

(e) *Restriction.* No payments to a facility or, under Medicaid, CMS payments to the State on behalf of the facility, are made for the period between the date that the—

(1) Denial of payment remedy is imposed; and

(2) Facility achieves substantial compliance, as determined by CMS or the State.

[59 FR 56243, Nov. 10, 1994; 60 FR 50119, Sept. 28, 1995]

§ 488.418 Secretarial authority to deny all payments.

(a) *CMS option to deny all payment.* If a facility has not met a requirement, in addition to the authority to deny payment for all new admissions as specified in § 488.417, CMS may deny any further payment for all Medicare residents in the facility and to the State for all Medicaid residents in the facility.

(b) *Prospective resumption of payment.* Except as provided in paragraphs (d) and (e) of this section, if the facility achieves substantial compliance, CMS resumes payment prospectively from the date that it verifies as the date that the facility achieved substantial compliance.

(c) *Restriction on payment after denial of payment is imposed.* If payment to the facility or to the State resumes after denial of payment for all residents, no payment is made for the period between the date that—

(1) Denial of payment was imposed; and

(2) CMS verifies as the date that the facility achieved substantial compliance.

(d) *Retroactive resumption of payment.* Except when a facility has repeated instances of substandard quality of care, as specified in paragraph (e) of this section, when CMS or the State finds that the facility was in substantial compliance before the date of the revisit, or before CMS or the survey agency received credible evidence of such compliance, payment is resumed on the date that substantial compliance was achieved, as determined by CMS.

(e) *Resumption of payment—repeated instances of substandard care.* When CMS denies payment for all Medicare residents for repeated instances of sub-

standard quality of care, payment is resumed when—

(1) The facility achieved substantial compliance, as indicated by a revisit or written credible evidence acceptable to CMS; and

(2) CMS believes that the facility will remain in substantial compliance.

§ 488.422 State monitoring.

(a) A State monitor—

(1) Oversees the correction of deficiencies specified by CMS or the State survey agency at the facility site and protects the facility's residents from harm;

(2) Is an employee or a contractor of the survey agency;

(3) Is identified by the State as an appropriate professional to monitor cited deficiencies;

(4) Is not an employee of the facility;

(5) Does not function as a consultant to the facility; and

(6) Does not have an immediate family member who is a resident of the facility to be monitored.

(b) A State monitor must be used when a survey agency has cited a facility with substandard quality of care deficiencies on the last 3 consecutive standard surveys.

(c) State monitoring is discontinued when—

(1) The facility has demonstrated that it is in substantial compliance with the requirements, and, if imposed for repeated instances of substandard quality of care, will remain in compliance for a period of time specified by CMS or the State; or

(2) Termination procedures are completed.

[59 FR 56243, Nov. 10, 1994; 60 FR 50119, Sept. 28, 1995]

§ 488.424 Directed plan of correction.

CMS, the State survey agency, or the temporary manager (with CMS or State approval) may develop a plan of correction and CMS, the State, or the temporary manager require a facility to take action within specified timeframes.

§ 488.425 Directed inservice training.

(a) *Required training.* CMS or the State agency may require the staff of a