for a 31-day month plus the July 1983 COLA-equivalent ($519.40 + $9.70).

(f) *Required optional State supplementary payment level for months prior to April 1983.* In determining pass-along compliance under the maintenance-of-payment-levels test for months from July 1977 through March 1983, we used December 1976 (or December 1981 under the circumstances described in paragraph (g) of this section) as the standard month for determining the required State supplementary payment level. To determine the December 1976 State supplementary payment levels for categories described in paragraphs (a) through (e) of this section substitute ''December 1976'' for ''March 1983'' and ''January 1977'' for ''April 1983'' whenever they appear in these paragraphs only.

(g) *Alternative required optional State supplementary payment level for July 1982 through March 1983.* States which were in compliance solely under the total-expenditures test for the 12-month period ending June 30, 1982, had the option of substituting December 1981 for December 1976 and switching to the maintenance-of-payment-levels test for July 1982 through March 1983 (see §416.2096(b)(2)). If this situation applies, determine the December 1981 State supplementary payment levels for categories described in paragraphs (a) through (e) of this section by substituting ''December 1981'' for ''March 1983'' and ''January 1982'' for ''April 1983'' whenever they appear in these paragraphs only.

[52 FR 36243, Sept. 28, 1987; 53 FR 4135, Feb. 12, 1988, as amended at 54 FR 19165, May 4, 1989; 54 FR 23018, May 30, 1989]

§416.2099 Compliance with pass-along.

(a) *Information regarding compliance.* Any State required to enter into a pass-along agreement with the Commissioner shall provide appropriate and timely information to demonstrate to the Commissioner's satisfaction that the State is meeting the pass-along requirements. The information shall include, where relevant—

(1) The State's December 1976 supplementary payment levels, any subsequent supplementary payment levels, and any change in State eligibility requirements. If the State made no supplementary payments in December 1976, it shall provide such information about the first month in which it makes supplementary payments;

(2) The State's March 1983 supplementary payment levels, any subsequent supplementary payment levels, and any changes in State eligibility requirements;

(3) The total State expenditures for supplementary payments in the 12-month period beginning July 1976 through June 1977, in each subsequent 12-month period, and in any other 12-month period beginning on the effective date of a Federal SSI benefit increase. The State shall also submit advance estimates of its total supplementary payments in each 12-month period covered by the agreement;

(4) The total State expenditures for supplementary payments in the 6-month periods July 1, 1982 through December 31, 1982 and July 1, 1983 through December 31, 1983; and

(5) The State supplementary payment level payable to residents of Medicaid facilities (see §416.2096(d)) on October 1, 1987 (or, if a State first makes such supplementary payments after October 1, 1987, but before July 1, 1988, the level for the month the State first makes such supplementary payments). The State shall also report all changes in such payment levels.

(b) *Records.* Except where the Commissioner administers the State supplementary payments, the State shall maintain records about its supplementary payment levels and total 12-month (or 6-month where applicable) expenditures for supplementary payments and permit inspection and audit by the Commissioner or someone designated by the Commissioner.

(c) *Noncompliance by the States.* Any State that makes supplementary payments on or after June 30, 1977, and does not have a pass-along agreement with the Commissioner in effect, shall be determined by the Commissioner to be ineligible for payments under title XIX of the Act. A State does not have an agreement in effect if it has not entered into an agreement or has not complied with the terms of the agreement. Ineligibility shall apply to total expenditures for any calendar quarter beginning after June 30, 1977, for which

a State has not entered into an agreement. A State that enters into an agreement but does not maintain its payment levels or meet the total-expenditures test in a particular 12-month or transitional 6-month period, shall be determined by the Commissioner not to have an agreement in effect for any month that the State did not meet the pass-along requirements during that particular period. The State shall then be ineligible for title XIX payments for any calendar quarter containing a month for which an agreement was not in effect. If a State first makes supplementary payments beginning with a month after June 1977, ineligibility shall apply to any calendar quarter beginning after the calendar quarter in which the State first makes payments.

(d) *Notices to States about potential noncompliance.* Within 90 days after the end of the relevant 12-month period, the Commissioner shall send a notice to any State that has not maintained its supplementary payment levels and that appears not to have maintained its total expenditures during the period. The notice will advise the State of the available methods of compliance and the time within which corrective action must be taken (see §§ 416.2096(b)(3) and 416.2096(c)(2)) in order to avoid a determination of noncompliance. If the State fails to take the corrective action, the Commissioner shall make a timely determination of noncompliance.

(Approved by the Office of Management and Budget under control number 0960–0240)

[52 FR 36244, Sept. 28, 1987, as amended at 54 FR 19165, May 4, 1989; 62 FR 38455, July 18, 1997]

Subpart U—Medicaid Eligibility Determinations

AUTHORITY: Secs. 702(a)(5), 1106, 1631(d)(1), and 1634 of the Social Security Act (42 U.S.C. 902(a)(5), 1306, 1383(d)(1), and 1383c).

SOURCE: 53 FR 12941, Apr. 20, 1988, unless otherwise noted.

§ 416.2101 Introduction.

(a) *What is in this subpart.* This subpart describes the agreements we make with States under which we determine the Medicaid eligibility of individuals who receive Supplemental Security Income (SSI) benefits. It includes a general description of the services we will provide under these agreements and the costs to the States for the services.

(b) *Related regulations.* The comprehensive regulations on eligibility for the Medicaid program, administered by the Health Care Financing Administration, are in part 435 of title 42 of the Code of Federal Regulations.

(c) *Definitions.* In this subpart—

SSI benefits means Federal SSI benefits, including special SSI cash benefits under section 1619(a) of the Social Security Act. In addition, we consider a person who has special SSI eligibility status under section 1619(b) of the Social Security Act to be receiving SSI benefits.

State Medicaid Plan means a State's medical assistance plan which the Secretary has approved under title XIX of the Act for Federal payment of a share of the State's medical assistance expenses.

State supplementary payments means supplementary payments we administer for a State under subpart T of this part.

We, us, or *our* refers to the Social Security Administration.

§ 416.2111 Conditions for our agreeing to make Medicaid eligibility determinations.

We will agree to make Medicaid eligibility determinations for a State only if the State's Medicaid eligibility requirements for recipients of SSI benefits and for recipients of State supplementary payments are the same as the requirements for receiving SSI benefits and the requirements for receiving State supplementary payments, respectively. Exceptions: We may agree to make Medicaid eligibility determinations—

(a) For one, two, or all of the three categories of people (*i.e.*, aged, blind, and disabled) who receive SSI benefits or State supplementary payments; or

(b) Even though the State's Medicaid eligibility requirements for recipients of SSI benefits or of State supplementary payments, or both, differ from