

DEPARTMENTAL GRANT APPEALS BOARD

Department of Health and Human Services

SUBJECT: Missouri Department of Social      DATE: September 23, 1981  
          Services  
          Docket No. 80-69-MO-HC  
          Decision No. 214

DECISION

The Missouri Department of Social Services (State) appealed from an estimated penalty disallowance of \$132,943.88, made by the Health Care Financing Administration (Agency) pursuant to Section 1903(g) of the Social Security Act (the Act). The Agency determined that 60 violations of the utilization control requirements of the Act existed in three mental hospitals in the State during the quarter ending June 30, 1979. The State submitted exact patient data to replace the facility data used by the Agency in calculating the estimated disallowance; the Agency recalculated the penalty on the basis of the data submitted by the State and determined that the amount of the disallowance was \$235,791.17. The State has not challenged that recalculation and amount. The Agency has indicated that the amount of the penalty will be adjusted downward because the calculation did not reflect only FMAP paid for services over 90 days, as required by Section 1903(g). We conclude that the disallowance in an amount to be agreed upon by the parties should be upheld.

This decision is based on the State's application for review, the Agency's response, the parties' responses to the Board's request for clarification of the record, the Board's Order to Show Cause, and the parties' statements that they had no further submissions to make.

The Board issued an Order to Show Cause on July 9, 1981, which discussed the issues raised by the State in its application for review. The State alleged that it met the Federal requirements but it submitted neither documentation to substantiate the truth of its allegation nor specific argument about how it had met the requirements. The Order to Show Cause contained a preliminary conclusion that the Board had no basis for reversing the disallowance on the State's mere allegation that it met the requirements, and the parties have submitted no further arguments or evidence concerning that conclusion. Therefore,

we sustain the disallowance based on the analysis as set forth above and in the Board's Order to Show Cause, incorporating that Order into this decision.

/s/ Cecilia Sparks Ford, Panel Chair

/s/ Donald F. Garrett

/s/ Norval D. (John) Settle