

## § 434.6

meeting the applicable requirements of this part.

### § 434.6 General requirements for all contracts and subcontracts.

(a) *Contracts.* All contracts under this part must—

(1) Include provisions that define a sound and complete procurement contract, as required by 45 CFR part 74;

(2) Identify the population covered by the contract;

(3) Specify any procedures for enrollment or reenrollment of the covered population;

(4) Specify the amount, duration, and scope of medical services to be provided or paid for;

(5) Provide that the agency and HHS may evaluate through inspection or other means, the quality, appropriateness and timeliness of services performed under the contract;

(6) Specify procedures and criteria for terminating the contract, including a requirement that the contractor promptly supply all information necessary for the reimbursement of any outstanding Medicaid claims;

(7) Provide that the contractor maintains an appropriate record system for services to enrolled recipients;

(8) Provide that the contractor safeguards information about recipients as required by part 431, subpart F of this chapter;

(9) Specify any activities to be performed by the contractor that are related to third party liability requirements in part 433, subpart D of this chapter;

(10) Specify which functions may be subcontracted; and

(11) Provide that any subcontracts meet the requirements of paragraph (b) of this section.

(b) *Subcontracts.* All subcontracts must be in writing and fulfill the requirements of this part that are appropriate to the service or activity delegated under the subcontract.

(c) *Continued responsibility of contractor.* No subcontract terminates the legal responsibility of the contractor

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to the agency to assure that all activities under the contract are carried out.

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### Subpart B—Contracts with Fiscal Agents and Private Nonmedical Institutions

#### § 434.10 Contracts with fiscal agents.

Contracts with fiscal agents must—

(a) Meet the requirements of § 434.6;

(b) Include termination procedures that require the contractors to supply promptly all material necessary for continued operation of payment and related systems. This material includes—

(1) Computer programs;

(2) Data files;

(3) User and operation manuals, and other documentation;

(4) System and program documentation; and

(5) Training programs for Medicaid agency staff, their agents or designated representatives in the operation and maintenance of the system;

(c) Offer to the State one or both of the following options, if the fiscal agent or the fiscal agent's subcontractor has a proprietary right to material specified in paragraph (b) of this section:

(1) Purchasing the material; or

(2) Purchasing the use of the material through leasing or other means; and

(d) State that payment to providers will be made in accordance with part 447 of this chapter.

#### § 434.12 Contracts with private non-medical institutions.

Contracts with private nonmedical institutions must—

(a) Meet the requirements of § 434.6;

(b) Specify a capitation fee based on the cost of the services provided, in accordance with the reimbursement requirements prescribed in part 447 of this chapter; and

(c) Specify when the capitation fee must be paid.