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APPENDIX F-1 RIGHTS SPECIFIED IN THE STATUTE

The State assures that home and community care provided under the State plan will meet the following requirements:

- a. Individuals providing care are competent to provide such care. The State will maintain documentation to show that each provider of care meets or exceeds the applicable minimum qualifications specified in Appendix C-2.
- b. Individuals receiving home and community care shall be assured the following rights:
 1. The right to be fully informed in advance, orally and in writing, of the following:
 - a. the care to be provided,
 - b. any changes in the care to be provided; and
 - c. except with respect to an individual determined incompetent, the right to participate in planning care or changes in care.
 2. The right to voice grievances with respect to services that are (or fail to be) furnished without discrimination or reprisal for voicing grievances, and to be told how to complain to State and local authorities. A description of the procedures which the State will utilize to ensure this right is attached to this Appendix.
 3. The right to confidentiality of personal and clinical records.
 4. The right to privacy and to have one's property treated with respect.
 5. The right to refuse all or part of any care and to be informed of the likely consequences of such refusal.

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5. The right to education or training for oneself and for members of one's family or household on the management of care.
7. The right to be free from physical or mental abuse, corporal punishment, and any physical or chemical restraints imposed for purposes of discipline or convenience and not included in the individual's ICCP.
8. The right to be fully informed orally and in writing of the individual's rights.

APPENDIX F-2 ADDITIONAL RIGHTS

The State assures that home and community care provided under the State plan will meet the following additional requirements:

- a. The State assures that all facilities covered by section 1616(e) of the Social Security Act, in which home and community care services will be provided, are in compliance with applicable State standards that meet the requirements of 45 CFR Part 1397 for board and care facilities. Copies of these standards are maintained at the Medicaid agency.
- b. In the case of an individual who resides in his or her own home, or in the home of a relative, when the individual has been determined to be incompetent, all rights to be informed of the care to be provided, and to have input into the development of the ICCP specified in Appendix F-1-b shall rest with the principal caregiver.
- c. In the case of an individual who resides in a community care setting, and who has been determined to be incompetent, the rights specified in Appendix F-1-b shall rest with the legal guardian or custodian of that individual, unless the guardian or custodian has assigned these rights, in writing, to another person.

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APPENDIX F-3 GUIDELINES FOR PROVIDER COMPENSATION

a. The following guidelines are provided for such minimum compensation for individuals providing home and community care. These guidelines will be used to assure the availability and continuity of competent individuals to provide such care for functionally disabled individuals who have functional disabilities of varying levels of severity.

1. For services which are the same as, or similar (in content, complexity and provider qualifications) to those provided under the approved Medicaid State plan, the State will compensate the providers on the same basis as that which is approved as part of the plan.
2. For services which are the same as, or similar (in content, complexity and provider qualifications) to those provided under another program funded and operated by the State, the State will compensate the providers on a basis which is equivalent to that used by the other publicly funded program.
3. For services which are dissimilar to those provided under the plan or another program funded and operated by the State, the State will develop methods of compensation which are sufficient to enlist an adequate number of providers, taking into account the number of individuals receiving the service and their geographic location.

b. The State assures that it will comply with these guidelines.

APPENDIX G

COMMUNITY CARE SETTINGS

a. The State will provide home and community care to individuals in the following settings:

1. _____ Nonresidential settings that serve 3 to 8 people.
2. _____ Residential settings that serve 3 to 8 people, and in which personal services (other than merely board) are provided in conjunction with residing in the setting.
3. _____ Nonresidential settings that serve more than 8 people.
4. _____ Residential settings that serve more than 8 people, and in which personal services (other than merely board) are provided in conjunction with residing in the setting.
5. X Not applicable. The State will not provide services in these types of community care settings.

b. The State assures that the requirements of sections 1929(g) and (h) of the Act (as applicable to the specific setting) will be met for each setting in which home and community care is provided under this section.

c. The State will refuse to provide home and community care in settings which have been found not to meet the requirements of sections 1929(g) and (h) of the Act.

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APPENDIX G-1

GENERAL

a. Definitions.

1. Small residential community care setting. A small residential community care setting is defined as a facility in which between 3 and 8 unrelated adults reside, and in which personal services (other than merely board) are provided in conjunction with residing in the setting. To qualify as a small residential community care setting, at least one resident must receive home and community care under this benefit.
2. Small nonresidential community care setting. A small nonresidential community care setting is defined as a facility in which an organized program is operated (by the facility or on the premises of the facility) which serves between 3 and 8 individuals, at least one of which receives home and community care under this benefit at the setting.
3. Large residential community care setting. A large residential community care setting is a facility in which more than 8 unrelated adults reside, and in which personal services are provided in conjunction with residing in the setting. To qualify as a large residential community care setting, at least one resident must receive home and community care under this benefit.
4. Large nonresidential community care setting. A large nonresidential community care setting is defined as a facility in which an organized program is operated (by the facility or on the premises of the facility) which serves more than 8 individuals, at least one of which receives home and community care under this benefit at the setting.
5. Unrelated adults. Unless defined differently under State law, for purposes of this benefit, unrelated adults are individuals who are 18 years of age or older, and who do not have any of the following relationships to other adults resident in the facility: spouses, parent (including stepparent) or child (including stepchild), or siblings.
6. Personal services. Personal services are those services provided to the individual by the setting, which are intended to compensate for the absence, loss, or diminution of a physical or cognitive function. Personal services, as defined here, are not equated with personal care services available under either 42 CFR 440.170, or personal care services provided under the home and community care benefit.

b. The State will provide home and community care to individuals in the

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following settings:

1. X Nonresidential settings that serve 3 to 8 people.
 2. Residential settings that serve 3 to 8 people, and in which personal services (other than merely board) are provided in conjunction with residing in the setting.
 3. X Nonresidential settings that serve more than 8 people.
 4. Residential settings that serve more than 8 people, and in which personal services (other than merely board) are provided in conjunction with residing in the setting.
 5. Not applicable. The State will not provide services in these types of community care settings.
- c. The State assures that the requirements of sections 1929(g) and (h) of the Act (as applicable to the specific setting) will be met for each setting in which home and community care is provided under this section.
- d. FFP will not be claimed for home and community care which is provided in settings which have been found not to meet the requirements of sections 1929(g) and (h) of the Act.

