating Unit 4 and the Record of Decision for Operating Unit 7;

(iii) files an application for benefits under this subchapter (or has an application filed on behalf of the individual), including pursuant to this section; and

(iv) is determined under this section to meet the criteria in this subparagraph.

(B) Conditions described

For purposes of subparagraph (A), the following conditions are described in this subparagraph:

(i) Asbestosis, pleural thickening, or pleural plaques as established by—

(I) interpretation by a “B Reader” qualified physician of a plain chest x-ray or interpretation of a computed tomographic radiograph of the chest by a qualified physician, as determined by the Secretary; or

(II) such other diagnostic standards as the Secretary specifies,

except that this clause shall not apply to pleural thickening or pleural plaques unless there are symptoms or conditions requiring medical treatment as a result of these diagnoses.

(ii) Mesothelioma, or malignancies of the lung, colon, rectum, larynx, stomach, esophagus, pharynx, or ovary, as established by—

(I) pathologic examination of biopsy tissue;

(II) cytology from bronchoalveolar lavage; or

(III) such other diagnostic standards as the Secretary specifies.

(iii) Any other diagnosis which the Secretary, in consultation with the Commissioner of Social Security, determines is an asbestos-related medical condition, as established by such diagnostic standards as the Secretary specifies.

(3) Other individual described

An individual described in this paragraph is any individual who—

(A) is not an individual described in paragraph (2);

(B) is diagnosed with a medical condition caused by the exposure of the individual to a public health hazard to which an emergency declaration applies, based on such medical conditions, diagnostic standards, and other criteria as the Secretary specifies;

(C) as demonstrated in such manner as the Secretary determines appropriate, has been present for an aggregate total of 6 months in the geographic area subject to the emergency declaration involved, during a period determined appropriate by the Secretary;

(D) files an application for benefits under this subchapter (or has an application filed on behalf of the individual), including pursuant to this section; and

(E) is determined under this section to meet the criteria in this paragraph.

Footnotes

1 So in original. Probably should not be capitalized.

References in Text

Parts A and B, referred to in subsecs. (a)(3) and (b)(2), are classified to sections 1395c et seq. and 1395j et seq., respectively, of this title.