

FOREWORD

A. Function of the State Medicaid Manual (SMM).--This manual makes available to all State Medicaid agencies, in a form suitable for ready reference, informational and procedural material needed by the States to administer the Medicaid program. It is an official medium by which the Health Care Financing Administration (HCFA) issues mandatory, advisory, and optional Medicaid policies and procedures to the Medicaid State agencies.

B. Contents and Organization.--

1. Contents.--The manual provides instructions, regulatory citations, and information for implementing provisions of Title XIX of the Social Security Act (the Act). Instructions are official interpretations of the law and regulations, and, as such, are binding on Medicaid State agencies. This authority is recognized in the introductory paragraph of State plans. Interpretations and instructions relating to common policy under Titles I, IV-A, X, XIV, XVI, and XIX of the Act are also included.

2. Organization.--The material is organized into major Parts, which are divided into chapters and sections. The manual is structured as close as possible to the codification of Medicaid regulations. A crosswalk of manual sections and regulations is also included.

The instructions interpret or clarify issues in the regulations and set forth procedures you are required to follow in implementing the regulations.

C. The SMM and Other Reference Material.--Title XIX is the statutory basis for the Medicaid program and the foundation for the regulations and all manual material. Medicaid regulations are contained in Parts 42 and 45 of the Code of Federal Regulations. Regulation citations are included in the manual text.

D. Manual Revisions.--The manual is designed to accommodate new pages as text is added or revised. Substitute pages containing revised sections or chapters are, therefore, issued as needed. The transmittal pages summarize the changes and include the effective dates of the revisions. When a major change in regulations, policies, or procedures is involved, the background is provided. New or changed materials are indicated in the left margin of a page in the following manner:

Line on which change begins.

Line on which change ends.

The revision transmittal sheet identifies new page numbers and the pages replaced. If at a later date, you need to refer to the background explanation given on a transmittal sheet, you can identify the transmittal by its number which appears on each manual page.

E. Use of the Revision Transmittal Check List.--Each manual Part has its own check sheet for recording receipt of revisions since different parts of the manual have different distributions. Each Part will have its own numerical sequence of transmittals. File revised manual transmittals in transmittal number order as a safeguard against discarding a more recent page in favor of an older one.

Transmittals are not always distributed in strict numerical sequence. Therefore, if it appears that you have not received a particular transmittal, allow 15 working days after receipt of a higher numbered transmittal before requesting a transmittal that you have not received.

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2902.7 Impartiality Of Official Conducting The Hearing (42 CFR 431.240(a)(3)).--The State official or panel conducting the hearing shall not have been connected in any way with the previous actions or decisions on which the appeal is made. For example, a field supervisor who has advised the local agency in the handling of a case would be disqualified from acting as the hearing officer, however a different field supervisor could serve.

2902.8 Claimant's Right To A Different Medical Assessment (42 CFR 431.240(b)).--An appeal on medical issues may involve a challenge to the Medical Review Team's decision regarding disability; or there may be disagreement about the content of reports concerning the appellant's physical or mental condition or the individual's need for medical care requiring prior authorization. When the assessment by a medical authority, other than the one involved in the decision under question, is requested by the claimant and considered necessary by the hearing officer, obtain it at agency expense. The medical source should be one satisfactory to the claimant. The assessment by such medical authority shall be given in writing or by personal testimony as an expert witness and shall be incorporated into the record.

2902.9 Rights Of Claimants During Hearings (42 CFR 431.242).--Provide the appellant or his representative an opportunity to examine all materials to be used at the hearing. Non-record or confidential information which the claimant or his representative does not have the opportunity to see is not made a part of the hearing record or used in a decision on an appeal. If the hearing officer reviews the case record, or other material, including the hearing summary proposal by agency staff, such material must also be made available to the appellant or his representative. The hearing officer must enable the appellant and his witnesses to give all evidence on points at issue and the appellant and his representative to advance arguments without undue interference. Give the appellant the opportunity to confront and cross-examine witnesses at the hearing and to present evidence in rebuttal. Do not use application of the rules for the conduct of the hearing to suppress the appellant's claim. Allow the claimant to present his case in the way he desires. For example, some claimants wish to tell their own story or have a relative or friend present the evidence for them and others may be represented by legal counsel or other spokesman. Make provisions to secure an interpreter when an appellant can't speak English.

2902.10 Prompt, Definitive And Final Action (42 CFR 431.244(f)).--The requirement for prompt, definitive, and final administrative action means that all requests for a hearing are to receive prompt attention and will be carried through all steps necessary to completion. The requirement is not met if the State dismisses such a request for any reason other than withdrawal or abandonment of the request by the claimant or as permitted elsewhere in these instructions. Adhere to the time limit of 90 days between the date of the request for the hearing and the date of the final administrative action except where the agency grants a delay at the appellant's request, or when required medical evidence necessary for the hearing can not be obtained within 90 days. In such case the hearing officer may, at his discretion, grant a delay up to 30 days.