(a) The agency finds that the facility’s deficiencies, individually or in combination, do not jeopardize the patient’s health and safety, nor seriously limit the facility’s capacity to give adequate care.

(b) The agency finds acceptable the facility’s written plan for correcting the deficiencies.

(c) If a facility was previously certified with a deficiency and has a different deficiency at the time of the next survey, the agency documents that the facility—

1. Was unable to stay in compliance with the standard for ICFs/MR for reasons beyond its control, or despite intensive efforts to comply; and

2. Is making the best use of its resources to furnish adequate care.

(d) If a facility has the same deficiency it had under the prior certification, the agency documents that the facility—

1. Did achieve compliance with the standard for ICFs/MR at some time during the prior certification period;

2. Made a good faith effort, as judged by the survey agency, to stay in compliance; and

3. Again became out of compliance for reasons beyond its control.

§ 442.109 Certification period for ICFs/MR: General provisions.

(a) A survey agency may certify a facility that fully meets applicable requirements for up to 12 months.

(b) The survey agency may notify the Medicaid agency that the term of a provider agreement may be extended up to 2 months after the expiration date of the agreement under the conditions specified in § 442.16.

§ 442.110 Certification period for ICFs/MR with standard-level deficiencies.

(a) Facilities with deficiencies may be certified under § 442.105 for the period specified in either paragraph (b) or (c) of this section.

(b) The survey agency may certify a facility for a period that ends no later than 60 days after the last day specified in the plan for correcting deficiencies. The certification period must not exceed 12 months, including the period allowed for corrections.

(c) The survey agency may certify a facility for up to 12 months with a condition that the certification will be automatically canceled on a specified date within the certification period unless—

1. The survey agency finds that all deficiencies have been satisfactorily corrected; or

2. The survey agency finds and notifies the Medicaid agency that the facility has made substantial progress in correcting the deficiencies and has a new plan for correction that is acceptable.

The automatic cancellation date must be no later than 60 days after the last day specified in the plan for correction of deficiencies under § 442.105.

§ 442.117 Termination of certification for ICFs/MR whose deficiencies pose immediate jeopardy.

(a) A survey agency must terminate a facility’s certification if it determines that—

1. The facility no longer meets conditions of participation for ICFs/MR as specified in subpart I of part 483 of this chapter.

2. The facility’s deficiencies pose immediate jeopardy to residents’ health and safety.

(b) Subsequent to a certification of a facility’s noncompliance, the Medicaid agency must, in terminating the provider agreement, follow the appeals process specified in part 431, subpart D of this chapter.

§ 442.118 Denial of payments for new admissions to an ICF/MR.

(a) Basis for denial of payments. The Medicaid agency may deny payment for new admissions to an ICF/MR that
§ 442.119 Duration of denial of payments and subsequent termination of an ICF/MR.

(a) Period of denial. The denial of payments for new admissions will continue for 11 months after the month it was imposed unless, before the end of that period, the Medicaid agency finds that—

(1) The facility has corrected the deficiencies or is making a good faith effort to achieve compliance with the conditions of participation for ICFs/MR; or

(2) The deficiencies are such that it is necessary to terminate the facility’s provider agreement.

(b) Subsequent termination. The Medicaid agency must terminate a facility’s provider agreement—

(1) Upon the agency’s finding that the facility has been unable to achieve compliance with the conditions of participation for ICFs/MR during the period that payments for new admissions have been denied;

(2) Effective the day following the last day of the denial of payments period; and

(3) In accordance with the procedures for appeal of terminations set forth in subpart D of part 431 of this chapter.


Subparts D–F [Reserved]

PART 447—PAYMENTS FOR SERVICES

Subpart A—Payments: General Provisions

Sec. 447.1 Purpose.
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447.15 Acceptance of State payment as payment in full.
447.20 Provider restrictions: State plan requirements.
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COST SHARING

447.50 Cost sharing: Basis and purpose.

ENROLLMENT FEE, PREMIUM OR SIMILAR COST SHARING CHARGE

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DEDUCTIBLE, COINSURANCE, CO-PAYMENT OR SIMILAR COST-SHARING CHARGE

447.53 Applicability; specification; multiple charges.
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