

provide medical assistance to low-income families, the elderly, qualified pregnant minors, and persons with disabilities. The Medicaid program is jointly financed by the Federal and State governments and administered by the States. Within Federal rules, each State chooses eligible groups of beneficiaries, types and ranges of services, payment levels for services, and administrative and operating procedures. The nature and scope of a State's Medicaid program is described in the State plan that the State submits to us for approval. The plan is amended whenever necessary to reflect changes in Federal or State law, changes in policy, or court decisions. Under section 1902(a)(10) of the Act, States must provide certain basic services. Section 1905(a) of the Act identifies categories of services States may provide as medical assistance.

Under the Medicaid program, services for individuals with speech, hearing, and language disorders historically have been permitted under the Secretary's discretionary authority under section 1905(a)(11) of the Act. In our regulations, at 42 CFR 440.110(c), we require that the beneficiary be referred by a physician or other licensed practitioner of the healing arts within the scope of his or her practice under State law for services furnished by, or under the direction of, a qualified audiologist or speech pathologist. As currently defined at § 440.110(c)(2), an audiologist or speech pathologist is an individual who has a certificate of clinical competence from the American Speech-Language-Hearing Association (ASHA); completed the equivalent educational requirements and work experience necessary for the certificate; or completed the academic program and is acquiring supervised work experience to qualify for the certificate.

#### Medicare Requirements

Section 1861(l)(2) of the Act defines audiology services to include hearing and balance assessment services furnished by a qualified audiologist, as the audiologist is legally authorized to perform under State law. Section 1861(l)(3)(B) then identifies the minimum qualifications that a qualified audiologist must have to participate in the Medicare program by defining a "qualified audiologist" as an individual with a master's or doctoral degree and who—

- Is licensed as an audiologist by the State in which the individual furnished those services; or
- In the case of an individual who furnishes services in a State that does not license audiologists, has—

- + Successfully completed 350 clock hours of supervised clinical practicum (or is in the process of accumulating that supervised clinical experience);
- + Performed not fewer than 9 months of supervised full-time audiology services after obtaining a master's or doctoral degree in audiology or a related field; and
- + Successfully completed a national examination in audiology approved by the Secretary.

#### *B. Current Medicaid Program Experience*

Since its inception, the Medicaid program has permitted States the option of providing services for individuals with speech, hearing, and language disorders. Audiology services may be provided in a variety of settings at the State discretion. States have the option of providing audiology services to their adult Medicaid population, but because of the mandatory Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) program, must provide audiology services to Medicaid eligible persons under 21 years of age who have been evaluated and found in need of the service. In fact, Medicaid pays for a substantial number of medical services provided to children with disabilities in schools ("school-based services") according to the Individuals with Disabilities Education Act (IDEA) (Pub. L. 105-17, enacted on June 4, 1997). Our current regulations at § 440.110(c)(2), require audiologists to hold a certificate of clinical competency from ASHA, or its equivalent, to furnish audiology services. Current regulations also permit services to be provided under the direction of a qualified (ASHA certified) audiologist.

#### *C. Consistency with Medicare Program*

Before the Social Security Amendments of 1994 (Pub. L. 103-432, enacted on October 31, 1994), the Medicare and Medicaid regulations both required speech pathologists and audiologists to meet the academic and clinical experience requirements for a Certificate of Clinical Competence granted by ASHA. In accordance with section 146 of the Social Security Amendments of 1994, Medicare revised its statutory requirements for speech pathologists and audiologists, removing the requirement for ASHA certification and placing primary reliance for determining provider qualifications on State licensure.

After the revision of the Medicare requirements in 1994, we began receiving letters from audiology professionals and interested parties recommending that we adopt the

Medicare definition of qualified audiologists. In addition, the introductory text of the legislation entitled "The Medicaid Audiology Act of 1999" (H.R. 1068); and the Committee Report for FY 2001 Labor, Health and Human Services, and Education Appropriations bill (Report 106-645, page 108), recommended that we adopt the Medicare definition of "qualified audiologist" in the Medicaid program; that is, recognize the role of State licensure in determining provider qualifications. The proponents recommending the change stated that the Medicaid definition had not changed in over 20 years and predated the national trend toward greater reliance on State determinations of professional qualifications through licensure.

Last year, after repeated requests to reconcile the differing definitions, we agreed to consider possibilities for changing the Medicaid regulations to bring them into closer conformity with the Medicare requirements by recognizing State licensure in defining a qualified audiologist in a manner that would not compromise State flexibility and quality of care.

We began by conducting meetings with stakeholders and interviewing national organizations to determine the implications that this change would have on Medicaid programs, providers, and beneficiaries. Based on the information gained from those encounters, we now believe it is possible to enact a change to the Medicaid definition of qualified audiologist to recognize the role of State licensure, while simultaneously incorporating standards that address our concerns regarding quality standards of care.

The requirements proposed in this rule reflect our goal of maintaining Medicaid's quality standards while simultaneously being responsive to States, stakeholders, and beneficiaries. Our proposed provider standards recognize the role of State licensure in determining provider qualifications, while preserving the State's flexibility and professional industry standards that aid in ensuring quality services to all Medicaid beneficiaries.

## **II. Provisions of the Proposed Regulations**

This proposed rule only addresses the qualifications of audiologists as defined under § 440.110(c)(2). At this time, we do not propose to change the requirements under this section pertaining to qualified speech-language pathologists.