

(g) The system must provide both patient and provider profiles for program management and utilization review purposes.

(h) If the State has a Medicaid fraud control unit certified under section 1903(q) of the Act and § 455.300 of this chapter, the Medicaid agency must have procedures to assure that information on probable fraud or abuse that is obtained from, or developed by, the system is made available to that unit. (See § 455.21 of this chapter for State plan requirements.)

[45 FR 14213, Mar. 5, 1980. Redesignated and amended at 50 FR 30847, July 30, 1985; 55 FR 4375, Feb. 7, 1990]

§ 433.117 Initial approval of replacement systems.

(a) A replacement system must meet all conditions of initial approval of a mechanized claims processing and information retrieval system.

(b) The agency must submit a APD that includes—

(1) The date the replacement system will be in operation; and

(2) A plan for orderly transition from the system being replaced to the replacement system.

(c) FFP is available at—

(1) 90 percent in expenditures for design, development, and installation in accordance with the provisions of § 433.112; and

(2) 75 percent in expenditures for operation of an approved replacement system in accordance with the provisions of § 433.116(b) through (h), from the date that the system met the conditions of initial approval, as established by CMS.

(d) FFP is available at 75 percent in expenditures for the operation of an approved system that is being replaced (or at a reduced rate determined under § 433.120 of this subpart for a system that has been disapproved) until the replacement system is in operation and approved.

[50 FR 30847, July 30, 1985]

§ 433.119 Conditions for reapproval; notice of decision.

(a) CMS will review at least once every three years each system operation initially approved under § 433.114 and reapprove it for FFP at 75 percent

of expenditures if the following conditions are met:

(1) The system meets the conditions of § 433.112(b) (1), (3), (4), and (7) through (9).

(2) The system meets the conditions of § 433.116 (d) through (h).

(3) The system meets the performance standards for reapproval and the system requirements in part 11 of the State Medicaid Manual as periodically amended.

(4) Automated eligibility determination systems approved or operating on or before November 13, 1989, will not qualify for FFP at 75 percent of expenditures after November 13, 1989.

(b) CMS may review an entire system operation or focus its review on parts of the operation. However, at a minimum, CMS will review standards, system requirements and other conditions of reapproval that have demonstrated weakness in a previous review or reviews.

(c) CMS will issue to each Medicaid agency, by the end of the first quarter after the review period, a written notice informing the agency whether its system is reapproved or disapproved. If the system is disapproved, the notice will also include—

(1) CMS's decision to reduce FFP for system operations, and the percentage to which it is reduced, beginning with the next calendar quarter;

(2) The findings of fact upon which the determination was made; and

(3) A statement that State claims in excess of the reduced FFP rate will be disallowed and that any such disallowance will be appealable to the Departmental Appeals Board.

[54 FR 41973, Oct. 13, 1989; 55 FR 1820, Jan. 19, 1990]

§ 433.120 Procedures for reduction of FFP after reapproval review.

(a) If CMS determines after the reapproval review that the system no longer meets the conditions of reapproval in § 433.119, CMS will reduce FFP for system operations for at least four quarters. However, no system will be subject to reduction of FFP for at least the first four quarters after the quarter in which the system is initially approved as eligible for 75 percent FFP.

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(b) CMS will reduce FFP in expenditures for system operations from 75 percent to no more than 70 percent and no less than 50 percent; however, CMS will not reduce FFP by more than 10 percentage points in any four-quarter period. The percentage to which the FFP is reduced will depend primarily on the following criteria:

(1) The number of conditions judged unsatisfactory;

(2) The extent to which conditions were not met;

(3) The significance of the unsatisfactory conditions in overall mechanized claims processing and information retrieval system operations; and

(4) The actual and potential program impact attributable to the unsatisfactory conditions.

[50 FR 30848, July 30, 1985, as amended at 54 FR 41974, Oct. 13, 1989]

§ 433.121 Reconsideration of the decision to reduce FFP after reapproval review.

(a) The agency may appeal to the Departmental Appeals Board under 45 CFR part 16, a disallowance concerning a reduction in FFP claimed for system operation caused by a disapproval of the State's system. If the Board finds such a disallowance to be appropriate, the discretionary determination to reduce FFP by a particular percentage amount (instead of by a lesser percentage) is not subject to review by the Board unless the percentage reduction exceeds the range authorized by section 1903(r)(4)(B) of the Act.

(b) The decisions concerning whether to restore any FFP retroactively and the actual number of quarters for which FFP will be restored under § 433.122 of this subpart are not subject to administrative appeal to the Departmental Appeals Board under 45 CFR part 16.

(c) An agency's request for a reconsideration before the Board under paragraph (a) of this section does not delay implementation of the reduction in FFP. However, any reduction is subject to retroactive adjustment if required by the Board's determination on reconsideration.

[50 FR 30848, July 30, 1985, as amended at 54 FR 41974, Oct. 13, 1989; 55 FR 1820, Jan. 19, 1990]

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§ 433.122 Reapproval of a disapproved system.

When FFP has been reduced under § 433.120(a), and CMS determines upon subsequent review that the system meets all current performance standards, system requirements and other conditions of reapproval, the following provisions apply:

(a) CMS will resume FFP in expenditures for system operations at the 75 percent level beginning with the quarter following the review determination that the system again meets conditions of reapproval.

(b) CMS may retroactively waive a reduction of FFP in expenditures for system operations if CMS determines that the waiver could improve the administration of the State Medicaid plan. However, CMS cannot waive this reduction for any quarter before the fourth quarter immediately preceding the quarter in which CMS issues the determination (as part of the review process) stating that the system is reapproved.

[54 FR 41974, Oct. 13, 1989]

§ 433.123 Notification of changes in system requirements, performance standards or other conditions for approval or reapproval.

(a) Whenever CMS modifies system requirements or other conditions for approval under § 433.112 or § 433.116, CMS will—

(1) Publish a notice in the FEDERAL REGISTER making available the proposed changes for public comment;

(2) Respond in a subsequent FEDERAL REGISTER notice to comments received; and

(3) Issue the new or modified requirements or conditions in the State Medicaid Manual.

(b) For changes in system requirements or other conditions for approval, CMS will allow an appropriate period for Medicaid agencies to meet the requirement determining this period on the basis of the requirement's complexity and other relevant factors.

(c) Whenever CMS modifies performance standards and other conditions for reapproval under § 433.119, CMS will notify Medicaid agencies at least one calendar quarter before the review period