

§ 493.561 Denial of application or re-application.

(a) *Reconsideration of denial.* (1) If CMS denies a request for approval, an accreditation organization or State licensure program may request, within 60 days of the notification of denial, that CMS reconsider its original application or application for renewal, in accordance with part 488, subpart D.

(2) If the accreditation organization or State licensure program requests a reconsideration of CMS's determination to deny its request for approval or reapproval, it may not submit a new application until CMS issues a final reconsideration determination.

(b) *Resubmittal of a request for approval—accreditation organization.* An accreditation organization may resubmit a request for approval if a final reconsideration determination is not pending and the accreditation program meets the following conditions:

(1) It has revised its accreditation program to address the rationale for denial of its previous request.

(2) It demonstrates that it can provide reasonable assurance that its accredited facilities meet condition-level requirements.

(3) It resubmits the application in its entirety.

(c) *Resubmittal of request for approval—State licensure program.* The State licensure program may resubmit a request for approval if a final reconsideration determination is not pending and it has taken the necessary action to address the rationale for any previous denial.

§ 493.563 Validation inspections—Basis and focus.

(a) *Basis for validation inspection—(1) Laboratory with a certificate of accreditation.* (i) CMS or a CMS agent may conduct an inspection of an accredited laboratory that has been issued a certificate of accreditation on a representative sample basis or in response to a substantial allegation of noncompliance.

(ii) CMS uses the results of these inspections to validate the accreditation organization's accreditation process.

(2) *Laboratory in a State with an approved State licensure program.* (i) CMS or a CMS agent may conduct an inspec-

tion of any laboratory in a State with an approved State licensure program on a representative sample basis or in response to a substantial allegation of noncompliance.

(ii) The results of these inspections are used to validate the appropriateness of the exemption of that State's licensed or approved laboratories from CLIA program requirements.

(b) *Validation inspection conducted on a representative sample basis.* (1) If CMS or a CMS agent conducts a validation inspection on a representative sample basis, the inspection is comprehensive, addressing all condition-level requirements, or it may be focused on a specific condition-level requirement.

(2) The number of laboratories sampled is sufficient to allow a reasonable estimate of the performance of the accreditation organization or State.

(c) *Validation inspection conducted in response to a substantial allegation of noncompliance.* (1) If CMS or a CMS agent conducts a validation inspection in response to a substantial allegation of noncompliance, the inspection focuses on any condition-level requirement that CMS determines to be related to the allegation.

(2) If CMS or a CMS agent substantiates a deficiency and determines that the laboratory is out of compliance with any condition-level requirement, CMS or a CMS agent conducts a full CLIA inspection.

(d) *Inspection of operations and offices.* As part of the validation review process, CMS may conduct an onsite inspection of the operations and offices to verify the following:

(1) The accreditation organization's representations and to assess the accreditation organization's compliance with its own policies and procedures.

(2) The State's representations and to assess the State's compliance with its own policies and procedures, including verification of State enforcement actions taken on the basis of validation inspections performed by CMS or a CMS agent.

(e) *Onsite inspection of an accreditation organization.* An onsite inspection of an accreditation organization may include, but is not limited to, the following:

(1) A review of documents.