APPENDIX G-2 SMALL NONRESIDENTIAL COMMUNITY CARE SETTINGS

The requirements of this Appendix shall apply to small nonresidential community care settings.

The State will require that small nonresidential community care settings meet requirements specified in this Appendix.

- a. The setting shall protect and promote the rights of each client, including each of the following rights:
 1. The setting shall extend to each client the right to choose a personal attending physician.
 2. Each client shall be fully informed in advance about care and treatment, and of any changes in care or treatment that may affect his or her well-being.
 3. Each client shall have the right to participate in planning care and treatment or changes in care or treatment. For clients who have been adjudged incompetent, this right shall be extended to the individual who has been appointed to make decisions on behalf of the client.
 4. The setting shall ensure that each client has the right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical symptoms.
 5. Restraints may only be imposed -
 - A. to ensure the physical safety of the individual or other clients served in the setting, and
 - B. only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances when such restraints are determined to be necessary to prevent immediate and significant threat to the life or safety of the individual, staff members, or other clients until such an order can reasonably be obtained).

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6. The setting shall ensure the right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of client groups.
 7. The setting shall preserve the individual's right to confidentiality of personal and clinical records. The setting shall grant the individual (or legal representative) access to any current clinical records maintained by the setting upon request of the individual or legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.
 8. The setting shall extend to the individual the right to receive services consistent with the individual's needs and preferences and the types of services provided by the setting, except where the health or safety of the individual or other clients would be endangered.
 9. The individual shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances, and the right to prompt efforts by the setting to resolve those grievances the client may have, including those with respect to the behavior of other clients.
 10. The setting shall extend to the client the right to organize and participate in client groups in the setting and the right of the client's family to meet in the setting with the families of other clients in the setting.
 11. The setting shall not restrict the right of the client to participate in social, religious and community activities that do not interfere with the rights of other clients in the setting.
 12. The setting shall extend the right to examine, upon reasonable request, the results of the most recent survey of the setting conducted by HCFA or the State with respect to the setting and any plan of remedial action in effect with respect to the setting.
- b. In the case of an individual adjudged incompetent under the laws of the State, the rights of the client shall devolve upon, and to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the individual's behalf.
- c. Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the individual's ICCP) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external consultant reviews the appropriateness of the drug plan of each client receiving such drugs.

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- d. A small nonresidential community care setting must extend to each individual served the following access and visitation rights.
1. Permit immediate access to any client by any representative of HCFA, by any representative of the State, by an ombudsman or agency described in section 1919(c)(2)(B)(iii)(II), (III), or (IV) of the Social Security Act, or by the client's individual physician or case manager.
 2. Permit immediate access to a client, subject to the client's right to deny or withdraw consent at any time, by the immediate family or other relatives of the client.
 3. Permit immediate access to a client, subject to reasonable restrictions and the client's right to deny or withdraw consent at any time, by others who are visiting with the consent of the client.
 4. Permit reasonable access to a client by any entity or individual that provides health, social, legal, or other services to the client, subject to the client's right to deny or to withdraw consent at any time.
 5. Permit representatives of the State ombudsman (described in section 1919(c)(2)(B)(iii)(II) of the Social Security Act), with the permission of the client (or the client's legal representative) and consistent with State law, to examine a client's clinical records.
- e. If the setting receives or holds funds from its clients, or exercises control over client funds, on a permanent or temporary basis, the setting must meet the following requirements.
1. The setting may not require clients to deposit their personal funds with the setting, and
 2. Upon the written authorization of the client, the setting must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this Appendix.
 3. The setting must purchase a surety bond, or otherwise provide assurance satisfactory to the secretary, to assure the security of all personal funds of clients deposited with the setting.
 4. The setting may not impose a charge against the personal funds of a client for any item or service for which payment is made under the plan or under Medicare.

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Nothing in this Appendix shall be construed as requiring a setting to receive or hold funds from a client.

- f. If the setting receives or holds funds from a client, the setting must manage and account for the personal funds of the client deposited with the facility as follows:
1. The setting must deposit any amount of personal funds in excess of \$50 with respect to a client in an interest bearing account (or accounts) that is separate from any of the setting's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the setting must maintain such funds in a non-interest bearing account or petty cash fund.
 2. The setting must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a client deposited with the setting, and afford the client or legal representative, reasonable access to such record.
 3. The setting must notify each client receiving home and community care services when the amount in the client's account reaches \$200 less than the dollar amount determined under section 1611(a)(3)(B) of the Social Security Act and the fact that if the amount in the account (in addition to the value of the client's other nonexempt resources) reaches the amount determined under such section the client may lose eligibility for such medical assistance or for SSI benefits.
 4. Upon the death of a client with such an account, the community care setting must convey promptly the client's personal funds (and a final accounting of such funds) to the individual administering the client's estate.
- g. Each small nonresidential community care setting shall be required to inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting.
- h. Each small nonresidential community care setting must meet any applicable State and local certification or license, zoning, building and housing codes, and State and local fire and safety regulations.
- i. Each small nonresidential community care setting shall be designed, constructed, equipped and maintained in a manner to protect the health and safety of clients.

