LEGAL BACKGROUND AND AUTHORITY

Title XIX of the Social Security Act, specifically Section 1903(a)(3) as provided by Section 235 of Public Law 92-603, enacted October 30, l972, and amended by Section 10 of Public Law 95-142, enacted October 25, 1977 and Section 1903(r) as provided by Section 901 of Public Law 96-398, enacted October 7, 1980, and amended by section 9503 (b) of Public Law 99-272, enacted April 7, 1986.

TITLE XIX--GRANTS TO STATES FOR MEDICAL

ASSISTANCE PROGRAMS

Payment to States

Sec. 1903(a) From the sums appropriated therefor, the Secretary (except as otherwise provided in this section) shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing January 1, 1966 -

(3) an amount equal to

(A)

(i) 90 percentum of so much of the sums expended during such quarter as are attributable to the design, development, or installation of such mechanized claims processing and information retrieval systems as the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of Title XVIII, including the State's share of the cost of installing such a system to be used jointly in the administration of such State's plan and the plan of any other State approved under this title, and

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(B) 75 percentum of so much of the sums expended during such quarter as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under a contract with the State) of the type described in subparagraph (A)(i) (whether or not designed, developed, or installed with assistance under such subparagraph) which are approved by the Secretary and which include provision for prompt written notice to each individual in a sample group of individuals who are furnished such services, of the specific services (other than confidential services) so covered, the name of the person or persons furnishing the services, the date or dates on which the services were furnished, and the amount of the payment or pay­ments made under the plan on account of the services; plus l/

(C) 75 percentum of the sums expended with respect to costs incurred during such quarter (as found necessary by the Secretary for the proper and efficient administration of the State plan) as are attributable to the performance of medical and utilization review by a Utilization Review and Quality Control Peer Review Organization under a contract entered into under 1902(d); plus 2/

l/ Subparagraph (B) was amended by sec. 10 of P.L. 95-142.

2/ Subparagraph (C) was added by 1981 OBRA and amended by PL 97-248 1982 TEFRA

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TITLE IX - MECHANIZED CLAIMS PROCESSING AND

INFORMATION RETRIEVAL SYSTEMS

MECHANIZED CLAIMS PROCESSING AND INFORMATION RETRIEVAL

SYSTEMS

Section 1903 of the Social Security Act was amended, by Public Law 96-398, section 901, by adding the following new subsection:

(r)

(1)

(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to percentum reductions set forth in subparagraph (C) of this paragraph, a State must provide that mechanized claims processing and information retrieval systems of the type described in subsection (a)(3)(B) and detailed in an advance planning docu­ment approved by the Secretary are operational on or before the deadline established under subparagraph (B).

(B) The deadline for operation of such systems for a State is September 30, 1985.

(C) If a State fails to meet the deadline established under subpar­agraph (B), the percentums specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quar­ters beginning on or after such deadline, and shall be further reduced by an additional 5 percentage points after each period consisting of two quarters during which the Secretary determines the State fails to meet the requirements of subparagraph (A); except that --

(i) neither such percentum may be reduced by more than 25 percentage points by reason of this paragraph; and

(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State meets the requirements of subparagraph (A).

(2)

(A) In order to receive payments under paragraphs (2) and (7) of subsection (a) without being subject to the percentum reductions set forth in subparagraph (C) of this paragraph, a State must have its mechanized claims processing and information retrieval systems, of the type required to be operational under paragraph (1), initially approved by the Secre­tary in accordance with paragraph (5)(A) on or before the deadline established under subparagraph (B).

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(B) The deadline for approval of such systems for a State is the last day of the fourth quarter that begins after the date on which the Secretary determines that such systems became operational as required under paragraph (1).

(C) If a State fails to meet the deadline established under subparagraph (B), the percentum specified in paragraphs (2) and (7) of subsection (a) with respect to that State shall each be reduced by 5 percentage points for the first two quar­ters beginning after such deadline, and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters during which the State fails to meet the requirements of subparagraph (A); except that --

(i) neither such percentum may be reduced by more than 25 percentage points by reason of this paragraph; and

(ii) no reduction shall be made under this paragraph for any quarter following the quarter during which such State's systems are approved by the Secretary as provided in subparagraph (A).

