the right to access other training provided by or through the State so that their PAS providers can meet any additional qualifications required or desired by participants, or participants’ representatives, if applicable.

(c) Participants, or their representatives, if applicable, retain the right to establish additional staff qualifications based on participants’ needs and preferences.

§ 441.480 Use of a representative.

(a) States may permit participants to appoint a representative to direct the provision of self-directed PAS on their behalf. The following types of representatives are permissible:

(1) A minor child’s parent or guardian.

(2) An individual recognized under State law to act on behalf of an incapacitated adult.

(3) A State-mandated representative, after approval by CMS of the State criteria, if the participant has demonstrated, after additional counseling, information, training or assistance, the inability to self-direct PAS.

(b) A person acting as a representative for a participant receiving self-directed PAS is prohibited from acting as a provider of self-directed PAS to the participant.

§ 441.482 Permissible purchases.

(a) Participants, or their representatives, if applicable, may, at the State’s option, use their service budgets to pay for items that increase a participant’s independence or substitute (such as a microwave oven or an accessibility ramp) for human assistance, to the extent that expenditures would otherwise be made for human assistance.

(b) The services, supports and items that are purchased with a service budget must be linked to an assessed participant need or goal established in the service plan.

§ 441.484 Financial management services.

(a) States may choose to provide financial management services to participants, or their representatives, as applicable, self-directing PAS, with the exception of those participants utilizing the cash option who directly perform those functions, utilizing a financial management entity, through the following arrangements:

(1) States may use a reporting or subagent through its fiscal intermediary in accordance with section 3504 of the IRS Code and Revenue Procedure 80-4 and Notice 2003-70 or

(2) States may use a vendor organization that has the capabilities to perform the required tasks in accordance with Section 3504 of the IRS Code and Revenue Procedure 70-6. When private entities furnish financial management services, the procurement method must meet the requirements set forth in 45 CFR 74.40 through 74.48.

(b) States must provide oversight of financial management services by performing the following functions:

(1) Monitoring and assessing the performance of financial management entity, including assuring the integrity of financial transactions they perform.

(2) Designating a State entity or entities responsible for this monitoring.

(3) Determining how frequently financial management entity performance will be assessed.

(c) A financial management entity must provide functions including, but not limited to, the following:

(1) Collect and process timesheets of the participant’s workers.

(2) Process payroll, withholding, filing and payment of applicable Federal, State and local employment-related taxes and insurance.

(3) Maintain a separate account for each participant’s budget.

(4) Track and report disbursements and balances of participant funds.

(5) Process and pay invoices for goods and services approved in the service plan.

(6) Provide to participants periodic reports of expenditures and the status of the approved service budget.

(d) States not utilizing a financial management entity must perform the functions listed in paragraph (c) of this section on behalf of participants self-directing PAS, with the exception of those participants utilizing the cash option who directly perform those functions.

(e) States will be reimbursed for the cost of financial management services, either provided directly or through a
financial management entity, at the administrative rate of 50 percent.

PART 442—STANDARDS FOR PAYMENT TO NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED

Subpart A—General Provisions

Sec.
442.1 Basis and purpose.
442.2 Terms.

Subpart B—Provider Agreements

442.10 State plan requirement.
442.12 Provider agreement: General requirements.
442.13 Effective date of provider agreement.
442.14 Effect of change of ownership.
442.15 Duration of agreement for ICFs/MR.
442.16 Extension of agreement for ICFs/MR.
442.30 Agreement as evidence of certification.
442.40 Availability of FFP during appeals for ICFs/MR.
442.42 FFP under a retroactive provider agreement following appeal.

Subpart C—Certification of ICFs/MR

442.100 State plan requirements.
442.101 Obtaining certification.
442.105 Certification of ICFs/MR with deficiencies: General provisions.
442.109 Certification period for ICFs/MR: General provisions.
442.110 Certification period for ICFs/MR with standard-level deficiencies.
442.117 Termination of certification for ICFs/MR whose deficiencies pose immediate jeopardy.
442.118 Denial of payments for new admissions to an ICF/MR.
442.119 Duration of denial of payments and subsequent termination of an ICF/MR.

Subparts D–F [Reserved]

AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.


§ 442.2 Terms.

In this part—

Facility refers to a nursing facility, and an intermediate care facility for the mentally retarded or persons with related conditions (ICF/MR).

Facility, and any specific type of facility referred to, may include a distinct part of a facility as specified in § 440.40 or § 440.150 of this subchapter.

Immediate jeopardy means a situation in which immediate corrective action is necessary because the provider’s noncompliance with one or more requirements of participation or conditions of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to an individual receiving care in a facility.

New admission means the admission of a Medicaid recipient who has never