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(4) Specify the extent, if any, to which the contractor may obtain reinsurance of a portion of the underwriting risk.

(b) The contract must—

(1) Specify that the capitation fee will not exceed the limits set forth under part 447 of this chapter.

(2) Specify that, except as permitted under paragraph (b) of this section, the capitation fee paid on behalf of each recipient may not be renegotiated—

(i) During the contract period if the contract period is 1 year or less; or

(ii) More often than annually if the contract period is for more than 1 year.

(3) Specify that the capitation fee will not include any amount for recoupment of any specific losses suffered by the contractor for risks assumed under the same contract or a prior contract with the agency; and

(4) Specify the actuarial basis for computation of the capitation fee.

(c) The capitation fee may be renegotiated more frequently than annually for recipients who are not enrolled at the time of renegotiation or if the renegotiation is required by changes in Federal or State law.

[55 FR 51295, Dec. 13, 1990]

**Subpart E [Reserved]**

**Subpart F—Federal Financial Participation**

SOURCE: 48 FR 54020, Nov. 20, 1983, unless otherwise noted. Redesignated at 55 FR 51295, Dec. 13, 1990.

**§ 434.70 Conditions for Federal Financial Participation (FFP).**

(a) *Basic requirements.* FFP is available only for periods during which the contract—

(1) Meets the requirements of this part;

(2) Meets the applicable requirements of 45 CFR part 74; and

(3) Is in effect.

(b) *Basis for withholding.* CMS may withhold FFP for any period during which the State fails to meet the State plan requirements of this part.

[67 FR 41095, June 14, 2002]

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**§ 434.76 Costs under fiscal agent contracts.**

Under each contract with a fiscal agent—

(a) The amount paid to the provider of medical services is a medical assistance cost; and

(b) The amount paid to the contractor for performing the agreed-upon functions is an administrative cost.

**§ 434.78 Right to reconsideration of disallowance.**

A Medicaid agency dissatisfied with a disallowance of FFP under this subpart may request and will be granted reconsideration in accordance with 45 CFR part 16.

**PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA, THE NORTHERN MARIANA ISLANDS, AND AMERICAN SAMOA**

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

SOURCE: 43 FR 45204, Sept. 29, 1978, unless otherwise noted.

### Subpart A—General Provisions and Definitions

#### § 435.2 Purpose and applicability.

This part sets forth, for the 50 States, the District of Columbia, the Northern Mariana Islands, and American Samoa—

(a) The eligibility provisions that a State plan must contain;

(b) The mandatory and optional groups of individuals to whom Medicaid is provided under a State plan;

(c) The eligibility requirements and procedures that the Medicaid agency must use in determining and redetermining eligibility, and requirements it may not use;

(d) The availability of FFP for providing Medicaid and for administering the eligibility provisions of the plan; and

(e) Other requirements concerning eligibility determinations, such as use

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of an institutionalized individual's income for the cost of care.

[43 FR 45204, Sept. 29, 1978, as amended at 44 FR 17937, Mar. 23, 1979; 51 FR 41350, Nov. 14, 1986]

#### § 435.3 Basis.

(a) This part implements the following sections of the Act and public laws that mandate eligibility requirements and standards:

- 402(a)(22) Eligibility of deemed recipients of AFDC who receive zero payments because of recoupment of overpayments.
- 402(a)(37) Eligibility of individuals who lose AFDC eligibility due to increased earnings.
- 414(g) Eligibility of certain individuals participating in work supplementation programs.
- 473(b) Eligibility of children in foster care and adopted children who are deemed AFDC recipients.
- 1619(b) Benefits for blind individuals or those with disabling impairments whose income equals or exceeds a specific SSI limit.
- 1634(b) Preservation of benefit status for disabled widows and widowers who lost SSI benefits because of 1983 changes in actuarial reduction formula.
- 1634(d) Individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's social security disability benefits under section 202(e) or (f) of the Act.
- 1902(a)(8) Opportunity to apply; assistance must be furnished promptly.
- 1902(a)(10) Required and optional groups.
- 1902(a)(12) Determination of blindness.
- 1902(a)(17) Standards for determining eligibility: flexibility in the application of income eligibility standards.
- 1902(a)(19) Safeguards for simplicity of administration and best interests of recipients.
- 1902(a)(34) Three-month retroactive eligibility.
- 1902(a) (second paragraph after (47)) Eligibility despite increased monthly insurance benefits under title II.
- 1902(a)(55) Mandatory use of outstation locations other than welfare offices to receive and initially process applications of certain low-income pregnant women, infants, and children under age 19.
- 1902(b) Prohibited conditions for eligibility: Age requirement of more than 65 years; State residence requirements excluding individuals who reside in the state; and Citizenship requirement excluding United States citizens.
- 1902(e) Four-month continued eligibility for families ineligible because of increased hours or income from employment.

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- 1902(e)(2) Minimum eligibility period for recipient enrolled in an HMO.
- 1902(e)(3) Optional coverage of certain disabled children being cared for at home.
- 1902(e)(4) Eligibility of newborn children of Medicaid eligible women.
- 1902(e)(5) Eligibility of pregnant woman for extended coverage for specified postpartum period after pregnancy ends.
- 1902(f) State option to restrict Medicaid eligibility for aged, blind, or disabled individuals to those who would have been eligible under State plan in effect in January 1972.
- 1902(j) Medicaid program in American Samoa.
- 1903(f) Income limitations for medically needy and individuals covered by State supplement eligibility requirements.
- 1903(v) Payment for emergency services under Medicaid provided to aliens.
- 1905(a) (clause following (21)) Prohibitions against providing Medicaid to certain institutionalized individuals.
- 1905(a) (second sentence) Definition of essential person.
- 1905(a)(i)-(viii) List of eligible individuals.
- 1905(d)(2) Definition of resident of an intermediate care facility for the mentally retarded.
- 1905(j) Definition of State supplementary payment.
- 1905(k) Eligibility of essential spouses of eligible individuals.
- 1905(n) Definition of qualified pregnant woman and child.
- 1912(a) Conditions of eligibility.
- 1915(c) Home or community-based services.
- 1915(d) Home or community-based services for individuals age 65 or older.
- 412(e)(5) of Immigration and Nationality Act—Eligibility of certain refugees.
- Pub. L. 93-66, section 230 Deemed eligibility of certain essential persons.
- Pub. L. 93-66, section 231 Deemed eligibility of certain persons in medical institutions.
- Pub. L. 93-66, section 232 Deemed eligibility of certain blind and disabled medically indigent persons.
- Pub. L. 93-233, section 13(c) Deemed eligibility of certain individuals receiving mandatory State supplementary payments.
- Pub. L. 94-566, section 503 Deemed eligibility of certain individuals who would be eligible for supplemental security income benefits but for cost-of-living increases in social security benefits.
- Pub. L. 96-272, section 310(b)(1) Continued eligibility of certain recipients of Veterans Administration pensions.
- Pub. L. 99-509, section 9406 Payment for emergency medical services provided to aliens.
- Pub. L. 99-603, section 201 Aliens granted legalized status under section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a) may under certain circumstances be eligible for Medicaid.