(D) Any State's systems which are approved by the Secretary for purposes of subsection (a)(3)(B) on or before the date of the enactment of this subsection shall be deemed to be initially approved for purposes of this subsection.

(3)

(A) When a State's systems are initially approved, the 75 percentum Federal matching provided in subsection (a)(3)(B) shall become effective with respect to such systems, retroactive to the first quarter beginning after the date on which such systems became operational as required under paragraph (1), except as provided in subparagraph (B).

(B) In the case of any State which was subject to a percentum reduction under paragraph (2), the percentum specified in subsection (a)(3)(B) shall be reduced by 5 percentage points for the first two quarters beginning after the deadline established under paragraph (2)(B), and shall be further reduced by an additional 5 percentage points at the end of each period consisting of two quarters beginning after such deadline and before the date on which such systems are initially approved, except that no reduction shall be made under this paragraph for any quarter following the quarter during which the State's systems are initially approved by the Secretary.

(4)

(A) The Secretary shall review all approved systems not less often than once every three years, and shall reapprove or disapprove any such systems. Systems which fail to meet the current performance standards, system requirements, and any other conditions for approval developed by

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the Secretary under paragraph (6) shall be disapproved. Any State having systems which are so disapproved shall be subject to a percentum reduction under subparagraph (B). The Secretary shall make the determination of reapproval or disapproval and so notify the States not later than the end of the first quarter following the review period. Reviews may, at the Secretary's discretion, constitute reviews of the entire system or of only those standards, system requirements, and other conditions which have demonstrated weakness in previous reviews.

(B) If the Secretary disapproves a State's systems under subparagraph (A), the Secretary shall, with respect to such State for quarters beginning after the determination of disapproval and before the first quarter beginning after such systems are reapproved, reduce the percentum specified in sub­section (a)(3)(B) to a percentum of not less than 50 percentum and not more than 70 percentum as the Secretary determines to be appropriate and commensurate with the nature of noncompliance by such State; except that such percentum may not be reduced by more than 10 percentage points in any four quarter period by reason of this subparagraph. No State shall be subject to a percentum reduction under this paragraph (i) before the fifth quarter beginning after such State's systems were initially approved, or (ii) on the basis of a review con­ducted before October 1, 1981.

(C) The Secretary may retroactively waive a percentum reduction imposed under subparagraph (B), if the Secretary determines that the State's systems meet all current performance standards and other requirements for reapproval and that such action would improve the administration of the State's plan under this title, except that no such waiver may extend beyond the four quarters immediately prior to the quarter in which the State's systems are reapproved.

(5)

(A) In order to be initially approved by the Secretary, mechanized claims processing and information retrieval systems must be of type described in subsection (a)(3)(B) and must meet the following requirements:

(i) The systems must be capable of developing provider, physician, and patient profiles which are sufficient to provide specific information as to the use of covered types of services and items, including pre­scribed drugs.

(ii) The State must provide that information on probable fraud or abuse which is obtained from, or developed by, the systems, is made available to the State's Medicaid fraud control unit (if any) certified under subsection (q) of this section.

(iii) The systems must meet all performance standards and other requirements for initial approval developed by the Secretary under paragraph (6).

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(B) In order to be reapproved by the Secretary, mechanized claims processing and information retrieval systems must meet the requirements of subparagraphs (A)(i) and (A)(ii) and performance standards and other requirements for reapproval developed by the Secretary under paragraph (6).