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- j. Nothing in this section shall be construed to require a small nonresidential community care setting to provide or arrange for medical care or treatment to clients served under this benefit if the setting does not provide this care to other clients who receive similar services in the facility.

- k. Except to the extent dictated otherwise by State law, a small nonresidential community care setting shall not be held responsible for the actions or inactions of persons not employed by the setting, who furnish medical care or treatment on its premises, when the setting has not arranged for the provision of care by these persons.

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MAR 1 1992
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APPENDIX G-3 SMALL RESIDENTIAL COMMUNITY CARE SETTINGS

The requirements of this Appendix shall apply to small nonresidential community care settings.

The State will require that small nonresidential community care settings meet requirements specified in this Appendix.

- a. The setting shall protect and promote the rights of each client, including each of the following rights:
 1. The setting shall extend to each client the right to choose a personal attending physician.
 2. Each client shall be fully informed in advance about care and treatment, and of any changes in care or treatment that may affect his or her well-being.
 3. Each client shall have the right to participate in planning care and treatment or changes in care or treatment. For clients who have been adjudged incompetent, this right shall be extended to the individual who has been appointed to make decisions on behalf of the client.
 4. The setting shall ensure that each client has the right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical symptoms.
 5. Restraints may only be imposed -
 - A. to ensure the physical safety of the individual or other clients served in the setting, and
 - B. only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances when such restraints are determined to be necessary to prevent immediate and significant threat to the life or safety of the individual, staff members, or other clients until such an order can reasonably be obtained).

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6. The setting shall ensure the right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of client groups. This shall not be construed to require the setting to furnish a private bedroom for the individual.
 7. The setting shall preserve the individual's right to confidentiality of personal and clinical records. The setting shall grant the individual (or legal representative) access to any current clinical records maintained by the setting upon request of the individual or legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.
 8. The setting shall extend to the individual the right to receive services consistent with the individual's needs and preferences and the types of services provided by the setting, except where the health or safety of the individual or other clients would be endangered.
 9. The individual shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances, and the right to prompt efforts by the setting to resolve those grievances the client may have, including those with respect to the behavior of other clients.
 10. The setting shall extend to the client the right to receive notice before the room or the roommate of the resident in the setting is changed.
 11. The setting shall extend to the client the right to organize and participate in client groups in the setting and the right of the client's family to meet in the setting with the families of other clients in the setting.
 12. The setting shall not restrict the right of the client to participate in social, religious and community activities that do not interfere with the rights of other clients in the setting.
 13. The setting shall extend the right to examine, upon reasonable request, the results of the most recent survey of the setting conducted by HCFA or the State with respect to the setting and any plan of remedial action in effect with respect to the setting.
- b. In the case of an individual adjudged incompetent under the laws of the State, the rights of the client shall devolve upon, and to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the individual's behalf.

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- c. Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the individual's ICCP) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external consultant reviews the appropriateness of the drug plan of each client receiving such drugs.

 - d. A small residential community care setting must extend to each individual served the following access and visitation rights.
 1. Permit immediate access to any client by any representative of HCFA, by any representative of the State, by an ombudsman or agency described in section 1919(c)(2)(B)(iii)(II), (III), or (IV) of the Social Security Act, or by the client's individual physician or case manager.
 2. Permit immediate access to a client, subject to the client's right to deny or withdraw consent at any time, by the immediate family or other relatives of the client.
 3. Permit immediate access to a client, subject to reasonable restrictions and the client's right to deny or withdraw consent at any time, by others who are visiting with the consent of the client.
 4. Permit reasonable access to a client by any entity or individual that provides health, social, legal, or other services to the client, subject to the client's right to deny or to withdraw consent at any time.
 5. Permit representatives of the State ombudsman (described in section 1919(c)(2)(B)(iii)(II) of the Social Security Act), with the permission of the client (or the client's legal representative) and consistent with State law, to examine a client's clinical records.

 - e. If the setting receives or holds funds from its clients, or exercises control over client funds, on a permanent or temporary basis, the setting must meet the following requirements.
 1. The setting may not require clients to deposit their personal funds with the setting, and
 2. Upon the written authorization of the client, the setting must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this Appendix.
 3. The setting must purchase a surety bond, or otherwise provide assurance satisfactory to the secretary, to assure the security of all personal funds of clients deposited with the setting.

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4. The setting may not impose a charge against the personal funds of a client for any item or service for which payment is made under the plan or under Medicare.

Nothing in this Appendix shall be construed as requiring a setting to receive or hold funds from a client.

- f. If the setting receives or holds funds from a client, the setting must manage and account for the personal funds of the client deposited with the facility as follows:
1. The setting must deposit any amount of personal funds in excess of \$50 with respect to a client in an interest bearing account (or accounts) that is separate from any of the setting's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the setting must maintain such funds in a non-interest bearing account or petty cash fund.
 2. The setting must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a client deposited with the setting, and afford the client or legal representative, reasonable access to such record.
 3. The setting must notify each client receiving home and community care services when the amount in the client's account reaches less than the dollar amount determined under section 1611(a)(3) of the Social Security Act and the fact that if the amount in account (in addition to the value of the client's other nonexempt resources) reaches the amount determined under such section the client may lose eligibility for such medical assistance or for benefits.
 4. Upon the death of a client with such an account, the community care setting must convey promptly the client's personal funds, a final accounting of such funds) to the individual administrator of the client's estate.
 - g. Each small residential community care setting shall be required to inform each individual receiving community care under this section of the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting.
 - h. Each small residential community care setting must meet any applicable State and local, certification, licensure, zoning, building and codes, and State and local fire and safety regulations.

