

## § 433.127

(1) Publish a notice in the FEDERAL REGISTER making available the proposed changes for public comment;

(2) Respond in a subsequent FEDERAL REGISTER notice to comments received; and

(3) Issue the new or modified requirements or conditions in the State Medicaid Manual.

(b) For changes in system requirements or other conditions for approval, CMS will allow an appropriate period for Medicaid agencies to meet the requirement determining this period on the basis of the requirement's complexity and other relevant factors.

(c) Whenever CMS modifies performance standards and other conditions for reapproval under § 433.119, CMS will notify Medicaid agencies at least one calendar quarter before the review period to which the new or modified standards or conditions apply.

[57 FR 38782, Aug. 27, 1992]

### **§ 433.127 Termination of FFP for failure to provide access to claims processing and information retrieval systems.**

CMS will terminate FFP at any time if the Medicaid agency fails to provide State and Federal representatives with full access to the system, including on-site inspection. CMS may request such access at any time to determine whether the conditions in this subpart are being met.

[43 FR 45201, Sept. 29, 1978. Redesignated and amended at 50 FR 30847 and 30848, July 30, 1985]

### **§ 433.130 Waiver of conditions of initial operation and approval.**

(a) CMS will waive requirements for initial operation and approval of systems under § 433.113 for a State meeting the requirements of paragraph (b) of this section and that had a 1976 population of less than one million and made total Federal and State Medicaid expenditures of less than \$100 million in fiscal year 1976. Population figures are those reported by the Bureau of the Census. Expenditures for fiscal year 1976 are those reported by the State for that year.

(b) To be eligible for this waiver, the agency must submit its reasons to CMS

## 42 CFR Ch. IV (10–1–02 Edition)

in writing and demonstrate to CMS's satisfaction that a system will not significantly improve the efficiency of the administration of the State plan.

(c) If CMS denies the waiver request, the notice of denial will include—

(1) The findings of fact upon which the denial was made; and

(2) The procedures for appeal of the denial.

(d) If CMS determines, after granting a waiver, that a system would significantly improve the administration of the State Medicaid program, CMS may withdraw the waiver and require that a State obtain initial approval of a system within two years of the date of waiver withdrawal.

[50 FR 30848, July 30, 1985, as amended at 54 FR 41974, Oct. 13, 1989]

### **433.131 Waiver for noncompliance with conditions of approval and re-approval.**

If a State is unable to comply with the conditions of approval or of re-approval and the noncompliance will cause a percentage reduction in FFP, CMS will waive the FFP reduction in the following circumstances:

(a) *Good cause.* If CMS determines that good cause existed, CMS will waive the FFP reduction attributable to those items for which the good cause existed. A waiver of FFP consequences of the failure to meet the conditions of approval or reapproval based upon good cause will not extend beyond two consecutive quarters.

(b) *Circumstances beyond the control of a State.* The State must satisfactorily explain the circumstances that are beyond its control. When CMS grants the waiver, CMS will also defer all other system deadlines for the same length of time that the waiver applies.

[50 FR 30848, July 30, 1985, as amended at 54 FR 41974, Oct. 13, 1989]

## **Subpart D—Third Party Liability**

SOURCE: 45 FR 8984, Feb. 11, 1980, unless otherwise noted.

### **§ 433.135 Basis and purpose.**

This subpart implements sections 1902(a)(25), 1902(a)(45), 1903(d)(2), 1903(o), 1903(p), and 1912 of the Act by setting