

PART 13--STATE PLAN PROCEDURES AND PREPRINTS

Section Page

STATE PLANS AND PLAN AMENDMENTS

State Plans and Plan Amendments - General .....	13025	13-25
Approval of State Plans and Amendments .....	13026	13-25
Inclusion of Waiver Provisions in the Approved.State Medicaid Plan .....	13100	11-51

## 13025. STATE PLANS AND PLAN AMENDMENTS-GENERAL

The State plan is a comprehensive statement submitted by the State agency describing the nature and scope of its program and giving assurance that it will be administered in conformity with the specific requirements stipulated in the pertinent title of the Act, and other applicable official issuances of the Department of Health and Human Services (HHS). The State plan contains all information necessary for the Department to determine whether the plan can be approved, as a basis for Federal financial participation in the State program.

## 13026. APPROVAL OF STATE PLANS AND AMENDMENTS

The State plan consists of written documents furnished by the State to cover each of its programs under the Act including the medical assistance program (title XIX). After approval of the original plan by HHS, all relevant changes, required by new statutes, rules, regulations, interpretations, and court decisions, are required to be submitted currently so that HHS may determine whether the plan continues to meet Federal requirements and policies.

A. Submittal.--State plans and revisions of the plans are submitted first to the State governor or his designee for review and then to the HCFA regional office. The States are encouraged to obtain consultation of the regional staff when a plan is in process of preparation or revision.

B. Review.--Staff in the regional offices are responsible for review of State plans and amendments. They also initiate discussion with the State agency on clarification of significant aspects of the plan which come to their attention in the course of this review. State plan material on which the regional staff has questions concerning the application of Federal policy is referred with recommendations as required to the HCFA central office for technical assistance. Comments and suggestions, including those of consultants in specified areas, may be prepared by the central office for use by the regional staff in negotiations with the State agency.

C. Action.--The Regional Administrator exercises delegated authority to take affirmative action on State plans and amendments thereto on the basis of policy statements or precedents previously approved by the Administrator. The Administrator retains authority for determining that proposed plan material is not approvable, or that a previously approved plan no longer meets the requirements for approval, except that a final determination of disapproval may not be made without prior consultation and discussion by the Administrator with the Secretary. The Regional Administrator or the Administrator formally notifies the State agency of the actions taken on State plans or revisions.

D. Basis for Approval.--Determinations as to whether State plans (including plan amendments and administrative practice under the plans) originally meet or continue to meet, the requirements for approval are based on relevant Federal statutes and regulations. Guidelines are furnished to assist in the interpretation of the regulations.

E. Prompt Approval of State Plans and Plan Amendments.--Pursuant to section 1915 of the Act, the determination as to whether a State plan submitted for approval conforms to the requirements for approval under the Act and regulations issued pursuant thereto shall be made promptly and no later than the 90th day following the date on which the plan submittal is received in the regional office. The State plan or plan amendment will be deemed approved unless the Secretary within the 90-day period, either approves, disapproves or requests additional information, in writing, which is needed to make a final determination on the submittal. After the Secretary receives the additional information, the plan or plan amendment will be deemed approved unless the Secretary, within 90 days of such date, either approves or disapproves the plan or plan amendment.

F. Effective Date.--The effective date of a new plan may not be earlier than the first day of the calendar quarter in which an approvable plan is submitted, and with respect to expenditures for assistance under such plan, may not be earlier than the first day on which the plan is in operation on a statewide basis. The same applies with respect to plan amendments that provide additional assistance or services to persons eligible under the approved plan or that make new groups eligible for assistance or services provided under the approved plan.

### 13100. INCLUSION OF WAIVER PROVISIONS IN THE APPROVED STATE MEDICAID PLAN

Section 2175 of the Omnibus Reconciliation Act (OBRA) of 1981 authorized the Secretary to waive certain Federal requirements to allow States (1) to implement a primary care case management system or a physician specialty arrangement, (2) to allow a locality to act as a central broker in assisting Medicaid beneficiaries in selecting among competing health plans, (3) to share with recipients savings resulting from use of more cost-effective care, and (4) to restrict the provider from whom the beneficiary can obtain services in other than emergency circumstances. § 2176 of OBRA 1981 authorized the Secretary to allow States to include under their plan approved home or community-based services, except for room and board, to individuals who, without these services, would require care in a skilled nursing facility (SNF) or intermediate care facility (ICF) which would be paid for under the State plan. Additionally, § 131 of the Tax Equity and Fiscal Responsibility Act of 1982 authorized the Secretary to waive the Medicaid nominal copayment provision to permit charges up to twice the nominal amount for nonemergency services provided in hospital emergency rooms where alternative nonemergency, outpatient services are available.

Implementation by a State of any of these waiver options affects the continued applicability of specified State plan provisions as they relate to the eligibility groups and services described in the waiver. The form, included on page 13-52; will be used to reflect the affected provisions in the State plan.

The regional office will generate one form for each approved waiver and will forward the completed form to you for review and signature by the Director. Return the signed form to the regional office for incorporation into the front of the official copy of the approved Medicaid State plan. Since these forms are for reference only and do not constitute part of the approved plan, they will precede the State plan title page, table of contents, and preprint pages.

Prior to returning the signed form to the regional office, duplicates should be made for incorporation into the State agency copy(s) of the State plan.