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- i. Each small residential community care setting shall be designed, constructed, equipped and maintained in a manner to protect the health and safety of residents.
- j. Nothing in this section shall be construed to require a small residential community care setting to provide or arrange for medical care or treatment to clients served under this benefit if the setting does not provide this care to other clients who receive similar services in the setting.
- k. Except to the extent dictated otherwise by State law, a small residential community care setting shall not be held responsible for the actions or inactions of persons not employed by the setting, who furnish medical care or treatment on its premises, when the setting has not arranged for the provision of care by these persons.

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APPENDIX G-4 LARGE NONRESIDENTIAL COMMUNITY CARE SETTINGS

The requirements of this Appendix shall apply to large nonresidential community care settings.

The State will require that large nonresidential community care settings meet requirements specified in this Appendix.

- a. The setting shall protect and promote the rights of each client, including each of the following rights:
 1. The setting shall extend to each client the right to choose a personal attending physician.
 2. Each client shall be fully informed in advance about care and treatment, and of any changes in care or treatment that may affect his or her well-being.
 3. Each client shall have the right to participate in planning care and treatment or changes in care or treatment. For clients who have been adjudged incompetent, this right shall be extended to the individual who has been appointed to make decisions on behalf of the client.
 4. The setting shall ensure that each client has the right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical symptoms.
 5. Restraints may only be imposed -
 - A. to ensure the physical safety of the individual or other clients served in the setting, and
 - B. only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances when such restraints are determined to be necessary to prevent immediate and significant threat to the life or safety of the individual, staff members, or other clients until such an order can reasonably be obtained).

- 6. The setting shall ensure the right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of client groups.
 - 7. The setting shall preserve the individual's right to confidentiality of personal and clinical records. The setting shall grant the individual (or legal representative) access to any current clinical records maintained by the setting upon request of the individual or legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.
 - 8. The setting shall extend to the individual the right to receive services consistent with the individual's needs and preferences and the types of services provided by the setting, except where the health or safety of the individual or other clients would be endangered.
 - 9. The individual shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances, and the right to prompt efforts by the setting to resolve those grievances the client may have, including those with respect to the behavior of other clients.
 - 10. The setting shall extend to the client the right to organize and participate in client groups in the setting and the right of the client's family to meet in the setting with the families of other clients in the setting.
 - 11. The setting shall not restrict the right of the client to participate in social, religious and community activities that do not interfere with the rights of other clients in the setting.
 - 12. The setting shall extend the right to examine, upon reasonable request, the results of the most recent survey of the setting conducted by HCFA or the State with respect to the setting and any plans of remedial action in effect with respect to the facility.
- b. In the case of an individual adjudged incompetent under the laws of the State, the rights of the client shall devolve upon, and to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the individual's behalf.
 - c. Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the individual's ICCP) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external

consultant reviews the appropriateness of the drug plan of each client receiving such drugs.

- d. A large nonresidential community care setting must extend to each individual served the following access and visitation rights.
1. Permit immediate access to any client by any representative of HCFA, by any representative of the State, by an ombudsman or agency described in section 1919(c)(2)(B)(iii)(II), (III), or (IV) of the Social Security Act, or by the clients individual physician or case manager.
 2. Permit immediate access to a client, subject to the client's right to deny or withdraw consent at any time, by the immediate family or other relatives of the client.
 3. Permit immediate access to a client, subject to reasonable restrictions and the client's right to deny or withdraw consent at any time, by others who are visiting with the consent of the client.
 4. Permit reasonable access to a client by any entity or individual that provides health, social, legal, or other services to the client, subject to the client's right to deny or to withdraw consent at any time.
 5. Permit representatives of the State ombudsman (described in section 1919(c)(2)(B)(iii)(II) of the Social Security Act), with the permission of the client (or the client's legal representative) and consistent with State law, to examine a client's clinical records.
- c. If the setting receives or holds funds from its clients, or exercises control over client funds, on a permanent or temporary basis, the setting must meet the following requirements.
1. The setting may not require clients to deposit their personal funds with the setting, and
 2. Upon the written authorization of the client, the setting must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this Appendix.
 3. The setting must purchase a surety bond, or otherwise provide assurance satisfactory to the secretary, to assure the security of all personal funds of clients deposited with the setting.
 4. The setting may not impose a charge against the personal funds of a client for any item or service for which payment is made under the plan or under Medicare.

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Nothing in this Appendix shall be construed as requiring a setting to receive or hold funds from a client.

- d. If the setting receives or holds funds from a client, the setting must manage and account for the personal funds of the client deposited with the facility as follows:
1. The setting must deposit any amount of personal funds in excess of \$50 with respect to a client in an interest bearing account (or accounts) that is separate from any of the setting's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the setting must maintain such funds in a non-interest bearing account or petty cash fund.
 2. The setting must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a client deposited with the setting, and afford the client or legal representative, reasonable access to such record.
 3. The setting must notify each client receiving home and community care services when the amount in the client's account reaches \$200 less than the dollar amount determined under section 1611(a)(3)(B) of the Social Security Act and the fact that if the amount in the account (in addition to the value of the client's other nonexempt resources) reaches the amount determined under such section the client may lose eligibility for such medical assistance or for SSI benefits.

