

§ 431.11

(1) The agency must not delegate, to other than its own officials, authority to—

(i) Exercise administrative discretion in the administration or supervision of the plan, or

(ii) Issue policies, rules, and regulations on program matters.

(2) The authority of the agency must not be impaired if any of its rules, regulations, or decisions are subject to review, clearance, or similar action by other offices or agencies of the State.

(3) If other State or local agencies or offices perform services for the Medicaid agency, they must not have the authority to change or disapprove any administrative decision of that agency, or otherwise substitute their judgment for that of the Medicaid agency with respect to the application of policies, rules, and regulations issued by the Medicaid agency.

[44 FR 17930, Mar. 23, 1979]

§ 431.11 Organization for administration.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the general organization and staffing requirements for the Medicaid agency and the State plan.

(b) *Medical assistance unit.* A State plan must provide for a medical assistance unit within the Medicaid agency, staffed with a program director and other appropriate personnel who participate in the development, analysis, and evaluation of the Medicaid program.

(c) *Description of organization.* (1) The plan must include—

(i) A description of the organization and functions of the Medicaid agency and an organization chart;

(ii) A description of the organization and functions of the medical assistance unit and an organization chart; and

(iii) A description of the kinds and number of professional medical personnel and supporting staff used in the administration of the plan and their responsibilities.

(d) *Eligibility determined by other agencies.* If eligibility is determined by State agencies other than the Medicaid agency or by local agencies under the supervision of other State agencies, the plan must include a description of the

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staff designated by those other agencies and the functions they perform in carrying out their responsibility.

[44 FR 17931, Mar. 23, 1979]

§ 431.12 Medical care advisory committee.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes State plan requirements for establishment of a committee to advise the Medicaid agency about health and medical care services.

(b) *State plan requirement.* A State plan must provide for a medical care advisory committee meeting the requirements of this section to advise the Medicaid agency director about health and medical care services.

(c) *Appointment of members.* The agency director, or a higher State authority, must appoint members to the advisory committee on a rotating and continuous basis.

(d) *Committee membership.* The committee must include—

(1) Board-certified physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care;

(2) Members of consumers' groups, including Medicaid recipients, and consumer organizations such as labor unions, cooperatives, consumer-sponsored prepaid group practice plans, and others; and

(3) The director of the public welfare department or the public health department, whichever does not head the Medicaid agency.

(e) *Committee participation.* The committee must have opportunity for participation in policy development and program administration, including furthering the participation of recipient members in the agency program.

(f) *Committee staff assistance and financial help.* The agency must provide the committee with—

(1) Staff assistance from the agency and independent technical assistance as needed to enable it to make effective recommendations; and

(2) Financial arrangements, if necessary, to make possible the participation of recipient members.

(g) *Federal financial participation.* FFP is available at 50 percent in expenditures for the committee's activities.

§ 431.15 Methods of administration.

A State plan must provide for methods of administration that are found by the Secretary to be necessary for the proper and efficient operation of the plan.

(Sec. 1902(a)(4) of the Act)
[44 FR 17931, Mar. 23, 1979]

§ 431.16 Reports.

A State plan must provide that the Medicaid agency will—

- (a) Submit all reports required by the Secretary;
- (b) Follow the Secretary's instructions with regard to the form and content of those reports; and
- (c) Comply with any provisions that the Secretary finds necessary to verify and assure the correctness of the reports.

[44 FR 17931, Mar. 23, 1979]

§ 431.17 Maintenance of records.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes the kinds of records a Medicaid agency must maintain, the retention period, and the conditions under which microfilm copies may be substituted for original records.

(b) *Content of records.* A State plan must provide that the Medicaid agency will maintain or supervise the maintenance of the records necessary for the proper and efficient operation of the plan. The records must include—

- (1) Individual records on each applicant and recipient that contain information on—
 - (i) Date of application;
 - (ii) Date of and basis for disposition;
 - (iii) Facts essential to determination of initial and continuing eligibility;
 - (iv) Provision of medical assistance;
 - (v) Basis for discontinuing assistance;
 - (vi) The disposition of income and eligibility verification information received under §§ 435.940 through 435.960 of this subchapter; and
- (2) Statistical, fiscal, and other records necessary for reporting and ac-

countability as required by the Secretary.

(c) *Retention of records.* The plan must provide that the records required under paragraph (b) of this section will be retained for the periods required by the Secretary.

(d) *Conditions for optional use of microfilm copies.* The agency may substitute certified microfilm copies for the originals of substantiating documents required for Federal audit and review, if the conditions in paragraphs (d)(1) through (4) of this section are met.

(1) The agency must make a study of its record storage and must show that the use of microfilm is efficient and economical.

(2) The microfilm system must not hinder the agency's supervision and control of the Medicaid program.

(3) The microfilm system must—

(i) Enable the State to audit the propriety of expenditures for which FFP is claimed; and

(ii) Enable the HHS Audit Agency and CMS to properly discharge their respective responsibilities for reviewing the manner in which the Medicaid program is being administered.

(4) The agency must obtain approval from the CMS regional office indicating—

(i) The system meets the conditions of paragraphs (d)(2) and (3) of this section; and

(ii) The microfilming procedures are reliable and are supported by an adequate retrieval system.

[44 FR 17931, Mar. 23, 1979, as amended at 51 FR 7210, Feb. 28, 1986]

§ 431.18 Availability of agency program manuals.

(a) *Basis and purpose.* This section, based on section 1902(a)(4) of the Act, prescribes State plan requirements for facilitating access to Medicaid rules and policies by individuals outside the State Medicaid agency.

(b) *State plan requirements.* A State plan must provide that the Medicaid agency meets the requirements of paragraphs (c) through (g) of this section.

(c) *Availability in agency offices.* (1) The agency must maintain, in all its offices, copies of its current rules and