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## Title 20--Employees' Benefits

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administration fees owed to SSA, respectively.

(b) *Accounting of State funds.* (1) As soon as feasible, after the end of each calendar month, SSA will provide the State with a statement showing, cumulatively, the total amounts paid by SSA on behalf of the State during the current Federal fiscal year; the fees charged by SSA to administer such supplementary payments; any additional services fees charged the State; the State's total liability therefore; and the end-of-month balance of the State's cash on deposit with SSA.

(2) SSA shall provide an accounting of State funds received as State supplementary payments, administration fees, and additional services fees, within three calendar months following the termination of an agreement under § 416.2005.

(3) Adjustments will be made because of State funds due and payable or amounts of State funds recovered for calendar months for which the agreement was in effect. Interest will be incurred by SSA and the States with respect to the adjustment and accounting of State supplementary payments funds in accordance with applicable laws and regulations of the United States Department of the Treasury.

(c) *State audit.* Any State entering into an agreement with SSA which provides for Federal administration of the State's supplementary payments has the right to an audit (at State expense) of the payments made by SSA on behalf of such State. The Secretary and the State shall mutually agree upon a satisfactory audit arrangement to verify that supplementary payments paid by SSA on behalf of the State were made in accordance with the terms of the administration agreement under § 416.2005. Resolution of audit findings shall be made in accordance with the provisions of the State's agreement with SSA.

(d) *Advance payment and adjustment not applicable.* The provisions of paragraphs (a) and (b) of this section shall not apply with respect to any State supplementary payment for which reimbursement is available from the Social and Rehabilitation Service pursuant to the Indochina Migration and Refugee Assistance Act of 1975 (Pub. L.

94-23; 89 Stat. 87), as amended, since such amounts are not considered to be State supplementary payments.

[40 FR 7640, Feb. 21, 1975, as amended at 41 FR 86018, Aug. 26, 1976; 62 FR 313, Jan. 3, 1997]

**\* § 416.2095 Pass-along of Federal benefit increases.**

(a) *General.* This section and the four sections that follow describe the rules for passing along increases in the Federal SSI benefit to recipients of State supplementary payments.

(1) Section 416.2095(b) indicates when the pass-along rules apply to State supplementary payments.

(2) Section 416.2096 describes the basic pass-along rules. The States must have an agreement to "pass-along" increases in Federal SSI benefits. A State passes along an increase when it maintains (rather than decreases) the levels of all its supplementary payments after a Federal benefit increase has occurred. Generally, a pass-along of the increase permits recipients to receive an additional amount in combined benefits equal to the Federal benefit increase. Except for the supplementary payment level made to residents of Medicaid facilities (see § 416.2096(d)), a State can decrease one or more of its payment levels if it meets an annual total expenditures test.

(3) Section 416.2097 explains the required combined supplementary/SSI payment level.

(4) Section 416.2098 explains how to compute the March 1983, December 1981, and December 1976 supplementary payment levels.

(5) Section 416.2099 discusses what information a State must provide to the Commissioner concerning its supplementation programs so that the Commissioner can determine whether the State is in compliance. That section also discusses the basis for findings of noncompliance and what will occur if a State is found out of compliance.

(b) *When the pass-along provisions apply.* (1) The pass-along requirements apply to all States (and the District of Columbia) that make supplementary payments on or after June 30, 1977, and wish to participate in the Medicaid program.

(2) The pass-along requirements apply to both optional State supplementary payments of the type described in § 416.2001(a) and mandatory minimum State supplementary payments as described in § 416.2001(c), whether or not these State supplementary payments are Federally administered.

(3) The requirements apply to State supplementary payments both for recipients who receive Federal SSI benefits and those who, because of countable income, receive only a State supplementary payment.

(4) The requirements apply to State supplementary payments for recipients eligible for a State supplementary payment on or after June 30, 1977.

(5) Supplementary payments made by a State include payments made by a political subdivision (including Indian tribes) where—

(i) The payment levels are set by the State; and

(ii) The payments are funded in whole or in part by the State.