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4. Upon the death of a client with such an account, the community care setting must convey promptly the client's personal finds (and a final accounting of such funds) to the individual administering the client's estate.
- e. Each large nonresidential community care setting shall be required to inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting.
- f. Each large nonresidential community care setting must be designed, constructed, equipped and maintained in a manner to protect the health and safety of clients, personnel and the general public.
- g. Nothing in this section shall be construed to require a large nonresidential community care setting to provide or arrange for medical care or treatment to clients served under this benefit if the setting does not provide this care to other clients who receive similar services in the facility.
- h. Except to the extent dictated otherwise by State law, a large nonresidential community care setting shall not be held responsible for the actions or inactions of persons not employed by the setting, who furnish medical care or treatment on its premises, when the setting has not arranged for the provision of care by these persons.
- i. A large nonresidential community care setting must be licensed or certified under applicable State and local law.
- j. A large nonresidential community care setting must meet such provisions of the most recent edition of the Life Safety Code of the National Fire Protection Association as are applicable to the type of setting.
 1. The State requests that HCFA waive certain provisions of this Code, which if rigidly applied would result in unreasonable hardship upon a setting. The State certifies that such a waiver would not adversely affect the health and safety of clients or personnel. The specific request for waiver and supporting documentation are attached.

YES

X

NO

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2. The State certifies to HCFA that there is in effect a fire and safety code, imposed by State law, which adequately protects clients and personnel in certain types of nonresidential community care settings. The specific types of settings are identified in attached documentation. The State requests that the provisions of the State code be substituted for those of the Life Safety Code of the National fire Protection Association for those particular settings.

 YES

 X

 NO

- k. Each large nonresidential community care setting must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3) of the Social Security Act) in the setting.

- l. A large nonresidential community care setting may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under Medicaid or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard, or to have failed to meet the requirements of this Appendix.

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APPENDIX G-5 LARGE RESIDENTIAL COMMUNITY CARE SETTINGS

The requirements of this Appendix shall apply to large residential community care settings.

The State will require that large residential community care settings meet requirements specified in this Appendix.

- a. The setting shall protect and promote the rights of each client, including each of the following rights:
1. The setting shall extend to each client the right to choose a personal attending physician.
 2. Each client shall be fully informed in advance about care and treatment, and of any changes in care or treatment that may affect his or her well-being.
 3. Each client shall have the right to participate in planning care and treatment or changes in care or treatment. For clients who have been adjudged incompetent, this right shall be extended to the individual who has been appointed to make decisions on behalf of the client.
 4. The setting shall ensure that each client has the right to be free from physical or mental abuse, corporal punishment, involuntary seclusion, and any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat the individual's medical symptoms.
 5. Restraints may only be imposed -
 - A. to ensure the physical safety of the individual or other clients served in the setting, and
 - B. only upon the written order of a physician that specifies the duration and circumstances under which the restraints are to be used (except in emergency circumstances when such restraints are determined to be necessary to prevent immediate and significant threat to the life or safety of the individual, staff members, or other clients) until such an order can reasonably be obtained.

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6. The setting shall ensure the right to privacy with regard to accommodations, medical treatment, written and telephonic communications, visits, and meetings of family and of client groups. This shall not be construed to require the setting to furnish a private bedroom for the individual.
 7. The setting shall preserve the individual's right to confidentiality of personal and clinical records. The setting shall grant the individual (or legal representative) access to any current clinical records maintained by the setting upon request of the individual or legal representative, within 24 hours (excluding hours occurring during a weekend or holiday) after making such a request.
 8. The setting shall extend to the individual the right to receive services consistent with the individual's needs and preferences and the types of services provided by the setting, except where the health or safety of the individual or other clients would be endangered.
 9. The individual shall have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances, and the right to prompt efforts by the setting to resolve those grievances the client may have, including those with respect to the behavior of other clients.
 10. The setting shall extend to the client the right to receive notice before the room or the roommate of the resident in the setting is changed.
 11. The setting shall extend to the client the right to organize and participate in client groups in the setting and the right of the client's family to meet in the setting with the families of other clients in the setting.
 12. The setting shall not restrict the right of the client to participate in social, religious and community activities that do not interfere with the rights of other clients in the setting.
 13. The setting shall extend the right to examine, upon reasonable request, the results of the most recent survey of the setting conducted by HCFA or the State with respect to the setting.
- b. In the case of an individual adjudged incompetent under the laws of the State, the rights of the client shall devolve upon, and to the extent judged necessary by a court of competent jurisdiction, be exercised by, the person appointed under State law to act on the individual's behalf.

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- c. Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the individual's ICCP) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external consultant reviews the appropriateness of the drug plan of each client receiving such drugs.
- d. A large residential community care setting must extend to each individual served the following access and visitation rights.
1. Permit immediate access to any client by any representative of HCFA, by any representative of the State, by an ombudsman or agency described in section 1919(c)(2)(B)(iii)(II), (III), or (IV) of the Social Security Act, or by the client's individual physician or case manager.
 2. Permit immediate access to a client, subject to the client's right to deny or withdraw consent at any time, by the immediate family or other relatives of the client.
 3. Permit immediate access to a client, subject to reasonable restrictions and the client's right to deny or withdraw consent at any time, by others who are visiting with the consent of the client.
 4. Permit reasonable access to a client by any entity or individual that provides health, social, legal, or other services to the client, subject to the client's right to deny or to withdraw consent at any time.
 5. Permit representatives of the State ombudsman (described in section 1919(c)(2)(B)(ii)(II) of the Social Security Act), with the permission of the client (or the client's legal representative) and consistent with State law, to examine a client's clinical records.
- e. If the setting receives or holds funds from its clients, or exercises control over client funds, on a permanent or temporary basis, the setting must meet the following requirements.
1. The setting may not require clients to deposit their personal funds with the setting, and
 2. Upon the written authorization of the client, the setting must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this Appendix.

