

**Register** on January 24, 2017 (82 FR 8346) instructed federal agencies to delay the effective date of rules published in the **Federal Register**, but which have not yet taken effect, for a period of 60 days from the date of the memorandum. The final rule sets forth the calculation of the 340B ceiling price and application of civil monetary penalties (CMPs). The effective date of that rule, which would have been March 6, 2017, is now March 21, 2017. The temporary delay in the effective date of this final rule is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President and Chief of Staff's memorandum.

Dated: February 23, 2017.

**James Macrae,**

*Acting Administrator, Health Resources and Services Administration.*

Approved: March 1, 2017.

**Thomas E. Price,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2017-04337 Filed 3-2-17; 11:15 am]

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

#### 42 CFR Part 438

[CMS-2390-F4]

RIN-0938-AS25

### Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability; Corrections

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

**ACTION:** Final rule; correcting amendment.

**SUMMARY:** This document corrects technical errors that appeared in the correcting amendment published in the January 3, 2017 **Federal Register** (82 FR 37 through 40) entitled, "Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability; Corrections."

**DATES:** *Effective Date:* This correcting document is effective March 3, 2017.

*Applicability Date:* The corrections indicated in this document are applicable beginning immediately.

**FOR FURTHER INFORMATION CONTACT:** Elmer Barksdale, 410-786-1943, Gaysha Brooks, 410-409-3837, or Annette Brewer, 410-786-6580.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

In FR Doc. 2016-31650 (82 FR 37 through 40), the correcting amendment entitled, "Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability; Corrections" there were technical errors that are identified and corrected in this correcting document. These corrections are applicable immediately.

##### II. Summary of Errors in Regulation Text

On page 39, we made technical errors in the amendatory instructions amending the regulation text of § 438.358(c)(3) and (4). Therefore, the Office of the Federal Register was not able to properly correct the regulations text as intended.

##### III. Waiver of Proposed Rulemaking and Delay in Effective Date

Under 5 U.S.C. 553(b) of the Administrative Procedure Act (APA), the agency is required to publish a notice of the proposed rule in the **Federal Register** before the provisions of a rule take effect. In addition, section 553(d) of the APA mandates a 30-day delay in effective date after issuance or publication of a rule. Sections 553(b)(B) and 553(d)(3) of the APA provide for exceptions from the APA requirement for notice and comment, and delay in effective date requirements. Section 553(b)(B) of the APA authorizes an agency to dispense with normal notice and comment rulemaking procedures for good cause if the agency makes a finding that the notice and comment process is impracticable, unnecessary, or contrary to the public interest; and includes a statement of the finding and the reasons for it in the notice.

In our view, this correcting document does not constitute a rulemaking that would be subject to these requirements. This document merely corrects technical errors in the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability; Corrections correcting amendment. The corrections contained in this document are consistent with, and do not make substantive changes to, the policies and payment methodologies that were adopted subject to notice and

comment procedures in the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule. As a result, the corrections made through this correcting document are intended to ensure that the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule accurately reflects the policies adopted in that rule.

Even if this were a rulemaking to which the notice and comment and delayed effective date requirements applied, we find that there is good cause to waive such requirements. Undertaking further notice and comment procedures to incorporate the corrections in this document into the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule or delaying the effective date of the corrections would be contrary to the public interest because it could result in a period of confusion about the applicability of the rules while those procedures are pending. Further, such procedures would be unnecessary, because the corrections in this document do not make substantive changes in the underlying policies but are limited to technical errors. This correcting document is intended solely to ensure that the Medicaid and Children's Health Insurance Program (CHIP) Programs; Medicaid Managed Care, CHIP Delivered in Managed Care, and Revisions Related to Third Party Liability final rule accurately reflects the final policy determinations that were set forth in the overall rulemaking record. For these reasons, we believe there is good cause to waive the requirements for notice and comment and delay in effective date.

##### List of Subjects in 42 CFR Part 438

Grant programs—health, Medicaid, Reporting and recordkeeping requirements.

##### Correction

In FR Doc. 2016-31650, published on January 3, 2017 (82 FR 37), make the following correction:

On page 39, in the third column, remove amendatory instructions 8 and 9 and their amendments to § 438.358.