[52 FR 36241, Sept. 28, 1987, as amended at 54 FR 19165, May 4, 1989; 62 FR 38455, July 18, 1997]

**§ 416.2096 Basic pass-along rules.**

(a) *State agreements to maintain supplementary payment levels.* (1) In order to be eligible to receive Medicaid reimbursement, any State that makes supplementary payments, other than payments to residents of Medicaid facilities where Medicaid pays more than 50 percent of the cost of their care (see paragraph (d) of this section for definition of Medicaid facility and § 416.414 for discussion of the reduced SSI benefit amount payable to residents of Medicaid facilities), on or after June 30, 1977, must have in effect an agreement with the Commissioner. In this agreement—

(i) The State must agree to continue to make the supplementary payments;

(ii) For months from July 1977 through March 1983, the State must agree to maintain the supplementary payments at levels at least equal to the December 1976 levels (or, if a State first makes supplementary payments after December 1976, the levels for the first month the State makes supplementary payments). For months in the period

July 1, 1982 through March 31, 1983, a State may elect to maintain the levels described in paragraph (b)(2) of this section; and

(iii) For months after March 1983, the State must agree to maintain supplementary payments at least sufficient to maintain the combined supplementary/SSI payment levels in effect in March 1983, increased by any subsequent SSI benefit increases, except as provided in § 416.2097(b) and § 416.2097(c).

(2) We will find that the State has met the requirements of paragraph (a)(1) of this section if the State has the appropriate agreement in effect and complies with the conditions in either paragraph (b) or (c) of this section. We will consider a State to have made supplementary payments on or after June 30, 1977, unless the State furnishes us satisfactory evidence to the contrary.

(b) *Meeting the pass-along requirements—supplementary payment levels.* The provisions of this paragraph do not apply to the supplementary payment level for residents of Medicaid facilities (see paragraph (d) of this section).

(1) We will consider a State to have met the requirements for maintaining its supplementary payment levels (described in § 416.2096) for a particular month or months after March 1983 if the combined supplementary/SSI payment levels have not been reduced below the levels in effect in March 1983 (or if a State first made supplementary payments after March 1983, the combined supplementary/SSI payment levels in effect the first month the State made supplementary payments), increased by any subsequent Federal SSI benefit increases, except as provided in § 416.2097(b) and § 416.2097(c). We will consider a State to have met the requirements for maintaining its supplementary payment levels for a particular month or months between June 1977 and April 1983 if the supplementary payment levels have not been reduced below the levels in effect in December 1976 (or if a State first made supplementary payments after December 1976, the levels in effect the first month the State made supplementary payments, or in certain cases described in paragraph (b)(2) of this section, the levels in effect in December 1981.)

(2) We will also consider a State to have met the requirements for maintaining its supplementary payment levels for a particular month or months in the period July 1, 1982, through March 31, 1983, if the State had met the requirements of paragraph (c) of this section for a particular month or months in the 12-month period July 1, 1981 through June 30, 1982, and, with respect to any month in the period July 1, 1982 through March 31, 1983, the State maintained the payment levels in effect in December 1981.

(3) If a State reduced any of its supplementary payment levels for a month or months within any 12-month period beginning with the effective date of a Federal benefit increase, we will consider the State to have met the requirement to maintain its supplementary payment levels if—

(i) Within 12 months after the relevant 12-month period, the State restores the levels retroactively; and

(ii) The State makes a single retroactive benefit payment to each of the beneficiaries eligible for the retroactive payment.

(c) *Meeting the passalong requirement—total expenditures. Exception—* The provisions of this paragraph do not apply to the supplementary payment level for residents of Medicaid facilities (see paragraph (d) of this section).

(1) If a State does not meet the conditions in paragraph (b) of this section, we will consider a State to have met the requirement for maintaining supplementary payment levels for a particular month or months if total State expenditures for supplementary payments in the 12-month period within which the month or months fall, beginning on the effective date of a Federal SSI benefit increase, are at least equal to the total State expenditures for supplementary payments in the 12-month period immediately before the Federal SSI benefit increase provided that the State was in compliance for such preceding 12-month period. The combined Federal/State payment level for those persons receiving a mandatory minimum State supplementary payment can be no lower than the recipient's total income for December 1973 as defined in section 212(a)(3)(B) of Pub. L. 93-66.

(2) If total State expenditures in the relevant 12-month period are less than the total expenditures in the preceding 12-month period (a "shortfall"), we also will consider a State to have met the requirement for maintaining supplementary payment levels for the relevant 12-month period if in the following 12-month period the State increases the total expenditures required for that period by an amount at least equal to the amount of the shortfall in the relevant 12-month period. The increased amount up to the amount needed to correct the shortfall shall be deemed to be an expenditure in the relevant 12-month period, for pass-along purposes only. (See paragraph (c)(5) of this section.)

