

purchased under the waiver, and the number of children and adults, respectively, covered under family coverage pursuant to the waiver.

Subpart K—State Plan Requirements: Applicant and Enrollee Protections

SOURCE: 66 FR 2687, Jan. 11, 2001, unless otherwise noted.

§ 457.1100 Basis, scope and applicability.

(a) *Statutory basis.* This subpart interprets and implements—

(1) Section 2101(a) of the Act, which states that the purpose of title XXI of the Act is to provide funds to States to enable them to initiate and expand the provision of child health assistance to uninsured, low-income children in an effective and efficient manner;

(2) Section 2102(a)(7)(B) of the Act, which requires that the State plan include a description of the methods used to assure access to covered services, including emergency services;

(3) Section 2102(b)(2) of the Act, which requires that the State plan include a description of methods of establishing and continuing eligibility and enrollment; and

(4) Section 2103 of the Act, which outlines coverage requirements for a State that provides child health assistance through a separate child health program.

(b) *Scope.* This subpart sets forth minimum standards for privacy protection and for procedures for review of matters relating to eligibility, enrollment, and health services.

(c) *Applicability.* This subpart only applies to a separate child health program.

§ 457.1110 Privacy protections.

The State must ensure that, for individual medical records and any other health and enrollment information maintained with respect to enrollees, that identifies particular enrollees (in any form), the State establishes and implements procedures to—

(a) Abide by all applicable Federal and State laws regarding confidentiality and disclosure, including those laws addressing the confidentiality of

information about minors and the privacy of minors, and privacy of individually identifiable health information;

(b) Comply with subpart F of part 431 of this chapter;

(c) Maintain the records and information in a timely and accurate manner;

(d) Specify and make available to any enrollee requesting it—

(1) The purposes for which information is maintained or used; and

(2) To whom and for what purposes the information will be disclosed outside the State;

(e) Except as provided by Federal and State law, ensure that each enrollee may request and receive a copy of records and information pertaining to the enrollee in a timely manner and that an enrollee may request that such records or information be supplemented or corrected.

§ 457.1120 State plan requirement: Description of review process.

(a) The State must have one of the following review processes:

(1) *Program specific review.* A process that meets the requirements of §§ 457.1130, 457.1140, 457.1150, 457.1160, 457.1170, and 457.1180; or

(2) *Statewide Standard Review.* A process that complies with State review requirements currently in effect for all health insurance issuers (as defined in section 2791 of the Public Health Service Act) in the State.

(b) The State plan must include a description of the State's review process.

[66 FR 33824, June 25, 2001]

§ 457.1130 Program specific review process: Matters subject to review.

(a) *Eligibility or enrollment matter.* A State must ensure that an applicant or enrollee has an opportunity for review, consistent with §§ 457.1140 and 457.1150, of a—

(1) Denial of eligibility;

(2) Failure to make a timely determination of eligibility; and

(3) Suspension or termination of enrollment, including disenrollment for failure to pay cost sharing.

(b) *Health services matter.* A State must ensure that an enrollee has an opportunity for external review of a—

(1) Delay, denial, reduction, suspension, or termination of health services,

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in whole or in part, including a determination about the type or level of services; and

(2) Failure to approve, furnish, or provide payment for health services in a timely manner.

(c) *Exception.* A State is not required to provide an opportunity for review of a matter described in paragraph (a) or (b) of this section if the sole basis for the decision is a provision in the State plan or in Federal or State law requiring an automatic change in eligibility, enrollment, or a change in coverage under the health benefits package that affects all applicants or enrollees or a group of applicants or enrollees without regard to their individual circumstances.

§ 457.1140 Program specific review process: Core elements of review.

In adopting the procedures for review of matters described in § 457.1130, a State must ensure that—

(a) Reviews are conducted by an impartial person or entity in accordance with § 457.1150;

(b) Review decisions are timely in accordance with § 457.1160;

(c) Review decisions are written; and

(d) Applicants and enrollees have an opportunity to—

(1) Represent themselves or have representatives of their choosing in the review process;

(2) Timely review their files and other applicable information relevant to the review of the decision;

(3) Fully participate in the review process, whether the review is conducted in person or in writing, including by presenting supplemental information during the review process; and

(4) Receive continued enrollment in accordance with § 457.1170.

§ 457.1150 Program specific review process: Impartial review.

(a) *Eligibility or enrollment matter.* The review of a matter described in § 457.1130(a) must be conducted by a person or entity who has not been directly involved in the matter under review.

(b) *Health services matter.* The State must ensure that an enrollee has an opportunity for an independent external review of a matter described in

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§ 457.1130(b). External review must be conducted by the State or a contractor other than the contractor responsible for the matter subject to external review.

§ 457.1160 Program specific review process: Time frames.

(a) *Eligibility or enrollment matter.* A State must complete the review of a matter described in § 457.1130(a) within a reasonable amount of time. In setting time frames, the State must consider the need for expedited review when there is an immediate need for health services.

(b) *Health services matter.* The State must ensure that reviews are completed in accordance with the medical needs of the patient. If the medical needs of the patient do not dictate a shorter time frame, the review must be completed within the following time frames:

(1) *Standard timeframe.* A State must ensure that external review, as described in § 457.1150(b), is completed within 90 calendar days of the date an enrollee requests internal (if available) or external review. If both internal and external review are available to the enrollee, both types of review must be completed within the 90 calendar day period.

(2) *Expedited timeframe.* A State must ensure that external review, as described in § 457.1150(b), is completed within 72 hours of the time an enrollee requests external review, if the enrollee's physician or health plan determines that operating under the standard time frame could seriously jeopardize the enrollee's life or health or ability to attain, maintain or regain maximum function. If the enrollee has access to internal and external review, then each level of review may take no more than 72 hours. The State may extend the 72-hour time frame by up to 14 calendar days, if the enrollee requests an extension.

§ 457.1170 Program specific review process: Continuation of enrollment.

A State must ensure the opportunity for continuation of enrollment pending