

**§ 457.170**

(5) CMS may send written notice of its need for additional information as many times as necessary to obtain the complete information necessary to review the State plan or plan amendment.

**§ 457.170 Withdrawal process.**

(a) *Withdrawal of proposed State plans or plan amendments.* A State may withdraw a proposed State plan or plan amendment, or any portion of a proposed State plan or plan amendment, at any time during the review process by providing written notice to CMS of the withdrawal.

(b) *Withdrawal of approved State plans.* A State may request withdrawal of an approved State plan by submitting a State plan amendment to CMS in accordance with § 457.60.

**Subpart B—General Administration—Reviews and Audits; Withholding for Failure to Comply; Deferral and Disallowance of Claims; Reduction of Federal Medical Payments**

**§ 457.200 Program reviews.**

(a) *Review of State and local administration of the SCHIP plan.* In order to determine whether the State is complying with the Federal requirements and the provisions of its plan, CMS reviews State and local administration of the SCHIP plan through analysis of the State's policies and procedures, on-site reviews of selected aspects of agency operation, and examination of samples of individual case records.

(b) *Action on review findings.* If Federal or State reviews reveal serious problems with respect to compliance with any Federal or State plan requirement, the State must correct its practice accordingly.

**§ 457.202 Audits.**

(a) *Purpose.* The Department's Office of Inspector General (OIG) periodically audits State operations in order to determine whether —

- (1) The program is being operated in a cost-efficient manner; and
- (2) Funds are being properly expended for the purposes for which they were

**42 CFR Ch. IV (10–1–03 Edition)**

appropriated under Federal and State law and regulations.

(b) *Reports.* (1) The OIG releases audit reports simultaneously to State officials and the Department's program officials.

(2) The reports set forth OIG opinion and recommendations regarding the practices it reviewed, and the allowability of the costs it audited.

(3) Cognizant officials of the Department make final determinations on all audit findings.

(c) *Action on audit exceptions.* (1) *Concurrence or clearance.* The State agency has the opportunity of concurring in the exceptions or submitting additional facts that support clearance of the exceptions.

(2) *Appeal.* Any exceptions that are not disposed of under paragraph (c)(1) of this section are included in a disallowance letter that constitutes the Department's final decision unless the State requests reconsideration by the Appeals Board. (Specific rules are set forth in § 457.212.)

(3) *Adjustment.* If the decision by the Board requires an adjustment of FFP, either upward or downward, a subsequent grant award promptly reflects the amount of increase or decrease.

**§ 457.203 Administrative and judicial review of action on State plan material.**

(a) *Request for reconsideration.* Any State dissatisfied with the Administrator's action on State plan material under § 457.150 may, within 60 days after receipt of the notice of final determination provided under § 457.160(a), request that the Administrator reconsider whether the State plan or plan amendment conforms with the requirements for approval.

(b) *Notice of hearing.* Within 30 days after receipt of the request, the Administrator notifies the State of the time and place of a hearing to be held for the purpose of reconsideration.

(c) *Hearing procedures.* The hearing procedures set forth in part 430, subpart D of this chapter govern a hearing requested under this section.

(d) *Effect of hearing decision.* CMS does not delay the denial of Federal funds, if required by the Administrator's original determination, pending a