

SEC. 1011. FEDERAL REIMBURSEMENT OF EMERGENCY HEALTH SERVICES FURNISHED TO UNDOCUMENTED ALIENS.

(a) **TOTAL AMOUNT AVAILABLE FOR ALLOTMENT.**—

(1) **IN GENERAL.**—Out of any funds in the Treasury not otherwise appropriated, there are appropriated to the Secretary \$250,000,000 for each of fiscal years 2005 through 2008 for the purpose of making allotments under this section for payments to eligible providers in States described in paragraph

(1) or (2) of subsection (b).

(2) **AVAILABILITY.**—Funds appropriated under paragraph

(1) shall remain available until expended.

(b) **STATE ALLOTMENTS.**—

(1) **BASED ON PERCENTAGE OF UNDOCUMENTED ALIENS.**—

(A) **IN GENERAL.**—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use \$167,000,000 of such amount to make allotments for such fiscal year in accordance with subparagraph (B).

(B) **FORMULA.**—The amount of the allotment for payments to eligible providers in each State for a fiscal year shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented aliens residing in the State as compared to the total number of such aliens residing in all States, as determined by the Statistics Division of the Immigration and Naturalization Service, as of January 2003, based on the 2000 decennial census.

H. R. 1—368

(2) **BASED ON NUMBER OF UNDOCUMENTED ALIEN APPREHENSION STATES.**—

(A) **IN GENERAL.**—Out of the amount appropriated under subsection (a) for a fiscal year, the Secretary shall use \$83,000,000 of such amount to make allotments, in addition to amounts allotted under paragraph (1), for such fiscal year for each of the 6 States with the highest number of undocumented alien apprehensions for such fiscal year.

(B) **DETERMINATION OF ALLOTMENTS.**—The amount of the allotment for each State described in subparagraph (A) for a fiscal year shall be equal to the product of—

(i) the total amount available for allotments under this paragraph for the fiscal year; and

(ii) the percentage of undocumented alien apprehensions in the State in that fiscal year as compared to the total of such apprehensions for all such States for the preceding fiscal year.

(C) **DATA.**—For purposes of this paragraph, the highest number of undocumented alien apprehensions for a fiscal year shall be based on the apprehension rates for the 4-consecutive-quarter period ending before the beginning of the fiscal year for which information is available for undocumented aliens in such States, as reported by the Department of Homeland Security.

(c) **USE OF FUNDS.**—

(1) **AUTHORITY TO MAKE PAYMENTS.**—From the allotments made for a State under subsection (b) for a fiscal year, the

Secretary shall pay the amount (subject to the total amount available from such allotments) determined under paragraph (2) directly to eligible providers located in the State for the provision of eligible services to aliens described in paragraph (5) to the extent that the eligible provider was not otherwise reimbursed (through insurance or otherwise) for such services during that fiscal year.

(2) DETERMINATION OF PAYMENT AMOUNTS.—

(A) IN GENERAL.—Subject to subparagraph (B), the payment amount determined under this paragraph shall be an amount determined by the Secretary that is equal to the lesser of—

(i) the amount that the provider demonstrates was incurred for the provision of such services; or
(ii) amounts determined under a methodology established by the Secretary for purposes of this subsection.

(B) PRO-RATA REDUCTION.—If the amount of funds allotted to a State under subsection (b) for a fiscal year is insufficient to ensure that each eligible provider in that State receives the amount of payment calculated under subparagraph (A), the Secretary shall reduce that amount of payment with respect to each eligible provider to ensure that the entire amount allotted to the State for that fiscal year is paid to such eligible providers.

(3) METHODOLOGY.—In establishing a methodology under paragraph (2)(A)(ii), the Secretary—

(A) may establish different methodologies for types of eligible providers;

H. R. 1—369

(B) may base payments for hospital services on estimated hospital charges, adjusted to estimated cost, through the application of hospital-specific cost-to-charge ratios;

(C) shall provide for the election by a hospital to receive either payments to the hospital for—

(i) hospital and physician services; or
(ii) hospital services and for a portion of the oncall payments made by the hospital to physicians; and
(D) shall make quarterly payments under this section to eligible providers.

If a hospital makes the election under subparagraph (C)(i), the hospital shall pass on payments for services of a physician to the physician and may not charge any administrative or other fee with respect to such payments.

(4) LIMITATION ON USE OF FUNDS.—Payments made to eligible providers in a State from allotments made under subsection (b) for a fiscal year may only be used for costs incurred in providing eligible services to aliens described in paragraph (5).

(5) ALIENS DESCRIBED.—For purposes of paragraphs (1) and (2), aliens described in this paragraph are any of the following:

(A) Undocumented aliens.

(B) Aliens who have been paroled into the United States at a United States port of entry for the purpose of receiving eligible services.

(C) Mexican citizens permitted to enter the United

States for not more than 72 hours under the authority of a biometric machine readable border crossing identification card (also referred to as a “laser visa”) issued in accordance with the requirements of regulations prescribed under section 101(a)(6) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(6)).

(d) APPLICATIONS; ADVANCE PAYMENTS.—

(1) DEADLINE FOR ESTABLISHMENT OF APPLICATION PROCESS.—

(A) IN GENERAL.—Not later than September 1, 2004, the Secretary shall establish a process under which eligible providers located in a State may request payments under subsection (c).

(B) INCLUSION OF MEASURES TO COMBAT FRAUD AND ABUSE.—The Secretary shall include in the process established under subparagraph (A) measures to ensure that inappropriate, excessive, or fraudulent payments are not made from the allotments determined under subsection (b), including certification by the eligible provider of the veracity of the payment request.

(2) ADVANCE PAYMENT; RETROSPECTIVE ADJUSTMENT.—The process established under paragraph (1) may provide for making payments under this section for each quarter of a fiscal year on the basis of advance estimates of expenditures submitted by applicants for such payments and such other investigation as the Secretary may find necessary, and for making reductions or increases in the payments as necessary to adjust for any overpayment or underpayment for prior quarters of such fiscal year.

(e) DEFINITIONS.—In this section:

H. R. 1—370

(1) ELIGIBLE PROVIDER.—The term “eligible provider” means a hospital, physician, or provider of ambulance services (including an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization).

(2) ELIGIBLE SERVICES.—The term “eligible services” means health care services required by the application of section 1867 of the Social Security Act (42 U.S.C. 1395dd), and related hospital inpatient and outpatient services and ambulance services (as defined by the Secretary).

(3) HOSPITAL.—The term “hospital” has the meaning given such term in section 1861(e) of the Social Security Act (42 U.S.C. 1395x(e)), except that such term shall include a critical access hospital (as defined in section 1861(mm)(1) of such Act (42 U.S.C. 1395x(mm)(1))).

(4) PHYSICIAN.—The term “physician” has the meaning given that term in section 1861(r) of the Social Security Act (42 U.S.C. 1395x(r)).

(5) INDIAN TRIBE; TRIBAL ORGANIZATION.—The terms “Indian tribe” and “tribal organization” have the meanings given such terms in section 4 of the Indian Health Care Improvement Act (25 U.S.C. 1603).

(6) STATE.—The term “State” means the 50 States and the District of Columbia.