

### Subpart L—Vaccines for Children Program

SOURCE: 77 FR 66700, Nov. 6, 2012, unless otherwise noted.

#### § 441.600 Basis and purpose.

This subpart implements sections 1902(a)(62) and 1928 of the Act by requiring states to provide for a program for the purchase and distribution of pediatric vaccines to program-registered providers for the immunization of vaccine-eligible children.

#### § 441.605 General requirements.

(a) Federally-purchased vaccines under the VFC Program are made available to children who are 18 years of age or younger and who are any of the following:

- (1) Eligible for Medicaid.
- (2) Not insured.

(3) Not insured with respect to the vaccine and who are administered pediatric vaccines by a federally qualified health center (FQHC) or rural health clinic.

(4) An Indian, as defined in section 4 of the Indian Health Care Improvement Act.

(b) Under the VFC program, vaccines must be administered by program-registered providers. Section 1928(c) of the Act defines a program-registered provider as any health care provider that meets the following requirements:

(1) Is licensed or authorized to administer pediatric vaccines under the law of the state in which the administration occurs without regard to whether or not the provider is a Medicaid-participating provider.

(2) Submits to the state an executed provider agreement in the form and manner specified by the Secretary.

(3) Has not been found, by the Secretary or the state to have violated the provider agreement or other applicable requirements established by the Secretary or the state.

#### § 441.610 State plan requirements.

A state plan must provide that the Medicaid agency meets the requirements of this part.

#### § 441.615 Administration fee requirements.

(a) Under the VFC Program, a provider who administers a qualified pediatric vaccine to a federally vaccine-eligible child, may not impose a charge for the cost of the vaccine.

(1) A provider can impose a fee for the administration of a qualified pediatric vaccine as long as the fee does not exceed the costs of the administration (as determined by the Secretary based on actual regional costs for the administration).

(2) A provider may not deny administration of a qualified pediatric vaccine to a vaccine-eligible child due to the inability of the child's parents or legal guardian to pay the administration fee.

(b) The Secretary must publish each State's regional maximum charge for the VFC program, which represents the maximum amount that a provider in a state could charge for the administration of qualified pediatric vaccines to federally vaccine-eligible children under the VFC program.

(c) An interim formula has been established for the calculation of a state's regional maximum administration fee. That formula is as follows: National charge data × updated geographic adjustment factors (GAFs) = maximum VFC fee.

(d) The State Medicaid Agency must submit a state plan amendment that identifies the amount that the state will pay providers for the administration of a qualified pediatric vaccine to a Medicaid-eligible child under the VFC program. The amount identified by the state cannot exceed the state's regional maximum administration fee.

(e) Physicians participating in the VFC program can charge federally vaccine-eligible children who are not enrolled in Medicaid the maximum administration fee (if that fee reflects the provider's cost of administration) regardless of whether the state has established a lower administration fee under the Medicaid program. However, there would be no federal Medicaid matching funds available for the administration since these children are not eligible for Medicaid.

**PART 442—STANDARDS FOR PAYMENT TO NURSING FACILITIES AND INTERMEDIATE CARE FACILITIES FOR INDIVIDUALS WITH INTELLECTUAL DISABILITIES**

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**Subparts D–F [Reserved]**

AUTHORITY: Sec. 1102 of the Social Security Act (42 U.S.C. 1302), unless otherwise noted.

SOURCE: 43 FR 45233, Sept. 29, 1978, unless otherwise noted.

**Subpart A—General Provisions**

**§ 442.1 Basis and purpose.**

(a) This part states requirements for provider agreements for facility certification relating to the provision of services furnished by nursing facilities and intermediate care facilities for individuals with intellectual disabilities. This

part is based on the following sections of the Act:

Section 1902(a)(4), administrative methods for proper and efficient operation of the State plan;  
Section 1902(a)(27), provider agreements;  
Section 1902(a)(28), nursing facility standards;  
Section 1902(a)(33)(B), State survey agency functions; Section 1902(i), circumstances and procedures for denial of payment and termination of provider agreements in certain cases;  
Section 1905(c), definition of nursing facility;  
Section 1905(d), definition of intermediate care facility for individuals with intellectual disabilities;  
Section 1905 (f), definition of nursing facility services;  
Section 1910, certification and approval of ICFs/IID and of RHCs;  
Section 1913, hospital providers of nursing facility services;  
Section 1919 (g) and (h), survey, certification and enforcement of nursing facilities; and  
Section 1922, correction and reduction plans for intermediate care facilities for individuals with intellectual disabilities.

(b) Section 431.610 of this subchapter contains requirements for designating the State licensing agency to survey these facilities and for certain survey agency responsibilities.

[43 FR 45233, Sept. 29, 1978, as amended at 47 FR 31533, July 20, 1982; 59 FR 56235, Nov. 10, 1994]

**§ 442.2 Terms.**

In this part—

*Facility* refers to a nursing facility, and an intermediate care facility for Individuals with Intellectual Disabilities or persons with related conditions (ICF/IID).

*Facility*, and any specific type of facility referred to, may include a distinct part of a facility as specified in § 440.40 or § 440.150 of this subchapter.

*Immediate jeopardy* means a situation in which immediate corrective action is necessary because the provider's noncompliance with one or more requirements of participation or conditions of participation has caused, or is likely to cause, serious injury, harm, impairment, or death to an individual receiving care in a facility.

*New admission* means the admission of a Medicaid beneficiary who has never been in the facility or, if previously admitted, had been discharged