

**§ 441.472**

**42 CFR Ch. IV (10–1–10 Edition)**

the opportunity to request a fair hearing under § 441.300 if a participant's, or participant's representative, if applicable, request for a budget adjustment is denied or the amount of the budget is reduced.

**§ 441.472 Budget methodology.**

(a) The State shall set forth a budget methodology that ensures service authorization resides with the State and meets the following criteria:

(1) The State's method of determining the budget allocation is objective and evidence based utilizing valid, reliable cost data.

(2) The State's method is applied consistently to participants.

(3) The State's method is open for public inspection.

(4) The State's method includes a calculation of the expected cost of the self-directed PAS and supports, if those services and supports were not self-directed.

(5) The State has a process in place that describes the following:

(i) Any limits it places on self-directed services and supports, and the basis for the limits.

(ii) Any adjustments that will be allowed and the basis for the adjustments.

(b) The State must have procedures to safeguard participants when the budgeted service amount is insufficient to meet a participant's needs.

(c) The State must have a method of notifying participants, or their representative, if applicable, of the amount of any limit that applies to a participant's self-directed PAS and supports.

(d) The budget may not restrict access to other medically necessary care and services furnished under the plan and approved by the State but not included in the budget.

(e) The State must have a procedure to adjust a budget when a reassessment indicates a change in a participant's medical condition, functional status or living situation.

**§ 441.474 Quality assurance and improvement plan.**

(a) The State must provide a quality assurance and improvement plan that describes the State's system of how it

will perform activities of discovery, remediation and quality improvement in order to learn of critical incidents or events that affect participants, correct shortcomings, and pursue opportunities for system improvement.

(b) The quality assurance and improvement plan shall also describe the system performance measures, outcome measures, and satisfaction measures that the State must use to monitor and evaluate the self-directed State plan option. Quality of care measures must be made available to CMS upon request and include indicators approved or prescribed by the Secretary.

**§ 441.476 Risk management.**

(a) The State must specify the risk assessment methods it uses to identify potential risks to the participant.

(b) The State must specify any tools or instruments it uses to mitigate identified risks.

(c) The State must ensure that each service plan includes the risks that an individual is willing and able to assume, and the plan for how identified risks will be mitigated.

(d) The State must ensure that the risk management plan is the result of discussion and negotiation among the persons designated by the State to develop the service plan, the participant, the participant's representative, if any, and others from whom the participant may seek guidance.

**§ 441.478 Qualifications of providers of personal assistance.**

(a) States have the option to permit participants, or their representatives, if applicable, to hire any individual capable of providing the assigned tasks, including legally liable relatives, as paid providers of the PAS identified in the service plan and budget.

(b) Participants, or their representatives, if applicable, retain the right to train their workers in the specific areas of personal assistance needed by the participant and to perform the needed assistance in a manner that comports with the participant's personal, cultural, and/or religious preferences. Participants, or their representatives, if applicable, also have