

§ 476.80 Coordination with Medicare fiscal intermediaries and carriers.

(a) *Procedures for agreements.* The Medicare fiscal intermediary or carrier must have a written agreement with the PRO. The PRO must take the initiative with the fiscal intermediary or carrier in developing the agreement. The following steps must be taken in developing the agreement.

(1) The PRO and the fiscal intermediary or carrier must negotiate in good faith in an effort to reach written agreement. If they cannot reach agreement, HCFA will assist them in resolving matters in dispute.

(2) The PRO must incorporate its administrative procedures into an agreement with the fiscal intermediary or carrier and obtain approval from HCFA, before it makes conclusive determinations for the Medicare program, unless HCFA finds that the fiscal intermediary or carrier has—

- (i) Refused to negotiate in good faith or in a timely manner, or
- (ii) Insisted on including in the agreement, provisions that are outside the scope of its authority under the Act.

(b) *Content of agreement.* The agreement must include procedures for—

(1) Informing the appropriate Medicare fiscal intermediaries and carriers of—

(i) Changes as a result of DRG validations and revisions as a result of the review of these changes; and

(ii) Initial denial determinations and revisions of these determinations as a result of reconsideration, or reopening all approvals and denials with respect to cases subject to preadmission review, and outlier claims in hospitals under a prospective payment system for health care services and items;

(2) Exchanging data or information;

(3) Modifying the procedures when additional review responsibility is authorized by HCFA; and

(4) Any other matters that are necessary for the coordination of functions.

(c) *Action by HCFA.* (1) Within the time specified in its contract, the PRO must submit to HCFA for approval its agreement with the Medicare fiscal intermediaries and carriers, or if an agreement has not been established,

the PRO's proposed administrative procedures, including any comments by the Medicare fiscal intermediaries and carriers.

(2) If HCFA approves the agreement or the administrative procedures (after a finding by HCFA as specified in paragraph (a)(2) of this section), the PRO may begin to make determinations under its contract with HCFA.

(3) If HCFA disapproves the agreement or procedures, it will—

(i) Notify the PRO and the appropriate fiscal agents in writing, stating the reasons for disapproval; and

(ii) Require the PRO and fiscal intermediary or carrier to revise its agreements or procedures.

(d) *Modification of agreements.* Agreements or procedures may be modified, with HCFA's approval—

(1) Through a revised agreement with the fiscal intermediary or carrier, or

(2) In the case of procedures, by the PRO, after providing opportunity for comment by the fiscal intermediary or carrier.

(e) *Role of the fiscal intermediary.* (1) The fiscal intermediary will not pay any claims for those cases which are subject to preadmission review by the PRO, until it receives notice that the PRO has approved the admission after preadmission or retrospective review.

(2) A PRO's determination that an admission is medically necessary is not a guarantee of payment by the fiscal intermediary. Medicare coverage requirements must also be applied.

[50 FR 15330, Apr. 17, 1985; 50 FR 41886, Oct. 16, 1985. Redesignated at 64 FR 66279, Nov. 24, 1999]

§ 476.82 Continuation of functions not assumed by PROs.

Any of the duties and functions under Part B of Title XI of the Act for which a PRO has not assumed responsibility under its contract with HCFA must be performed in the manner and to the extent otherwise provided for under the Act or in regulations.

PRO REVIEW FUNCTIONS

§ 476.83 Initial denial determinations.

A determination by a PRO that the health care services furnished or proposed to be furnished to a patient are