

(4) Nursing facility services for individuals age 65 or older in an institution for mental diseases.

(5) Inpatient psychiatric services for individuals under age 21.

(6) Nursing facility services for individuals under 21.

(7) Intermediate care facility services for the mentally retarded.

[59 FR 56234, Nov. 10, 1994]

**§ 441.12 Inpatient hospital tests.**

Except in an emergency situation (see § 440.170(e)(1) of this chapter for definition), FFP is not available in expenditures for inpatient hospital tests unless the tests are specifically ordered by the attending physician or other licensed practitioner, acting within the scope of practice as defined under State law, who is responsible for the diagnosis or treatment of a particular patient's condition.

[46 FR 48554, Oct. 1, 1981]

**§ 441.13 Prohibitions on FFP: Institutionalized individuals.**

(a) FFP is not available in expenditures for services for—

(1) Any individual who is in a public institution, as defined in § 435.1010 of this chapter; or

(2) Any individual who is under age 65 and is in an institution for mental diseases, except an individual who is under age 22 and receiving inpatient psychiatric services under subpart D of this part.

(b) With the exception of active treatment services (as defined in § 483.440(a) of this chapter for residents of ICFs/MR and in § 441.154 for individuals under age 21 receiving inpatient psychiatric services), payments to institutions for the mentally retarded or persons with related conditions and to psychiatric facilities or programs providing inpatient psychiatric services to individuals under age 21 may not include reimbursement for formal educational services or for vocational services. Formal educational services relate to training in traditional academic subjects. Subject matter rather than setting, time of day, or class size determines whether a service is educational. Traditional academic subjects include, but are not limited to,

science, history, literature, foreign languages, and mathematics. Vocational services relate to organized programs that are directly related to the preparation of individuals for paid or unpaid employment. An example of vocational services is time-limited vocational training provided as a part of a regularly scheduled class available to the general public.

(c) FFP is not available in expenditures for services furnished by an organ procurement organization on or after April 1, 1988, that does not meet the requirements of part 486 subpart G of this chapter.

[43 FR 45229, Sept. 29, 1978, as amended at 51 FR 22041, June 17, 1986; 53 FR 6549, Mar. 1, 1988; 57 FR 54709, Nov. 20, 1992; 71 FR 31046, May 31, 2006; 71 FR 39229, July 12, 2006]

**§ 441.15 Home health services.**

With respect to the services defined in § 440.70 of this subchapter, a State plan must provide that—

(a) Home health services include, as a minimum—

(1) Nursing services;

(2) Home health aide services; and

(3) Medical supplies, equipment, and appliances.

(b) The agency provides home health services to—

(1) Categorically needy recipients age 21 or over;

(2) Categorically needy recipients under age 21, if the plan provides skilled nursing facility services for them; individuals; and

(3) Medically needy recipients to whom skilled nursing facility services are provided under the plan.

(c) The eligibility of a recipient to receive home health services does not depend on his need for or discharge from institutional care.

(d) The agency providing home health services meets the capitalization requirements included in § 489.28 of this chapter.

[43 FR 45229, Sept. 29, 1978, as amended at 45 FR 24889, Apr. 11, 1980; 63 FR 310, Jan. 5, 1998]

**§ 441.16 Home health agency requirements for surety bonds; Prohibition on FFP.**

(a) *Definitions.* As used in this section, unless the context indicates otherwise—