

## 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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2903.5 Responsibility for Hearings Under Medicaid (431.243).--If the hearing involves an issue of eligibility and the Medicaid agency is not responsible for eligibility determinations, the State agency that is responsible for determining eligibility must participate in the hearing.

The two agencies should work out the precise arrangement between them for conducting such hearings. In doing so, the Medicaid agency may use the hearing process employed by the State agency which made the eligibility determination; the hearing officer in such cases will make a recommendation to the Medicaid agency. That agency is responsible for presenting to the hearing officer the agency's justification for the decision it made, and the evidence upon which it is based.

The decision rendered as a result of a hearing described in this situation will be made in the name of the Medicaid agency. The Medicaid agency is responsible for the implementation of the decision. However, none of the procedures allowed by this section may be used to deny a claimant any of the due process rights contained elsewhere in these instructions.

#### 2904. REOPENING AND RECOVERY

2904.1 Reopening Final Determinations Of Eligibility.--Reopening a final determination permits the correction of errors in that determination. It is particularly suited to changing a determination which was reasonable when rendered but is now unreasonable because new evidence concerning the determination has been submitted which may alter that determination. However, unrestricted reopening would seriously impair due process, administrative efficiency and that certainty in determinations which applicants and recipients have the right to expect. Consequently, reopening should be permitted only when there is good cause to question the accuracy of a determination. The following discussion sets out procedures which you may wish to follow in designing rules to govern reopening of fair hearing determinations.

A. Who May Reopen An Initial, Revised Determination Or Hearing Decision.--You may reopen and revise any determination you have issued within the time limits and for the reasons described below.

B. Action Permitting Reopening--

o Written request by the applicant, recipient or his representative, within the time limit, alleging good cause for reopening a previously final determination, or

o You may, on your own notion, reopen a determination when you have information documenting that the previous determination is incorrect or there is other good cause.

C. Definition of Good Cause for Reopening.--

1. New and Material Evidence.--Any evidence which was not considered when the previous determination was made and which shows facts that may result in a conclusion different from the previous decision, even though the previous determination was entirely reasonable when it was made.

It is also possible that the evidence may justify or require that further development be undertaken before making a revised determination.

2. Clerical Error.--Any mechanical, computer or human mistakes in mathematical computations. For example, errors in computing resources, income, or spenddown requirements for Medicaid eligibility.

3. Error on the Face of the Evidence.--Any error in making a Medicaid determination which causes that determination to be incorrect at the time it is made. For example, evidence is on file to show that the applicant's resources meet the State's standard for eligibility yet the application is denied.

D. Time Limit for Reopening.--You may reopen a previously final Medicaid determination within 1 year of that determination when the conditions in paragraph C are met, except when the determination involves fraud. In such cases there is no time limit.

E. Reopening at any time.--You may reopen a previously final Medicaid determination at any time if you have evidence that the determination was obtained through fraud.

2904.2 Recovery.--

A. You may recover from the recipient money you paid for services provided the recipient if:

- o The services were provided as a result of §2902.2A1, and
- o The recipient's appeal is unsuccessful.

B. Inform the recipient of this provision at the time a hearing is requested if you employ recovery.