(6) The Secretary, with respect to State systems, shall --

(A) develop performance standards, system requirements, and other conditions for approval for use in initially approving such State systems, and shall further develop written approval procedures for conducting reviews for initial approval, including specific criteria for assessing systems in operation to insure that all such performance standards and other requirements are met;

(B) by not later than October 1, 1980, develop an initial set of performance standards, system requirements, and other conditions for reapproval for use in reapproving or disapproving State systems, and shall further develop written reapproval procedures for conducting reviews for reapproval, including specific criteria for reassessing systems operations over a period of at least six months during each fiscal year to insure that all such performance standards and other requirements are met on a continuous basis;

(C) provide that reviews for reapproval, conducted before October 1, 1981, shall be for the purpose of developing a systems performance data base and assisting States to improve their systems, and that no percentum reduction shall be made under paragraph (4) on the basis of such a review;

(D) insure that review procedures, performance standards, and other requirements developed under subparagraph (B) are sufficiently flexible to allow for differing administrative needs among the States, and that such procedures, standards, and requirements are of a nature which will permit their use by the States for self-evaluation;

(E) notify all States of proposed procedures, standards, and other requirements at least one quarter prior to the fiscal year in which such procedures, standards, and other require­ments will be used for conducting reviews for reapproval;

(F) periodically update the systems performance standards, system requirements, review criteria, objectives, regulations, and guides as the Secretary shall from time-to-time deem appropriate;

(G) provide technical assistance to States in the development and improvement of the systems so as to continually improve the capacity of such systems to effectively detect cases of fraud or abuse;

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(H) for the purpose of insuring compatibility between the State systems and the systems utilized in the administration of title XVIII --

(i) develop a uniform identification coding system (to the extent feasible) for providers, other persons receiving payments under the State plans (approved under this title) or under title XVIII, and beneficiaries of medical services under such plans or title;

(ii) provide liaison between States and carriers and intermediaries having agreements under title XVIII to facilitate timely exchange of appropriate data; and

(iii) improve the exchange of data between the States and the Secretary with respect to providers and other persons who have been terminated, suspended, or otherwise sanctioned under a State plan (approved under this title) or under title XVIII.

(I) develop and disseminate clear definitions of those types of reasonable costs relating to State systems which are reimbursable under the provisions of subsection (a)(3) of this section; and

(J) develop and disseminate performance standards for assessing the State's third party collection efforts in accoradance with section 1902(a)(25)(A)(ii).

(7)

(A) The Secretary shall waive the provisions of this subsection with respect to initial operation and approval of mechanized claims processing and information retrieval systems with respect to any State which --

(i) had a 1976 population (as reported by the Bureau of the Census) of less than 1,000,000 and which made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this title of less than $100,000,000 in fiscal year 1976 (as reported by such State for such year), or

(ii) is a Commonwealth, or territory or possession, of the United States, if such State reasonably demonstrates, and the Secretary does not formally disagree, that the application of such provisions would not significantly improve the efficiency of the administration of such State's plan under this title.

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(B) If the Secretary determines that the application of the provisions described in subparagraph (A) to a State would significantly improve the efficiency of the administration of the State's plan under this title, the Secretary may withdraw the State's waiver under subparagraph (A) and, in such case, the Secretary shall impose a timetable for such State with respect to compliance with the provisions of this subsection and the imposition of percentum reductions. Such timetable shall be comparable to the timetable established under this subsection as to the amount of time allowed such State to comply and the timing of percentum reductions.

(8)

(A) The percentum reductions provided for under this subsection shall not apply to a State for any quarter with respect to which the Secretary determines that such State is unable to comply with the relevant requirements of this subsection --

(i) for good cause (but such a waiver may not be for a period in excess of two quarters), or

(ii) due to circumstances beyond the control of such State

(B) If the Secretary determines under subparagraph (A) that such a reduction will not apply to a State, the Secretary shall report to the Congress on the basis for each such deter­mination and on the modification of all time limitations and deadlines as described in subparagraph (C).

(C) For purposes of determining all time limitations and deadlines imposed under this subsection, any time period during which a State was found under subparagraph (A)(ii) to be unable to comply with requirements of this subsection due to circumstances beyond its control shall not be taken into account, and the Secretary shall modify all such time limitations and deadlines with respect to such State accordingly."