(3)(i) Exception for the 6-month period from July 1, 1983 through December 31, 1983: We will consider the State to have met the total-expenditures requirement for the 6-month period July 1, 1983 through December 31, 1983, if—

(A) Total expenditures for State supplementary payments for the period July 1, 1983 through December 31, 1983, equal or exceed the total of such expenditures for the period July 1, 1982 through December 31, 1982;

(B) Total expenditures for State supplementary payments for the period January 1, 1983 through December 31, 1983, equal or exceed the total of such expenditures for the period January 1, 1982 through December 31, 1982; or

(C) Total expenditures for State supplementary payments for the period July 1, 1983 through December 31, 1983 equal or exceed one-half of the total of such expenditures for the period July 1, 1982 through June 30, 1983. The provisions of paragraphs (c)(4) and (c)(5) of this section and of §416.2099 (b), (c), and (d) shall apply to this 6-month period in the same manner as they apply to the 12-month periods referred to therein.

(ii) Exception for the 12-month period ending June 30, 1981: If a State did not meet the conditions in paragraph (b) of this section, we will consider a State to have met the maintenance-of-supplementary-payment-levels requirement for this 12-month period if the State's expenditures for supplementary payments in that period were at least



equal to its expenditures for such payments for the 12-month period ending June 30, 1977 (or, if the State made no supplementary payments in that period, the expenditures for the first 12-month period ending June 30 in which the State made such payments); if a State made additional State supplementary payments during the period July 1, 1981 through June 30, 1982, in order to make up a shortfall in the 12-month period ending June 30, 1981 (determined by a comparison with the preceding 12-month period) which later resulted in an excess payment (determined by comparison with the 12-month period July 1, 1976 through June 30, 1977) we will credit the State with the amount of the excess payments if the State so requests. This credit will be applied to any shortfall(s) in total expenditures (should one exist) in any period(s) ending on or before December 31, 1986.

(4) Total State expenditures for supplementary payments are the State's total payments for both mandatory minimum and optional State supplementary payments in the appropriate 12-month period less any amounts deemed to be expenditures for another 12-month period under paragraph (c)(2) of this section, less the amount of any payments recovered and other adjustments made in that period. Total State expenditures do not include State administrative expenses, interim assistance payments, vendor payments, or payments made under other Federal programs, such as titles IV, XIX, or XX of the Social Security Act.

(5) Adjustments in total State supplementary payments made after the expiration of the relevant 12-month period for purposes of meeting total State expenditures under paragraph (c) of this section shall be considered a State expenditure in the relevant 12-month period only for purposes of the pass-along requirement. For purposes of §416.2090 of this part, which discusses the rules for limitation on fiscal liability of States (hold harmless), these retroactive adjustments are State expenditures when made and shall be counted as a State expenditure in the fiscal year in which the adjustments are made.

(6) To determine whether a State's expenditures for supplementary payments in the 12-month period beginning on the effective date of any increase in the level of SSI benefits are not less than the State's expenditures for the payments in the preceding 12-month period, in computing the State's expenditures, we disregard, pursuant to a one-time election of the State, all expenditures by the State for the retroactive supplementary payments that are required to be made under the *Sullivan v. Zebley*, 493 U.S. 521 (1990) class action.

(d) *Payments to residents to Medicaid facilities.* A Medicaid facility is a medical care facility where Medicaid pays more than 50 percent of the cost of a person's care. In order to be eligible to receive Medicaid reimbursement, any State that has a supplementary payment level for residents of Medicaid facilities on or after October 1, 1987, must have in effect an agreement with the Commissioner to maintain such supplementary payment level at least equal to the October 1987 level (or if a State first makes such supplementary payments after October 1, 1987, but before July 1, 1988, the level for the first month the State makes such supplementary payments).