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3. The setting must purchase a surety bond, or otherwise provide assurance satisfactory to the secretary, to assure the security of all personal funds of clients deposited with the setting.
4. The setting may not impose a charge against the personal funds of a client for any item or service for which payment is made under the plan or under Medicare.

Nothing in this Appendix shall be construed as requiring a setting to receive or hold funds from a client.

- f. If the setting receives or holds funds from a client, the setting must manage and account for the personal funds of the client deposited with the facility as follows:
 1. The setting must deposit any amount of personal funds in excess of \$50 with respect to a client in an interest bearing account (or accounts) that is separate from any of the setting's operating accounts and credits all interest earned on such separate account to such account. With respect to any other personal funds, the setting must maintain such funds in a non-interest bearing account or petty cash fund.
 2. The setting must assure a full and complete separate accounting of each such resident's personal funds, maintain a written record of all financial transactions involving the personal funds of a client deposited with the setting, and afford the client or legal representative, reasonable access to such record.
 3. The setting must notify each client receiving home and community care services when the amount in the client's account reaches \$200 less than the dollar amount determined under section 1611(a)(3)(B) and the fact that if the amount in the account (in addition to the value of the client's other nonexempt resources) reaches the amount determined under such section the client may lose eligibility for such medical assistance or for SSI benefits.
 4. Upon the death of a client with such an account, the community care setting must convey promptly the client's personal funds (and a final accounting of such funds) to the individual administering the client's estate.
- g. Each large residential community care setting shall be required to inform each individual receiving community care under this section in the setting, orally and in writing at the time the individual first receives community care in the setting, of the individual's legal rights with respect to such a setting and the care provided in the setting.

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- h. Each large residential community care setting shall be designed, constructed, equipped and maintained in a manner to protect the health and safety of clients, personnel and the general public.
- i. Nothing in this section shall be construed to require a large residential community care setting to provide or arrange for medical care or treatment to clients served under this benefit if the setting does not provide this care to other clients who receive similar services in the setting.
- j. Except to the extent dictated otherwise by State law, a large residential community care setting shall not be held responsible for the actions or inactions of persons not employed by the setting, who furnish medical care or treatment on its premises, when the setting has not arranged for the provision of care by these persons.
- k. A large residential community care setting must be licensed or certified under applicable State and local law.
- l. A large residential community care setting must meet such provisions of the most recent edition of the Life Safety Code of the National Fire Protection Association as are applicable to the type of setting.
 - 1. The State requests that HCFA waive certain provisions of this Code, which if rigidly applied would result in unreasonable hardship upon a setting. The State certifies that such a waiver would not adversely affect the health and safety of clients or personnel. The specific request for waiver and supporting documentation are attached.
 _____ YES _____ X _____ NO
 - 2. The State certifies to HCFA that there is in effect a fire and safety code, imposed by State law, which adequately protects clients and personnel in certain types of residential community care settings. The specific types of settings are identified in attached documentation. The State requests that the provisions of the State code be substituted for those of the Life Safety Code of the National fire Protection Association.
 _____ YES _____ X _____ NO
- m. Each large residential community care setting must disclose persons with an ownership or control interest (including such persons as defined in section 1124(a)(3) of the Social Security Act) in the setting.

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- n. A large residential community care setting may not have, as a person with an ownership or control interest in the setting, any individual or person who has been excluded from participation in the program under Medicaid or who has had such an ownership or control interest in one or more community care settings which have been found repeatedly to be substandard, or to have failed to meet the requirements of this Appendix.

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Supplement 3 to Attachment 3.1-A

Page 1

State of Rhode Island

PACE State Plan Amendment

I. Eligibility

The State determines eligibility for PACE enrollees under rules applying to community groups.

A. The State determines eligibility for PACE enrollees under rules applying to institutional groups as provided for in section 1902(a)(10)(A)(i)(VI) of the Act (42 CFR 435.217 in regulations). The State has elected to cover under its State plan the eligibility groups specified under these provisions in the statute and regulations. The applicable groups are:

Categorically Needy SSI-related Coverage Groups:

- SSI-related Recipients
- Deemed SSI Recipients Under 1619(b) of SSA
- Pickle Amendment Eligibles
- Disabled Adult Children
- SSI-eligible Non Cash Recipients
- SSI-eligible but for MA Prohibited Rules
- State Supplement Recipients Based on 12/73 AABD
- Disabled Widowers SSI-ineligible Due to Actuarial Changes
- Protected Widowers Age 60 through 65
- Disabled Widower(s) and Surviving Divorced Spouses Who Lose SSI or SSP
- Refugee Medical Assistance

Poverty Level SSI-related Coverage Group:

- Low-Income Aged and Disabled Individuals

Medically Needy SSI-related Coverage Groups:

- Aged, Blind or Disabled Individuals
- 12/73 Blind or Disabled Individuals

Special Treatment Coverage Groups:

- Title XV Coverage Group

(If this option is selected, please identify, by statutory and/or regulatory reference, the institutional eligibility group or groups under which the State determines eligibility for PACE enrollees. Please note that these groups must be covered under the State's Medicaid plan.)

