

Subpart C—Utilization and Quality Control Peer Review Organizations

SOURCE: 49 FR 7207, Feb. 27, 1984, unless otherwise noted. Redesignated at 50 FR 15327, Apr. 17, 1985, and further redesignated at 64 FR 66279, Nov. 24, 1999.

§ 475.100 Scope and applicability.

This subpart implements sections 1152 and 1153(b) of the Social Security Act as amended by the Peer Review Improvement Act of 1982 (Pub. L. 97-248). It defines the types of organizations eligible to become PROs and establishes certain limitations and priorities regarding PRO contracting.

§ 475.101 Eligibility requirements for PRO contracts.

In order to be eligible for a PRO contract an organization must—

- (a) Be either a physician-sponsored organization as described in § 462.102; or a physician-access organization as described in § 462.103; and
- (b) Demonstrate its ability to perform review as set forth in § 462.104.

§ 475.102 Eligibility of physician-sponsored organizations.

(a) In order to be eligible for designation as a physician-sponsored PRO, an organization must meet the following conditions:

- (1) Be composed of a substantial number of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area and who are representative of the physicians practicing in the area.
- (2) Not be a health care facility, health care facility association, or health care facility affiliate, as specified in § 462.105.

(b) In order to meet the requirements of paragraph (a)(1) of this section, an organization must state and have documentation in its files showing that it is composed of at least 10 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area.

(c) In order to meet the requirements of paragraph (a)(2) of this section, an organization must—

- (1) State and have documentation in its files demonstrating that it is composed of at least 20 percent of the li-

censed doctors of medicine and osteopathy practicing medicine or surgery in the review area; or

(2) If the organization is not composed of at least 20 percent of the licensed doctors of medicine and osteopathy practicing medicine or surgery in the review area, then the organization must demonstrate in its contract proposal, through letters of support from physicians or physician organizations, or through other means, that it is representative of the area physicians.

(d) Organizations that meet the requirements in paragraph (a) of this section will receive, during the contract evaluation process, a set number of bonus points.

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§ 475.103 Eligibility of physician-access organizations.

(a) In order to be eligible for designation as a physician-access PRO, an organization must meet the following conditions:

(1) Have available to it, by arrangement or otherwise, the services of a sufficient number of licensed doctors of medicine or osteopathy practicing medicine or surgery in the review area to assure adequate peer review of the services provided by the various medical specialties and subspecialties.

(2) Not be a health care facility, health care facility association, or health care facility affiliate, as specified in § 462.105.

(b) An organization meets the requirements of paragraph (a)(1) of this section if it demonstrates—

- (1) That it has available to it at least one physician in every generally recognized specialty; and
- (2) The existence of an arrangement or arrangements with physicians under which the physicians would conduct review for the organization.

[50 FR 15328, Apr. 17, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

§ 475.104 Requirements for demonstrating ability to perform review.

(a) A physician-sponsored or physician-access organization will be found

capable of conducting review if HCFA determines that the organization is able to set quantifiable performance objectives and perform the utilization and quality review functions established under section 1154 of the Social Security Act in an efficient and effective manner.

(b) HCFA will determine that the organization is capable of conducting utilization and quality review if—

(1) The organization's proposed review system is adequate; and

(2) The organization has available sufficient resources (including access to medical review skills) to implement that system; and

(3) The organization's quantifiable objectives are acceptable.

(c) HCFA may consider prior similar review experience in making determinations under paragraph (b) of this section.

(d) A State government that operates a Medicaid program will be considered incapable of performing utilization and quality review functions in an effective manner, unless the State demonstrates to the satisfaction of HCFA that it will act with complete independence and objectivity.

§ 475.105 Prohibition against contracting with health care facilities.

(a) *Basic rule.* Except as permitted under paragraph (b) of this section, the following are not eligible for PRO contracts:

(1) A health care facility in the PRO area.

(2) An association of health care facilities in the PRO area.

(3) A health care facility affiliate; that is, an organization in which more than 20 percent of the members of the governing body are also either a governing body member, officer, partner, five percent or more owner, or managing employee in a health care facility or association of health care facilities in the PRO area.

(b) *Exceptions.* Effective November 15, 1984, the prohibition stated in paragraph (a) of this section will not apply to a payor organization if HCFA determines under § 462.106 that there is no other eligible organization available.

(c) *Subcontracting.* A PRO must not subcontract with a facility to conduct

any review activities except for the review of the quality of care.

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§ 475.106 Prohibition against contracting with payor organizations.

Payor organizations are not eligible to become PROs for the area in which they make payments until November 15, 1984. If no PRO contract for an area is awarded before November 15, 1984, a payor organization will be determined eligible by HCFA, if an eligible organization that is not a payor organization is unavailable at that time. HCFA may determine the unavailability of nonpayor organizations based on the lack of response to an appropriate Request for Proposal.

[50 FR 15328, Apr. 17, 1985]

§ 475.107 PRO contract award.

HCFA, in awarding PRO contracts, will take the following actions—

(a) Identify from among all proposals submitted in response to an RFP for a given PRO area all proposals submitted by organizations that meet the requirements of § 462.102 or § 462.103;

(b) Identify from among all proposals identified in paragraph (a) of this section all proposals that set forth minimally acceptable plans in accordance with the requirements of § 462.104 and the RFPs;

(c) Assign bonus points not to exceed 10% of the total points available to all physician-sponsored organizations identified in paragraph (b) of this section, consistent with statute; and

(d) Subject to the limitations established by §§ 462.105 and 462.106, award the contract for the given PRO area to the selected organization for a period of two years.

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PART 476—UTILIZATION AND QUALITY CONTROL REVIEW

Subpart A—General Provisions

Sec.
476.1 Definitions.