[52 FR 36241, Sept. 28, 1987, as amended at 54 FR 19165, May 4, 1989; 56 FR 55453, Oct. 28, 1991; 62 FR 30984, June 6, 1997; 62 FR 38455, July 18, 1997; 65 FR 16815, Mar. 30, 2000]

**§416.2097 Combined supplementary/SSI payment levels.**

(a) Other than the level for residents of Medicaid facilities (see paragraph (d) of this section), the combined supplementary/SSI payment level for each payment category that must be provided in any month after March 1983 (or if a State first made supplementary payments after March 1983, the combined supplementary SSI payment levels in effect the first month the State made supplementary payments) in order for a State to meet the requirement of the first sentence of §416.2096(b) is the sum of—

(1) The SSI Federal benefit rate (FBR) for March 1983 for a recipient with no countable income;



reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (*i.e.*, \$10.30), so long as that reduction does not cause the mandatory minimum State supplementary level to fall below that required by section 212(a)(3)(A) of Pub. L. 93-66.

(2) Section 1618(c) of the Act permitted any State that had satisfied the requirements of section 1618 of the Act by the total-expenditures method for the 12-month period July 1, 1981, through June 30, 1982, and that elected to change and meet the section 1618 requirements by the maintenance-of-payment-levels method for the period July 1, 1982, through June 30, 1983, to do so by paying benefits at levels no lower than the levels of such payments in effect for December 1981. However, a recipient's December 1981 total income (December 1981 mandatory minimum State supplement plus the FBR) could not be less than the recipient's total income for December 1973 as defined in section 212(a)(3)(B) of Pub. L. 93-66. For a State that elected the option in the preceding two sentences, the mandatory minimum State supplementary payment level for March 1983 is a recipient's December 1981 total income (but not less than the total income for December 1973 as defined by section 212(a)(3)(B) of Pub. L. 93-66) plus any State increases after December 1981 and prior to April 1983, less any reductions made at any time after December 1981 due to changes in special needs or circumstances, less the March 1983 FBR. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later, the amount calculated under the preceding sentence defining the required March 1983 mandatory minimum State supplementary payment level would continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (*i.e.*, \$10.30), so long as that reduction does not cause the mandatory minimum State supplementary level to fall below that required by section 212(a)(3)(A) of Pub. L. 93-66.

(c) *Calculation of the required optional State supplementary payment level for flat grant amounts.* The optional State

supplementary payment level for March 1983 for flat grant amounts is the total amount that an eligible individual (or couple) with no countable income received for March 1983 in excess of the FBR for March 1983. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later the amount calculated in the first sentence shall continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (*i.e.*, \$10.30). If the State varied its payment levels for different groups of recipients (*e.g.*, paid recipients different amounts based on eligibility categories, geographic areas, living arrangements, or marital status), each variation represents a separate supplementary payment level.

(d) *Calculation of the required optional State supplementary payment level for individually budgeted grant amounts.* The optional State supplementary payment level for individually budgeted grant amounts for March 1983 is the amount that the State budgeted for March 1983 in excess of the March 1983 FBR for an eligible individual (or couple) having the same needs and no countable income. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later the amount calculated in the first sentence shall continue except that it may be reduced by the amount of the July 1983 Federal increase that was not related to the cost of living (*i.e.*, \$10.30).

(e) *Optional State supplementary payment level for per diem based grant amounts.* (1) The optional State supplementary payment level for March 1983 for per diem grant amounts is the total dollar amount that the State paid to an eligible individual (or couple) with no countable income at rates in effect for March 1983 (number of days in the calendar month multiplied by the March 1983 per diem rate plus any March 1983 personal needs allowance) in excess of the March 1983 FBR.

*Example:*

March	
1983:	
\$15.40	Per diem rate.
×31	Days in month.
<hr/>	
477.40	

(2) That portion of the July 1983 benefit increase computed in accordance with paragraph (b) of this section;

(3) The full amount of all SSI benefit increases after July 1983; and

(4) The State supplementary payment level for March 1983 as determined under § 416.2098.

(b) The monthly FBR's were increased in July 1983 by \$20 for an eligible individual and \$30 for an eligible couple, and the monthly increment for essential persons was increased by \$10 in lieu of the expected cost-of-living adjustment which was delayed until January 1984. However, in computing the required combined supplementary/SSI payment levels for the purpose of determining pass-along compliance, we use only the amounts by which the FBR's and the essential person increment would have increased had there been a cost-of-living adjustment in July 1983 (a 3.5 percent increase would have occurred). These amounts are \$9.70 for an eligible individual, \$14.60 for an eligible couple and \$4.50 for an essential person.

