

§ 430.76

42 CFR Ch. IV (10-1-99 Edition)

(ii) A copy of the proposed State plan provision on which HCFA and the State have agreed.

(3) *Opportunity for written comment.* The notified parties have 15 days to submit, for consideration by the presiding officer, and for the record, their views as to, or any information bearing upon, the merits of the proposed plan provision and the merits of the reasons for removing the issue from consideration.

(d) *Remaining issues.* The issues considered at the hearing are limited to those issues of which the State is notified as provided in §430.70 and paragraph (a) of this section, and new or modified issues described in paragraph (b) of this section. They do not include issues or parts of issues removed in accordance with paragraph (c) of this section.

§ 430.76 Parties to the hearing.

(a) *HCFA and the State.* HCFA and the State are parties to the hearing.

(b) *Other individuals—(1) Basis for participation.* Other individuals or groups may be recognized as parties if the issues to be considered at the hearing have caused them injury and their interest is within the zone of interests to be protected by the governing Federal statute.

(2) *Petition for participation.* Any individual or group wishing to participate as a party must, within 15 days after notice of hearing is published in the FEDERAL REGISTER, file with the HCFA Docket Clerk, a petition that concisely states—

- (i) Petitioner's interest in the proceeding;
- (ii) Who will appear for petitioner;
- (iii) The issues on which petitioner wishes to participate; and
- (iv) Whether petitioner intends to present witnesses.

The petitioner must also serve a copy of the petition on each party of record at that time.

(3) *Comments on petition.* Any party may, within 5 days of receipt of the copy of the petition, file comments on it.

(4) *Action on petition.* (i) The presiding officer promptly determines whether each petitioner has the requisite inter-

est in the proceedings and approves or denies participation accordingly.

(ii) If petitions are made by more than one individual or group with common interests, the presiding officer may—

(A) Request all those petitioners to designate a single representative; or

(B) Recognize one or more of those petitioners to represent all of them.

(iii) The presiding officer gives each petitioner written notice of the decision and, if the decision is to deny, briefly states the grounds for denial.

(c) *Amicus curiae (friend of the court)—*

(1) *Petition for participation.* Any person or organization that wishes to participate as amicus curiae must, before the hearing begins, file with the HCFA Docket Clerk, a petition that concisely states—

- (i) The petitioners' interest in the hearing;
- (ii) Who will represent the petitioner; and
- (iii) The issues on which the petitioner intends to present argument.

(2) *Action on amicus curiae petition.* The presiding officer may grant the petition if he or she finds that the petitioner has a legitimate interest in the proceedings, that such participation will not unduly delay the outcome and may contribute materially to the proper disposition of the issues.

(3) *Nature of amicus participation.* An amicus curiae is not a party to the hearing but may participate by—

- (i) Submitting a written statement of position to the presiding officer before the beginning of the hearing;
- (ii) Presenting a brief oral statement at the hearing, at the point in the proceedings specified by the presiding officer; and
- (iii) Submitting a brief or written statement when the parties submit briefs.

The amicus curiae must serve copies of any briefs or written statements on all parties.

§ 430.80 Authority of the presiding officer.

(a) The presiding officer has the duty to conduct a fair hearing, to avoid delay, maintain order, and make a record of the proceedings. He or she has the authority necessary to accomplish