

applicable, and has specifically certified that the applicant meets the requirements of §1007.7;

(2) The Secretary will promptly notify the applicant whether the application meets the requirements of this part and is approved. If the application is not approved, the applicant may submit an amended application at any time. Approval and certification will be for a period of 1 year.

(c) *Conditions for recertification.* In order to continue receiving payments under this part, a unit must submit a reapplication to the Secretary at least 60 days prior to the expiration of the 12-month certification period. A reapplication must—

(1) Advise the Secretary of any changes in the information or documentation required under paragraphs (a) (1) through (5) of this section;

(2) Provide projected caseload and proposed budget for the recertification period; and

(3) Include or reference the annual report required under §1007.17.

(d) *Basis for recertification.* (1) The Secretary will consider the unit's reapplication, the reports required under §1007.17, and any other reviews or information he or she deems necessary or warranted, and will promptly notify the unit whether he or she has approved the reapplication and recertified the unit.

(2) In reviewing the reapplication, the Secretary will give special attention to whether the unit has used its resources effectively in investigating cases of possible fraud, in preparing cases for prosecution, and in prosecuting cases or cooperating with the prosecuting authorities.

(Approved by the Office of Management and Budget under control number 0990-0162)

§1007.17 Annual report.

At least 60 days prior to the expiration of the certification period, the unit will submit to the Secretary a report covering the last 12 months (the first 9 months of the certification period for the first annual report), and containing the following information—

(a) The number of investigations initiated and the number completed or closed, categorized by type of provider;

(b) The number of cases prosecuted or referred for prosecution; the number of cases finally resolved and their outcomes; and the number of cases investigated but not prosecuted or referred for prosecution because of insufficient evidence;

(c) The number of complaints received regarding abuse and neglect of patients in health care facilities; the number of such complaints investigated by the unit; and the number referred to other identified State agencies;

(d) The number of recovery actions initiated by the unit; the number of recovery actions referred to another agency; the total amount of overpayments identified by the unit; and the total amount of overpayments actually collected by the unit;

(e) The number of recovery actions initiated by the Medicaid agency under its agreement with the unit, and the total amount of overpayments actually collected by the Medicaid agency under this agreement;

(f) Projections for the succeeding 12 months for items listed in paragraphs (a) through (e) of this section;

(g) The costs incurred by the unit; and

(h) A narrative that evaluates the unit's performance; describes any specific problems it has had in connection with the procedures and agreements required under this part; and discusses any other matters that have impaired its effectiveness.

(Approved by the Office of Management and Budget under control number 0990-0162)

§1007.19 Federal financial participation (FFP).

(a) *Rate of FFP.* Subject to the limitation of this section, the Secretary will reimburse each State by an amount equal to 90 percent of the costs incurred by a certified unit which are attributable to carrying out its functions and responsibilities under this part.

(b) *Retroactive certification.* The Secretary may grant certification retroactive to the date on which the unit first met all the requirements of the statute and of this part. For any quarter with respect to which the unit is

§ 1007.21

42 CFR Ch. V (10–1–03 Edition)

certified, the Secretary will provide reimbursement for the entire quarter.

(c) *Amount of FFP.* FFP for any quarter will not exceed the higher of \$125,000 or one-quarter of 1 percent of the sums expended by the Federal, State, and local governments during the previous quarter in carrying out the State Medicaid program.

(d) *Costs subject to FFP.* (1) FFP is available under this part for the expenditures attributable to the establishment and operation of the unit, including the cost of training personnel employed by the unit. Reimbursement will be limited to costs attributable to the specific responsibilities and functions set forth in this part in connection with the investigation and prosecution of suspected fraudulent activities and the review of complaints of alleged abuse or neglect of patients in health care facilities.

(2) (i) Establishment costs are limited to clearly identifiable costs of personnel that—

(A) Devote full time to the establishment of the unit which does achieve certification; and

(B) Continue as full-time employees after the unit is certified.

(ii) All establishment costs will be deemed made in the first quarter of certification.

(e) *Costs not subject to FFP.* FFP is not available under this part for expenditures attributable to—

(1) The investigation of cases involving program abuse or other failures to comply with applicable laws and regulations, if these cases do not involve substantial allegations or other indications of fraud;

(2) Efforts to identify situations in which a question of fraud may exist, including the screening of claims, analysis of patterns of practice, or routine verification with recipients of whether services billed by providers were actually received;

(3) The routine notification of providers that fraudulent claims may be punished under Federal or State law;

(4) The performance by a person other than a full-time employee of the unit of any management function for the unit, any audit or investigation, any professional legal function, or any

criminal, civil or administrative prosecution of suspected providers;

(5) The investigation or prosecution of cases of suspected recipient fraud not involving suspected conspiracy with a provider; or

(6) Any payment, direct or indirect, from the unit to the Medicaid agency, other than payments for the salaries of employees on detail to the unit.

§ 1007.21 Other applicable HHS regulations.

Except as otherwise provided in this part, the following regulations from 45 CFR subtitle A apply to grants under this part:

Part 16, subpart C—Department Grant Appeals Process—Special Provisions Applicable To Reconsideration of Disallowances [Note that this applies only to disallowance determinations and not to any other determinations, e.g., over certification or recertification];

Part 74—Administration of Grants;

Part 75—Informal Grant Appeals Procedures;

Part 80—Nondiscrimination Under Programs Receiving Federal Assistance Through the Department of Health and Human Services, Effectuation of title VI of the Civil Rights Act of 1964;

Part 81—Practice and Procedure for Hearings Under 45 CFR part 80;

Part 84—Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting From Federal Financial Assistance;

Part 91—Nondiscrimination on the Basis of Age in HHS Programs or Activities Receiving Federal Financial Assistance.

PART 1008—ADVISORY OPINIONS BY THE OIG

Subpart A—General Provisions

Sec.

1008.1 Basis and purpose.

1008.3 Effective period.

1008.5 Matters subject to advisory opinions.

Subpart B—Preliminary Obligations and Responsibilities of the Requesting Party

1008.11 Who may submit a request.

1008.15 Facts subject to advisory opinions.