B. The State determines eligibility for PACE enrollees under rules applying to institutional groups, but chooses not to apply post-eligibility treatment of income rules to those individuals. (If this option is selected, skip to II - Compliance and State Monitoring of the PACE Program.)

C. The State determines eligibility for PACE enrollees under rules applying to institutional groups, and applies post-eligibility treatment of income rules to those individuals as specified below. Note that the post-eligibility treatment of income rules specified below are the same as those that apply to the State's approved HCBS waiver(s).

Regular Post Eligibility

1. SSI State. The State is using the post-eligibility rules at 42 CFR 435.726. Payment for PACE services is reduced by the amount remaining after deducting the following amounts from the PACE enrollee's income.

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(a). Sec. 435.726--States which do not use more restrictive eligibility requirements than SSI.

1. Allowances for the needs of the:

(A.) Individual (check one)

1. The following standard included under the State plan (check one):

(a) SSI

(b) Medically Needy

(c) The special income level for the institutionalized

(d) Percent of the Federal Poverty Level: 100 %

(e) Other

(specify): _____

2. The following dollar amount: \$ _____

Note: If this amount changes, this item will be revised.

3. The following formula is used to determine the needs allowance:

Note: If the amount protected for PACE enrollees in item 1 is equal to, or greater than the maximum amount of income a PACE enrollee may have and be eligible under PACE, enter N/A in items 2 and 3.

(B.) Spouse only (check one):

1. SSI Standard

2. Optional State Supplement Standard

3. Medically Needy Income Standard

4. The following dollar amount: \$ _____

Note: If this amount changes, this item will be revised.

5. The following percentage of the following standard that is not greater than the standards above: _____ % of _____ standard.

6. The amount is determined using the following formula:

7. Not applicable (N/A)

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(C.) Family (check one):

1. AFDC need standard
2. Medically needy income standard

The amount specified below cannot exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's approved AFDC plan or the medically needy income standard established under 435.811 for a family of the same size.

3. The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
4. The following percentage of the following standard that is not greater than the standards above: _____ %
of _____ standard.
5. The amount is determined using the following formula:

6. Other
7. Not applicable (N/A)

(2). Medical and remedial care expenses in 42 CFR 435.726.

Regular Post Eligibility

2. 209(b) State, a State that is using more restrictive eligibility requirements than SSI. The State is using the post-eligibility rules at 42 CFR 435.735. Payment for PACE services is reduced by the amount remaining after deducting the following amounts from the PACE enrollee's income.

(a) **42 CFR 435.735**--States using more restrictive requirements than SSI.

1. Allowances for the needs of the:
(A.) Individual (check one)
 1. The following standard included under the State plan (check one):
 - (a) SSI
 - (b) Medically Needy
 - (c) The special income level for the institutionalized

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- (d) _____ Percent of the Federal Poverty Level: _____ %
(e) _____ Other (specify): _____
2. _____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
3. _____ The following formula is used to determine the needs allowance:

Note: If the amount protected for PACE enrollees in item 1 is equal to, or greater than the maximum amount of income a PACE enrollee may have and be eligible under PACE, enter N/A in items 2 and 3.

(B.) Spouse only (check one):

1. _____ The following standard under 42 CFR 435.121:

2. _____ The Medically needy income standard

3. _____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.
4. _____ The following percentage of the following standard that is not greater than the standards above: _____ % of _____ standard.
5. _____ The amount is determined using the following formula:

6. _____ Not applicable (N/A)

(C.) Family (check one):

1. _____ AFDC need standard
2. _____ Medically needy income standard

The amount specified below cannot exceed the higher of the need standard for a family of the same size used to determine eligibility under the State's approved AFDC plan or the medically needy income standard established under 435.811 for a family of the same size.

3. _____ The following dollar amount: \$ _____
Note: If this amount changes, this item will be revised.

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4. The following percentage of the following standard that is not greater than the standards above: _____% of _____ standard.
5. The amount is determined using the following formula:

6. Other
7. Not applicable (N/A)

(b) Medical and remedial care expenses specified in 42 CFR 435.735.

Spousal Post Eligibility

3. State uses the post-eligibility rules of Section 1924 of the Act (spousal impoverishment protection) to determine the individual's contribution toward the cost of PACE services if it determines the individual's eligibility under section 1924 of the Act. There shall be deducted from the individual's monthly income a personal needs allowance (as specified below), and a community spouse's allowance, a family allowance, and an amount for incurred expenses for medical or remedial care, as specified in the State Medicaid plan.

(a.) Allowances for the needs of the:

1. Individual (check one)

(A) The following standard included under the State plan (check one):

1. SSI
2. Medically Needy
3. The special income level for the institutionalized
4. Percent of the Federal Poverty Level: _____%
5. Other
(specify): _____

(B) The following dollar amount:
\$ _____

Note: If this amount changes, this item will be revised.

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(C) _____ The following formula is used to determine the needs allowance:

If this amount is different than the amount used for the individual's maintenance allowance under 42 CFR 435.726 or 42 CFR 435.735, explain why you believe that this amount is reasonable to meet the individual's maintenance needs in the community:

II. Rates and Payments

A. The State assures HCFA that the capitated rates will be equal to or less than the cost to the agency of providing those same fee-for-service State plan approved services on a fee-for-service basis, to an equivalent non-enrolled population group based upon the following methodology. Please attach a description of the negotiated rate setting methodology and how the State will ensure that rates are less than the cost in fee-for-service.

