

## § 441.1

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

SOURCE: 43 FR 45229, Sept. 29, 1978, unless otherwise noted.

## § 441.1 Purpose.

This part sets forth State plan requirements and limits on FFP for specific services defined in part 440 of this subchapter. Standards for payments for services provided in intermediate care facilities and skilled nursing facilities are set forth in part 442 of this subchapter.

## Subpart A—General Provisions

### § 441.10 Basis.

This subpart is based on the following sections of the Act which state requirements and limits on the services specified or provide Secretarial authority to prescribe regulations relating to services:

(a) Section 1102 for end-stage renal disease (§ 441.40).

(b) Section 1138(b) for organ procurement organization services (§ 441.13(c)).

(c) Sections 1902(a)(10)(A) and 1905(a)(21) for nurse practitioner services (§ 441.22).

(d) Sections 1902(a)(10)(D) and 1905(a)(7) for home health services (§ 441.15).

(e) Section 1903(i)(1) for organ transplant procedures (§ 441.35).

(f) Section 1903(i)(5) for certain prescribed drugs (§ 441.25).

(g) Section 1903(i)(6) for prohibition (except in emergency situations) of FFP in expenditures for inpatient hospital tests that are not ordered by the attending physician or other licensed practitioner (§ 441.12).

(h) Section 1903(i)(18) for the requirement that each home health agency provide the Medicaid agency with a surety bond (§ 441.16).

(i) Section 1905(a)(4)(C) for family planning (§ 441.20).

(j) Sections 1905 (a)(12) and (e) for optometric services (§ 441.30).

(k) Section 1905(a)(17) for nurse-midwife services (§ 441.21).

(l) Section 1905(a) (following (a)(24)) for prohibition of FFP in expenditures for certain services (§ 441.13).

[60 FR 19862, Apr. 21, 1995, as amended at 63 FR 310, Jan. 5, 1998]

#### § 441.11 Continuation of FFP for institutional services.

(a) *Basic conditions for continuation of FFP.* FFP may be continued for up to 30 days after the effective date of termination or expiration of a provider agreement, if the following conditions are met:

(1) The Medicaid payments are for recipients admitted to the facility before the effective date of termination or expiration.

(2) The State agency is making reasonable efforts to transfer those recipients to other facilities or to alternate care.

(b) *When the 30-day period begins.* The 30-day period begins on one of the following:

(1) The effective date of termination of the facility's provider agreement by CMS;

(2) The effective date of termination of the facility's Medicaid provider agreement by the Medicaid agency on its own volition; or

(3) In the case of an ICF/MR, the later of—

(i) The effective date of termination or nonrenewal of the facility's provider

agreement by the Medicaid agency on its own volition; or

(ii) The date of issuance of an administrative hearing decision that upholds the agency's termination or non-renewal action.

(c) *Services for which FFP may be continued.* FFP may be continued for any of the following services, as defined in subpart A of part 440 of this chapter:

(1) Inpatient hospital services.

(2) Inpatient hospital services for individuals age 65 or older in an institution for mental diseases.

(3) Nursing facility services for individuals age 21 or older.

(4) Nursing facility services for individuals age 65 or older in an institution for mental diseases.

(5) Inpatient psychiatric services for individuals under age 21.

(6) Nursing facility services for individuals under 21.

(7) Intermediate care facility services for the mentally retarded.

[59 FR 56234, Nov. 10, 1994]

#### § 441.12 Inpatient hospital tests.

Except in an emergency situation (see § 440.170(e)(1) of this chapter for definition), FFP is not available in expenditures for inpatient hospital tests unless the tests are specifically ordered by the attending physician or other licensed practitioner, acting within the scope of practice as defined under State law, who is responsible for the diagnosis or treatment of a particular patient's condition.

[46 FR 48554, Oct. 1, 1981]

#### § 441.13 Prohibitions on FFP: Institutionalized individuals.

(a) FFP is not available in expenditures for services for—

(1) Any individual who is in a public institution, as defined in § 435.1009 of this subchapter; or

(2) Any individual who is under age 65 and is in an institution for mental diseases, except an individual who is under age 22 and receiving inpatient psychiatric services under subpart D of this part.

(b) With the exception of active treatment services (as defined in § 483.440(a) of this chapter for residents