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CITATION OF REGULATION

Subpart C - Mechanized Claims Processing and Information Retrieval Systems

Section 433.110 Basis and Purpose.

(a) This subpart implements the following sections of the Act:

(1) Section 1903(a)(3) of the Act, which provides for FFP in State expenditures for the design, development, or installation of mechanized claims processing and information retrieval systems and for the operation of certain systems. Additional HHS regulations and HCFA procedures for implementing these regulations are in 45 CFR Part 74, 45 CFR Part 95, Subpart F, and Part 11 of the State Medicaid Manual.

(2) Section 1903(r) of the Act, which--

(i) Requires reductions in FFP otherwise due a State under section 1903(a) if a State fails to meet certain deadlines for operating a mechanized claims processing and information retrieval system or if the system fails to meet certain conditions of approval or conditions of reapproval;

(ii) Requires at least an annual Federal performance review of the mechanized claims processing and information retrieval systems; and

(iii) Allows waivers of conditions of approval, conditions of reapproval, and FFP reductions under certain circumstances.

(b) The requirements under section 1903(r) of the Act do not apply to Puerto Rico, Guam, the Virgin Islands, American Samoa and the Northern Mariana Islands.

Section 433.111 Definitions.

For purposes of this section:

"Advance Planning Document (APD)" means a written plan of action to acquire the proposed system. Content requirements for the APD are in 45 CFR Part 95, Subpart F, and in Part 11 of the State Medicaid Manual (SMM).

"Design" or "system design" means the putting together of new or more efficient automatic data processing system. This includes the use of hardware to the extent necessary for the design phase.

"Development" means the definition of system requirements, detailing of system and program specifications, programming, and testing. This includes the use of hardware to the extent necessary for the development phase.

"Hardware" means automatic equipment used for a mechanized claims processing and information retrieval system. This equipment accepts and stores data, performs calculations and other processing steps, and produces information. Hardware includes:

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(1) Electronic digital computers;

(2) Peripheral or auxilary equipment used in support of electronic computers;

(3) Data transmission or communications equipment; and

(4) Data input equipment.

"Improvement" means modification of or addition to an existing operational mechanized claims processing and information retrieval system, which benefits the efficient, economical or effective administration of the State plan.

"Installation" means the integrated testing of programs and subsystems, system conversion, and turnover to operational status. This includes the use of hardware to the extent necessary for the installation phase.

"Mechanized claims processing and information retrieval system" means a system of software and hardware used to process Medicaid claims, and to retrieve and produce utilization and management information about services that is required by the Medicaid agency or Federal Government for administrative and audit purposes.

"Operation" means the automated processing of claims, payments, and reports. "Operation" includes the use of supplies, software, hardware, and personnel directly associated with the functioning of the mechanized system.

"Software" means computer programs, procedures, and associated documentation used to operate the hardware.

Section 433.112 FFP for design, development, installation or improvement of mechanized claims processing and information retrieval systems.

(a) FFP is available at the 90 percent rate in State expenditures for design, development, installation or improvement of a mechanized claims processing and information retrieval system only if the APD is approved by HCFA prior to the State's expenditure of funds for these purposes.

(b) HCFA will approve the system described in the APD if the following conditions are met:

(1) HCFA determines the system is likely to provide more efficient, economical, and effective administration of the State plan.

(2) The system meets the system requirements and performance standards in Part 11 of the State Medicaid Manual, as periodically amended.

(3) The system is compatible with the claims processing and information retrieval systems used in the administration of Medicare for prompt eligibility verification and for processing claims for persons eligible for both programs.

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(4) The system supports the data requirements of peer review organizations established under part B of Title XI of the Act.

(5) The State owns any software that is designed, developed, installed or improved with 90 percent FFP.

(6) The Department has a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use and authorize others to use for Federal Government purposes, software, modifications to software, and documentation that is designed, developed, installed or improved with 90 percent FFP.

(7) The costs of the system are determined in accordance with 45 CFR 74.171.

