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this section are met, the assurances
and/or the State plan amendment will
be deemed accepted and approved.

(c) Effective date. A State plan amend-
ment that is approved will become ef-
fective not earlier than the first day of
the calendar quarter in which an ap-
provable amendment is submitted in
accordance with §§ 430.20 of this chapter
and 447.253.

[48 FR 56058, Dec. 19, 1983, as amended at 52
FR 28147, July 28, 1987]

FEDERAL FINANCIAL PARTICIPATION

§ 447.257 FFP: Conditions relating to
institutional reimbursement.

FFP is not available for a State’s ex-
penditures for hospital inpatient or
long-term care facility services that
are in excess of the amounts allowable
under this subpart.

[52 FR 28147, July 28, 1987]

UPPER LIMITS

§ 447.271 Upper limits based on cus-
tomary charges.

(a) Except as provided in paragraph
(b) of this section, the agency may not
pay a provider more for inpatient hos-
pital services under Medicaid than the
provider’s customary charges to the
general public for the services.

(b) The agency may pay a public pro-
vider that provides services free or at a
nominal charge at the same rate that
would be used if the provider charges
were equal to or greater than its costs.

[75 FR 73975, Nov. 30, 2010]

§ 447.272 Inpatient services: Applica-
tion of upper payment limits.

(a) Scope. This section applies to
rates set by the agency to pay for inpa-
tient services furnished by hospitals,
NFs, and ICFs/IID within one of the fol-
lowing categories:

(1) State government-owned or oper-
ated facilities (that is, all facilities
that are either owned or operated by
the State).

(2) Non-State government-owned or
operated facilities (that is, all govern-
ment facilities that are neither owned
nor operated by the State).

(3) Privately-owned and operated fa-
cilities.

(b) General rules. (1) Upper payment
limit refers to a reasonable estimate of
the amount that would be paid for the
services furnished by the group of fac-
ilities under Medicare payment prin-
ciples in subchapter B of this chapter.

(2) Except as provided for in para-
graph (c) of this section, aggregate
Medicaid payments to a group of facili-
ties within one of the categories de-
described in paragraph (a) of this section
may not exceed the upper payment
limit described in paragraph (b)(1) of
this section.

(c) Exceptions.—(1) Indian Health Ser-
vices and tribal facilities. The limitation
in paragraph (b) of this section does
not apply to Indian Health Services fa-
cilities and tribal facilities that are
funded through the Indian Self-Deter-
mination and Education Assistance

(2) Disproportionate share hospitals.
The limitation in paragraph (b) of this
section does not apply to payment ad-
justments made under section 1923 of
the Act that are made under a State
plan to hospitals found to serve a dis-
proportionate number of low-income
patients with special needs as provided
Disproportionate share hospital (DSH)
payments are subject to the following
limits:

(i) The aggregate DSH limit using
the Federal share of the DSH limit
under section 1923(f) of the Act.

(ii) The hospital-specific DSH limit
in section 1923(g) of the Act.

(iii) The aggregate DSH limit for in-
stitutions for mental disease (IMDs)
under section 1923(h) of the Act.

(d) Compliance dates. Except as per-
mitted under paragraph (e) of this sec-
section, a State must comply with the
upper payment limit described in para-
graph (b) of this section by one of the
following dates:

(1) For non-State government owned
or operated hospitals,—March 19, 2002.

(2) For all other facilities—March 13,

[66 FR 3175, Jan. 12, 2001, as amended at 66
FR 46399, Sept. 5, 2001; 67 FR 2510, Jan. 18,
2002; 72 FR 29834, May 29, 2007; 75 FR 73975,
Nov. 30, 2010; 77 FR 31312, May 29, 2012]