Accordingly, 42 CFR chapter IV is corrected by making the following correcting amendments to part 438:

**PART 438—MANAGED CARE**

■ 1. The authority citation for part 438 continues to read as follows:

**Authority:** Sec. 1102 of the Social Security Act (42 U.S.C. 1302).

**§ 438.358 [Amended]**

■ 2. In § 438.358—

■ a. Amend paragraph (c)(3) by removing the reference “(b)(2) of this section.” and adding in its place the reference “paragraph (b)(1)(ii) of this section.”; and

■ b. Amend paragraph (c)(4) by removing the reference “(b)(1) of this section.” and adding in its place the reference “paragraph (b)(1)(i) of this section.”.

Dated: February 28, 2017.

**Wilma M. Robinson,**

*Deputy Executive Secretary to the Department, Department of Health and Human Services.*

[FR Doc. 2017-04307 Filed 3-3-17; 8:45 am]

**BILLING CODE 4120-01-P**

**DEPARTMENT OF HOMELAND SECURITY****Federal Emergency Management Agency****44 CFR Part 67**

[Docket ID FEMA-2017-0002]

**Final Flood Elevation Determinations**

**AGENCY:** Federal Emergency Management Agency, DHS.

**ACTION:** Final rule.

**SUMMARY:** Base (1% annual-chance) Flood Elevations (BFEs) and modified BFEs are made final for the communities listed below. The BFEs and modified BFEs are the basis for the floodplain management measures that each community is required either to adopt or to show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

**DATES:** The date of issuance of the Flood Insurance Rate Map (FIRM) showing BFEs and modified BFEs for each community. This date may be obtained by contacting the office where the maps are available for inspection as indicated in the table below.

**ADDRESSES:** The final BFEs for each community are available for inspection at the office of the Chief Executive Officer of each community. The respective addresses are listed in the table below.

**FOR FURTHER INFORMATION CONTACT:** Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW., Washington, DC 20472, (202) 646-7659, or (email) [patrick.sacbibit@fema.dhs.gov](mailto:patrick.sacbibit@fema.dhs.gov); or visit the FEMA Map Information eXchange (FMIX) online at [www.floodmaps.fema.gov/fhm/fmx\\_main.html](http://www.floodmaps.fema.gov/fhm/fmx_main.html).

**SUPPLEMENTARY INFORMATION:** The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the modified BFEs for each community listed. These modified elevations have been published in newspapers of local circulation and ninety (90) days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the proof Flood Insurance Study and FIRM available at the address cited below for each community. The BFEs and modified BFEs are made final in the communities listed below. Elevations at selected locations in each community are shown.

*National Environmental Policy Act.* FEMA has reviewed this final rule for purposes of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et*

*seq.*) and has determined that this action will not have a significant effect on the human environment. This action is covered by categorical exclusions A4 and A7 identified in FEMA Instruction 108-1-1 and Department of Homeland Security (DHS) Instruction 023-01-001-01, Appendix A.

*Regulatory Flexibility Act.* As flood elevation determinations are not within the scope of the Regulatory Flexibility Act, 5 U.S.C. 601-612, a regulatory flexibility analysis is not required.

*Regulatory Classification.* This final rule is not a significant regulatory action under the criteria of section 3(f) of Executive Order 12866 of September 30, 1993, Regulatory Planning and Review, 58 FR 51735.

*Executive Order 13132, Federalism.* This final rule involves no policies that have federalism implications under Executive Order 13132.

*Executive Order 12988, Civil Justice Reform.* This final rule meets the applicable standards of Executive Order 12988.

**List of Subjects in 44 CFR Part 67**

Administrative practice and procedure, Flood insurance, Reporting and recordkeeping requirements.

Dated: February 16, 2017.

**Roy E. Wright,**

*Deputy Associate Administrator for Insurance and Mitigation, Federal Emergency Management Agency, Department of Homeland Security.*

Accordingly, 44 CFR part 67 is amended as follows:

**PART 67—[AMENDED]**

■ 1. The authority citation for part 67 continues to read as follows:

**Authority:** 42 U.S.C. 4001 *et seq.*; Reorganization Plan No. 3 of 1978, 3 CFR, 1978 Comp., p. 329; E.O. 12127, 44 FR 19367, 3 CFR, 1979 Comp., p. 376.

**§ 67.11 [Amended]**

■ 2. The tables published under the authority of § 67.11 are amended as follows: