

**Subpart E—Abortions****§ 441.200 Basis and purpose.**

This subpart implements section 402 of Pub. L. 97-12, and subsequent laws that appropriate funds for the Medicaid program, including section 204 of Pub. L. 98-619. All of these laws prohibit the use of Federal funds to pay for abortions except when continuation of the pregnancy would endanger the mother's life.

[52 FR 47935, Dec. 17, 1987]

**§ 441.201 Definition.**

As used in this subpart, "physician" means a doctor of medicine or osteopathy who is licensed to practice in the State.

[52 FR 47935, Dec. 17, 1987]

**§ 441.202 General rule.**

FFP is not available in expenditures for an abortion unless the conditions specified in §§ 441.203 and 441.206 are met.

[52 FR 47935, Dec. 17, 1987]

**§ 441.203 Life of the mother would be endangered.**

FFP is available in expenditures for an abortion when a physician has found, and certified in writing to the Medicaid agency, that on the basis of his professional judgment, the life of the mother would be endangered if the fetus were carried to term. The certification must contain the name and address of the patient.

**§§ 441.204–441.205 [Reserved]****§ 441.206 Documentation needed by the Medicaid agency.**

FFP is not available in any expenditures for abortions or other medical procedures otherwise provided for under § 441.203 if the Medicaid agency has paid without first having received the certifications and documentation specified in that section.

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**§ 441.207 Drugs and devices and termination of ectopic pregnancies.**

FFP is available in expenditures for drugs or devices to prevent implanta-

tion of the fertilized ovum and for medical procedures necessary for the termination of an ectopic pregnancy.

**§ 441.208 Recordkeeping requirements.**

Medicaid agencies must maintain copies of the certifications and documentation specified in § 441.203 for 3 years under the recordkeeping requirements at 45 CFR 74.20.

[52 FR 47935, Dec. 17, 1987]

**Subpart F—Sterilizations**

SOURCE: 43 FR 52171, Nov. 8, 1978, unless otherwise noted.

**§ 441.250 Applicability.**

This subpart applies to sterilizations and hysterectomies reimbursed under Medicaid.

**§ 441.251 Definitions.**

As used in this subpart:

*Hysterectomy* means a medical procedure or operation for the purpose of removing the uterus.

*Institutionalized individual* means an individual who is (a) involuntarily confined or detained, under a civil or criminal statute, in a correctional or rehabilitative facility, including a mental hospital or other facility for the care and treatment of mental illness; or (b) confined, under a voluntary commitment, in a mental hospital or other facility for the care and treatment of mental illness.

*Mentally incompetent individual* means an individual who has been declared mentally incompetent by a Federal, State, or local court of competent jurisdiction for any purpose, unless the individual has been declared competent for purposes which include the ability to consent to sterilization.

*Sterilization* means any medical procedure, treatment, or operation for the purpose of rendering an individual permanently incapable of reproducing.

**§ 441.252 State plan requirements.**

A State plan must provide that the Medicaid agency will make payment under the plan for sterilization procedures and hysterectomies only if all the requirements of this subpart were met.