(8) The Medicaid agency agrees in writing to use the system for the period of time specified in the advance planning document approved by the Administrator or for any shorter period of time that the Administrator determines justifies the Federal funds invested.

(9) Medicaid Agency agrees in writing that the information in the system will be safeguarded in accordance with 45 CFR Part 205.50.

Section 433.113 Reduction of FFP for failure to operate a system and obtain initial approval.

(a) Except as waived under section 433.130 or 433.131, FFP will be reduced as specified in paragraph (b) of this section unless the Medicaid agency has in continuous operation a mechanized claims processing and information retrieval system that meets the following conditions:

(1) The APD for the system was approved by HCFA;

(2) The system is operational by the earlier of--

(i) September 30, 1982; or

(ii) The last day of the sixth month following the date specified for operation in the State's most recently approved APD that was submitted before October 7, 1980; and

(3) The system is initially approved by the last day of the fourth quarter that begins after the date the system became operational as determined by HCFA.

(b) HCFA will reduce FFP in expenditures for compensation and training of skilled professional medical personnel and support staff under section 1903(a)(2) of the Act, and for general administration under section 1903(a)(7) of the Act, by the following increments applied separately to those two categories of expenditures:

(1) Five percentage points for the first two quarters beginning after a deadline in paragraph (a) of this section;

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(2) An additional five percentage points during each additional two-quarter period, through the quarter in which the the State achieves compliance with the conditions for initial operation or initial approval of an operating system. FFP reductions will not exceed 25 percentage points for each type of reduction.

(c) The amount of FFP (determined under section 1903(a)(3)(B)) that

would be available retroactively for operating a system that later receives initial approval will be reduced by HCFA by the same percentage points for the identical periods of time described in subparagraph (b) of this section, until the system is initially approved. No reduction will be made after the first quarter during which the system is initially approved.

Section 433.114 Procedures for obtaining initial approval; notice of decision.

(a) To obtain initial approval, the Medicaid agency must inform HCFA in writing that the system meets the conditions specified in '433.116(c) through (h).

(b) If HCFA disapproves the system or determines that the system met requirements for initial approval on a date later than the date required under '433.113(a)(3), the notice will include--

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

(2) The procedures for appeal of the determination in the context of a reconsideration of the resulting disallowance, to the Departmental Grant Appeals Board.

Section 433.116 FFP for operation of mechanized claims processing and information retrieval systems.

(a) Subject to '433.113(c), FFP is available at 75 percent of expenditures for operation of a mechanized claims processing and information retrieval system approved by HCFA, from the first day of the calendar quarter after the date the system met the conditions of initial approval, as established by HCFA (including a retroactive adjustment of FFP if necessary to provide the 75 percent rate beginning on the first day of that calendar quarter).

(b) HCFA will approve the system operation if the conditions specified in paragraphs (c) through (h) of this section are met.

(c) The conditions of '433.112(b) through (4) and (7) through (9), as periodically modified under section 433.112(b)(2) must be met.

(d) The system must have been operating continuously during the period for which FFP is claimed.

(e) The system must provide individual notices, within 45 days of the payment of claims, to all or a sample group of the per­sons who received services under the plan.

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(f) The notice required by paragraph (e) of this section --

(1) Must specify --

(i) The service furnished;

(ii) The name of the provider furnishing the ser­vice;

(iii) The date on which the service was furnished; and

(iv) The amount of the payment made under the plan for

the service; and

(2) Must not specify confidential services (as defined by the State) and must not be sent if the only service furnished was confidential.

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

(h) If a 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.)

Section 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 an 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 HCFA.

(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.

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Section 433.119 Conditions for yearly reapproval; notice of decision.

(a) HCFA will review yearly 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) , (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.

(b) HCFA will issue to each Medicaid agency by the end of the first quarter after the fiscal year of the review, a written notice informing the agency whether its system is reapproved or disapproved. If the system is disapproved, the notice will also include--

(1) HCFA'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 Grant Appeals Board

Section 433.120 Procedures for reduction of FFP after yearly reapproval review.

