

of time to review State plan amendments, long-range program planning projections, and other periodic reports on the Medicaid program, excluding periodic statistical, budget and fiscal reports.

(iii) Any comments from the Governor must be submitted to CMS with the plan or plan amendment.

(2) *Exceptions.* (i) Submission is not required if the Governor's designee is the head of the Medicaid agency.

(ii) Governor's review is not required for preprinted plan amendments that are developed by CMS if they provide absolutely no options for the State.

(c) *Plan amendments.* (1) The plan must provide that it will be amended whenever necessary to reflect—

(i) Changes in Federal law, regulations, policy interpretations, or court decisions; or

(ii) Material changes in State law, organization, or policy, or in the State's operation of the Medicaid program. For changes related to advance directive requirements, amendments must be submitted as soon as possible, but no later than 60 days from the effective date of the change to State law concerning advance directives.

(2) Prompt submittal of amendments is necessary—

(i) So that CMS can determine whether the plan continues to meet the requirements for approval; and

(ii) To ensure the availability of FFP in accordance with § 430.20.

[53 FR 36571, Sept. 21, 1988, as amended at 60 FR 33293, June 27, 1995]

**§ 430.14 Review of State plan material.**

CMS regional staff reviews State plans and plan amendments, discusses any issues with the Medicaid agency, and consults with central office staff on questions regarding application of Federal policy.

**§ 430.15 Basis and authority for action on State plan material.**

(a) *Basis for action.* (1) Determinations as to whether State plans (including plan amendments and administrative practice under the plans) originally meet or continue to meet the requirements for approval are based on relevant Federal statutes and regulations.

(2) Guidelines are furnished to assist in the interpretation of the regulations.

(b) *Approval authority.* The Regional Administrator exercises delegated authority to approve the State plan and plan amendments on the basis of policy statements and precedents previously approved by the Administrator.

(c) *Disapproval authority.* (1) The Administrator retains authority for determining that proposed plan material is not approvable or that previously approved material no longer meets the requirements for approval.

(2) The Administrator does not make a final determination of disapproval without first consulting the Secretary.

**§ 430.16 Timing and notice of action on State plan material.**

(a) *Timing.* (1) A State plan or plan amendment will be considered approved unless CMS, within 90 days after receipt of the plan or plan amendment in the regional office, sends the State—

(i) Written notice of disapproval; or

(ii) Written notice of any additional information it needs in order to make a final determination.

(2) If CMS requests additional information, the 90-day period for CMS action on the plan or plan amendment begins on the day it receives that information.

(b) *Notice of final determination.* (1) The Regional Administrator or the Administrator notifies the Medicaid agency of the approval of a State plan or plan amendment.

(2) Only the Administrator gives notice of disapproval of a State plan or plan amendment.

**§ 430.18 Administrative review of action on State plan material.**

(a) *Request for reconsideration.* Any State dissatisfied with the Administrator's action on plan material under § 430.15 may, within 60 days after receipt of the notice provided under § 430.16(b), request that the Administrator reconsider the issue of whether the plan or plan amendment conforms to the requirements for approval.

(b) *Notice and timing of hearing.* (1) Within 30 days after receipt of the request, the Administrator notifies the

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State of the time and place of the hearing.

(2) The hearing takes place not less than 30 days nor more than 60 days after the date of the notice, unless the State and the Administrator agree in writing on an earlier or later date.

(c) *Hearing procedures.* The hearing procedures are set forth in subpart D of this part.

(d) *Decision.* A decision affirming, modifying, or reversing the Administrator's original determination is made in accordance with § 430.102.

(e) *Effect of hearing decision.* (1) Denial of Federal funds, if required by the Administrator's original determination, will not be delayed pending a hearing decision.

(2) However, if the Administrator determines that his or her original decision was incorrect, CMS pays the State a lump sum equal to any funds incorrectly denied.

## § 430.20 Effective dates of State plans and plan amendments.

For purposes of FFP, the following rules apply:

(a) *New plans.* The effective date of a new plan—

(1) May not be earlier than the first day of the quarter in which an approvable plan is submitted to the regional office; and

(2) With respect to expenditures for medical assistance, may not be earlier than the first day on which the plan is in operation on a statewide basis.

(b) *Plan amendment.* (1) For a plan amendment that provides additional services to individuals eligible under the approved plan, increases the payment amounts for services already included in the plan, or makes additional groups eligible for services provided under the approved plan, the effective date is determined in accordance with paragraph (a) of this section.

(2) For a plan amendment that changes the State's payment method and standards, the rules of § 447.256 of this chapter apply.

(3) For other plan amendments, the effective date may be a date requested by the State if CMS approves it.

[53 FR 36571, Sept. 21, 1988, as amended at 56 FR 8845, Mar. 1, 1991]

## 42 CFR Ch. IV (10–1–04 Edition)

### § 430.25 Waivers of State plan requirements.

(a) *Scope of section.* This section describes the purpose and effect of waivers, identifies the requirements that may be waived and the other regulations that apply to waivers, and sets forth the procedures that CMS follows in reviewing and taking action on waiver requests.

(b) *Purpose of waivers.* Waivers are intended to provide the flexibility needed to enable States to try new or different approaches to the efficient and cost-effective delivery of health care services, or to adapt their programs to the special needs of particular areas or groups of recipients. Waivers allow exceptions to State plan requirements and permit a State to implement innovative programs or activities on a time-limited basis, and subject to specific safeguards for the protection of recipients and the program. Detailed rules for waivers are set forth in subpart B of part 431, subpart A of part 440, and subpart G of part 441 of this chapter.

(c) *Effect of waivers.* (1) Waivers under section 1915(b) allow a State to take the following actions:

(i) Implement a primary care case-management system or a specialty physician system.

(ii) Designate a locality to act as central broker in assisting Medicaid recipients to choose among competing health care plans.

(iii) Share with recipients (through provision of additional services) cost-savings made possible through the recipients' use of more cost-effective medical care.

(iv) Limit recipients' choice of providers (except in emergency situations and with respect to family planning services) to providers that fully meet reimbursement, quality, and utilization standards, which are established under the State plan and are consistent with access, quality, and efficient and economical furnishing of care.

(2) A waiver under section 1915(c) of the Act allows a State to include as "medical assistance" under its plan home and community based services furnished to recipients who would otherwise need inpatient care that is furnished in a hospital, SNF, ICF, or ICF/