

§ 431.245

(3) If the State agency permits direct access to a State fair hearing, as expeditiously as the enrollee's health condition requires, but no later than 3 working days after the agency receives, directly from an MCO or PIHP enrollee, a fair hearing request on a decision to deny a service that it determines meets the criteria for expedited resolution, as set forth in §438.410(a) of this chapter.

(g) The public must have access to all agency hearing decisions, subject to the requirements of subpart F of this part for safeguarding of information.

[44 FR 17932, Mar. 29, 1979, as amended at 67 FR 41095, June 14, 2002]

§ 431.245 Notifying the applicant or recipient of a State agency decision.

The agency must notify the applicant or recipient in writing of—

- (a) The decision; and
- (b) His right to request a State agency hearing or seek judicial review, to the extent that either is available to him.

§ 431.246 Corrective action.

The agency must promptly make corrective payments, retroactive to the date an incorrect action was taken, and, if appropriate, provide for admission or readmission of an individual to a facility if—

- (a) The hearing decision is favorable to the applicant or recipient; or
- (b) The agency decides in the applicant's or recipient's favor before the hearing.

[57 FR 56506, Nov. 30, 1992]

FEDERAL FINANCIAL PARTICIPATION

§ 431.250 Federal financial participation.

FFP is available in expenditures for—

- (a) Payments for services continued pending a hearing decision;
 - (b) Payments made—
 - (1) To carry out hearing decisions; and
 - (2) For services provided within the scope of the Federal Medicaid program and made under a court order.
 - (c) Payments made to take corrective action prior to a hearing;
 - (d) Payments made to extend the benefit of a hearing decision or court

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order to individuals in the same situation as those directly affected by the decision or order;

(e) Retroactive payments under paragraphs (b), (c), and (d) of this section in accordance with applicable Federal policies on corrective payments; and

(f) Administrative costs incurred by the agency for—

(1) Transportation for the applicant or recipient, his representative, and witnesses to and from the hearing;

(2) Meeting other expenses of the applicant or recipient in connection with the hearing;

(3) Carrying out the hearing procedures, including expenses of obtaining the additional medical assessment specified in §431.240 of this subpart; and

(4) Hearing procedures for Medicaid and non-Medicaid individuals appealing transfers, discharges and determinations of preadmission screening and annual resident reviews under part 483, subparts C and E of this chapter.

[44 FR 17932, Mar. 29, 1979, as amended at 45 FR 24882, Apr. 11, 1980; 57 FR 56506, Nov. 30, 1992]

Subpart F—Safeguarding Information on Applicants and Recipients

SOURCE: 44 FR 17934, Mar. 29, 1979, unless otherwise noted.

§ 431.300 Basis and purpose.

(a) Section 1902(a)(7) of the Act requires that a State plan must provide safeguards that restrict the use or disclosure of information concerning applicants and recipients to purposes directly connected with the administration of the plan. This subpart specifies State plan requirements, the types of information to be safeguarded, the conditions for release of safeguarded information, and restrictions on the distribution of other information.

(b) Section 1137 of the Act, which requires agencies to exchange information in order to verify the income and eligibility of applicants and recipients (see §435.940ff), requires State agencies to have adequate safeguards to assure that—

- (1) Information exchanged by the State agencies is made available only