(a) If HCFA determines after the yearly review that the system no longer meets the conditions of reapproval in '433.119, HCFA will reduce FFP for systems 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.

(b) HCFA will reduce FFP in expenditures for system operation from 75 percent to no more than 70 percent and no less than 50 percent; however, HCFA 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;

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(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.

Section 433.121 Reconsideration of the decision to reduce FFP after the yearly review.

(a) The agency may appeal to the Departmental Grant 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 MMIS. 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 section 433.122 of this subpart are not subject to administrative appeal to the Grant 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.

Section 433.122 Reapproval of a disapproved system.

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

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

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

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

(a) Whenever HCFA modifies system requirements or other conditions for approval under sections 433.112 or 433.116, or performance standards or other conditions of reapproval under section 433.119, HCFA 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 standards or conditions in the State Medicaid Manual.

(b) For changes in system requirements or other conditions for approval, HCFA 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) For performance standards and other conditions for reapproval, HCFA will notify Medicaid agencies at least one calendar quarter before the review period to which the new or modified standards or conditions apply.

Section 433.127 Termination of FFP for failure to provide access to claims processing and information retrieval systems.

HCFA will terminate FFP at any time if the Medicaid agency fails to provide State and Federal representatives with full access to the system, including onsite inspection. HCFA may request such access at any time to determine whether the conditions in this sub­part are being met.

Section 433.130 Waiver of conditions of initial operation and approval.

(a) HCFA will waive requirements for initial operation and approval of systems under section 433.113 for a State meeting the requirements of paragraph (b) of this section and that had a 1976 population of less than one million and made total Federal and State Medicaid expenditures of less than $100 million in fiscal year 1976. Population figures are those reported by the Bureau of the Census. Expenditures for fiscal year 1976 are those reported by the State for that year.

(b) To be eligible for this waiver, the agency must submit its reasons to HCFA in writing and demonstrate to HCFA's satisfaction that an MMIS will not significantly improve the efficiency of the administration of the State plan.

(c) If HCFA denies the waiver request, the notice of denial will include--

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(1) The findings of the fact upon which the denial was made; and

(2) The procedures for appeal of the denial.

(d) If HCFA determines, after granting a waiver, that an MMIS would significantly improve the administration of the State Medicaid program, HCFA may withdraw the waiver and require that a State obtain initial approval of an MMIS within two years after the date of waiver withdrawal.

Section 433.131 Waiver for noncompliance with the conditions of approval and reapproval.

If a State is unable to comply with the conditions of approval or of reapproval and the noncompliance will cause a percentum reduction in FFP, HCFA will waive the FFP reduction in the following circumstances:

(a) Good Cause. If HCFA determines that good cause existed, HCFA will waive the FFP reduction attributable to those items for which the good cause existed. A waiver of FFP consequences of the failure to meet the conditions of approval or reapproval based upon good cause will not extend beyond two consecutive quarters.

(b) Circumstances beyond the control of a State. The State must satisfactorily explain the circumstances that are beyond its control. When HCFA grants the waiver, HCFA will also defer all other MMIS deadlines for the same length of time that the waiver applies.

Related Regulations

Other regulations which authorize requirements contained in this guide for all levels of FFP are:

45 CFR Part 74 - Administration of Grants

42 CFR 431.15 - Methods of Administration

42 CFR 431, Subpart F - Safeguarding Information on Applicants and

Recipients

42 CFR 431.16-17 - Reports and Maintenance of Records

42 CFR 432 - State Personnel Administration

42 CFR 433.34 - Cost Allocation

42 CFR 433, Subpart A - Federal Matching Provisions

42 CFR 433, Subpart D - Third Party Liability

42 CFR 447 - Payments for Services

42 CFR 455 - Program Integrity

42 CFR 456 - Utilization Control

45 CFR 95, Subpart F - Automatic Data Processing Equipment and Services -Conditions for Federal Financial Participation

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