1. _____ Rates are set at a percent of fee-for-service costs
2. _____ Experience-based (contractors/State's cost experience or encounter date) (please describe)
3. _____ Adjusted Community Rate (please describe)
4. Other (please describe)

The Medicaid rate calculation prepared by the state of Rhode Island presents the blending based on the observed balance between community care and Nursing Home (NH) care in the Medicaid program in 2003 for three cohorts: Medicaid only, Duals 55-64 and Duals 65 plus. PMPM values were calculated for each of the cohorts and an inflation factor was applied to 04, 05 and 06 expenditures. The observed balance within the Duals 65 plus population is 78.2% NH and 21.8% community. The balance between these two population types is a specific artifact

I. Rates and Payments

A. The State assures CMS that the capitated rates will be equal to or less than the cost to the agency of providing those same fee-for-service State plan approved services on a fee-for-service basis, to an equivalent non-enrolled population group based upon the following methodology. Please attach a description of the negotiated rate setting methodology and how the State will ensure that rates are less than the cost in fee-for-service.

1. Rates are set at a percent of fee-for-service costs
2. Experience-based (contractor's/State's cost experience or encounter data) (please describe)
3. Adjusted Community Rate (please describe)
4. Other (please describe)

Effective July 1, 2018 the Executive Office of Health and Human Services (EOHHS) will calculate Program for All-Inclusive Care for the Elderly (PACE) capitation rates on a three-year cycle. During the first year, as per the methods elaborated below, EOHHS will calculate a PACE Amount which is Otherwise Payable (AWOP) using the experience of a similar Medicaid population receiving care through Managed Care Organizations (MCOs) and/or Fee-for-Service (FFS). For the second and third years of each cycle, the first-year rate will be adjusted according to the CMS Market Basket inflation factor for Home Health Agencies. The re-calculation of the AWOP for the first year of the following cycle will ensure that the PACE rates remain below the AWOP.

The State's AWOP methodology reflects the comparative costs paid by EOHHS for Medicaid recipients enrolled in the State's Medicaid Managed Long Term Services and Supports (MLTSS) Program. The data and experience used for establishing the AWOP adheres to the general standards of reasonableness and accuracy required for rate development for Medicaid managed care. The AWOP include adjustments for residential setting, Medicare status, the relative age and acuity of PACE members, and additional Medicaid services provided outside of the MLTSS Program.

The State will establish an AWOP for the following three different PACE rating groups:

- Duals aged 55-64 (PC55) and receiving services in the Community or Nursing Home (NH); [CP1]
- Duals aged 65 and older (PC65) and receiving services in the Community or NH; and
- Medicaid Only (PCMA) recipients receiving services in the Community or NH.

As the MLTSS Program includes rating groups that are different from PACE, EOHHS creates and then blends six comparable rating subgroups; a separate HCBS and NH rating group for each of the three PACE rating groups. Based upon the age distributions in PACE and the MLTSS Program, Age Group Adjustment factors are calculated and applied against the medical component of the comparable capitation rates developed for the MLTSS Program

To account for frailty differences of members enrolled in the MLTSS Program and PACE, EOHHS calculates a frailty adjustment factor based on differences in the average Reutilization Utilization Group (RUG) score of the two populations.

EOHHS identified two groups enrolled in the MLTSS Program that are comparable to the PACE population:

- those individuals, receiving HCBS, who have either a High or Highest Level of Care determination; and,
- those individuals residing in a Nursing Home who had also previously received HCBS and had Medicaid eligibility for at least 90 days prior to residing in a Nursing Home.

EOHHS excludes the following groups for purposes of establishing a PACE-comparable population:

- those who are already residing in the Nursing Home prior to obtaining Medicaid eligibility;
- those who enter the Nursing Home within 90 days of receiving Medicaid eligibility (as per RHO rules); and,
- those who enter the Nursing Home without ever having received HCBS.

Based on the above selection criteria, EOHHS estimates the proportion of members enrolled in the MLTSS Program who would otherwise be residing in a Nursing Home. The percentages calculated are then increased to account for additional enrollees who might have transitioned into a Nursing Home had they not been enrolled in PACE.

EOHHS then applies to the weighted Medical Component PMPM of each capitation group the following: a Medical Gain/Loss percentage; an Administrative PMPM; a Margin PMPM; a Dental PMPM; and a Non-Emergency Transportation Broker PMPM.

To determine PACE AWOP for the current year^(CP2), EOHHS applies the current CMS Home Health Agency Market Basket rate percent to each capitation group.

The PACE rates are set at 98% of the calculated AWOP.

The AWOP and PACE reflect EOHHS' Medicaid base expenditures prior to the collection of any Patient Share paid by the Medicaid beneficiary.

- B. The State Medicaid Agency assures that the rates were set in a reasonable and predictable manner. Please list the name, organizational affiliation of any actuary used, and attestation/description for the initial capitation rates.
- C. The State will submit all capitated rates to the CMS Regional Office for prior approval.

II. Enrollment and Disenrollment

The State assures that there is a process in place to provide for dissemination of enrollment and disenrollment data between the State and the State Administering Agency. The State assures that it has developed and will implement procedures for the enrollment and disenrollment of participants in the State's management information system, including procedures for any adjustment to account for the difference between the estimated number of participants on which the prospective monthly payment was based and the actual number of participants in that month.