(c) For the 24-month period January 1, 1984, through December 31, 1985, a State will not be found out of compliance with respect to its payment levels if in the period January 1, 1986, through December 31, 1986, its supplementary payment levels are not less than its supplementary payment levels in effect in December 1976 increased by the percentage by which the FBR has increased after December 1976 and before February 1986. The FBR for an individual in December 1976 was \$167.80. The FBR for an individual in effect on January 31, 1986, was \$336.00, an increase of 100.24 percent over the December 1976 FBR. In order for a State to take advantage of this provision for the 24-month period January 1, 1984, through December 31, 1985, the State supplementary payment levels in effect for calendar year 1986 must be at least 100.24 percent higher than the State supplementary payment levels in effect in December 1976. This provision does not apply to State supplementary payments to recipients in Federal living arrangement "D" (residents of a medical facility where title XIX pays more than 50 percent of the costs).

(d) The combined supplementary/SSI payment level which must be maintained for residents of Medicaid facilities is the State supplement payable on October 1, 1987, or if no such payments were made on October 1, 1987, the supplementary payment amount made in the first month that a supplementary payment was made after October 1987 but before July 1, 1988, plus the Federal benefit rate in effect in October 1987 increased by \$5 for an individual/\$10 for a couple effective July 1, 1988.

[52 FR 36242, Sept. 28, 1987, as amended at 54 FR 19165, May 4, 1989; 54 FR 23018, May 30, 1989]

**§ 416.2098 Supplementary payment levels.**

(a) *General.* For the purpose of determining the combined supplementary/SSI payment levels described in § 416.2097(a) (i.e., the levels that must be provided in any month after March 1983), the supplementary payment level, except for the level for residents of Medicaid facilities (see § 416.2097(d)), for each payment category must be no less than the total State payment for March 1983 for that payment category that a State provided an eligible individual (or couple) with no countable income in excess of the FBR for March 1983. For States that did not make supplementary payments in March 1983, the supplementary payment level for each payment category must be no less than the total State payment for the first month after March 1983 in which a State makes supplementary payments.

(b) *Calculation of the required mandatory minimum State supplementary payment level.* (1) Except for States described in paragraph (b)(2) of this section, the mandatory minimum State supplementary payment level for March 1983 is a recipient's December 1973 income, as defined in section 212(a)(3)(B) of Pub. L. 93-66, plus any State increases prior to April 1983, less any reductions made at any time after December 1973 due to changes in special needs or circumstances, less the March 1983 FBR. The amount determined under the previous sentence shall continue for April, May, and June 1983. For July 1983 and later the amount calculated in the first sentence shall continue except that it may be



477.40	
+42.00	Personal needs allowance.
<hr/>	
519.40	
519.40	Combined State supplementary/SSI payment.
-284.30	March 1983 FBR.
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235.10	State supplementary payment level.

(2) The optional State supplementary payment level for months subsequent to March 1983 for per diem grant amounts is the total dollar amount that the State paid to an individual (or couple) with no countable income at rates in effect in March 1983 (number of days in the calendar month multiplied by the March 1983 per diem rate plus any March 1983 personal needs allowance) in excess of the March 1983 FBR for an individual (or couple) with no countable income increased by all FBR increases subsequent to March 1983 with the exception of the July 1, 1983 increase. For the July 1, 1983 increase to the FBR, a State need pass-along only that portion of the increase which represented the increase in the cost of living adjustment (3.5 percent).

*Example:* NOTE: Example assumes the State passed along only \$9.70 of the \$20.00 increase in the FBR effective July 1, 1983.

The March 1983 combined supplementary/SSI payment level for a 31-day month was \$519.40.

July 1983 level:	
\$519.40	March 1983 combined payment.
+9.70	July 1983 COLA-equivalent.
<hr/>	
529.10	Required July 1983 combined payment level.
529.10	Required July 1983 combined payment level.
-304.30	July 1983 FBR.
<hr/>	
224.80	Required State Supplementary payment level.
529.10	Required July 1983 combined payment level.
<hr/>	
-42.00	Personal needs allowance.
<hr/>	
487.10	
487.10	
+31	Days in month.
<hr/>	
15.71	Per diem rate.

The required July 1983 combined supplementary/SSI payment level for a 31-day month was \$529.10. This amount is equal to the March 1983 combined payment amount 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-ex-

penditures 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