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## 42 C.F.R. § 433.38

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### Interest charge on disallowed claims for FFP.

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(a) *Basis and scope.* This section is based on section 1903(d)(5) of the Act, which requires that the Secretary charge a State interest on the Federal share of claims that have been disallowed but have been retained by the State during the administrative appeals process under section 1116(e) of the Act and the Secretary later recovers after the administrative appeals process has been completed. This section does not apply to—

- (1) Claims that have been deferred by the Secretary and disallowed within the time limits of § 430.40 of this chapter. Deferral of claims for FFP; or
- (2) Claims for expenditures that have never been paid on a grant award; or
- (3) Disallowances of any claims for services furnished before October 1, 1980, regardless of the date of the claim submitted to CMS.

(b) *General principles.* (1) CMS will charge the State interest on FFP when—

- (i) CMS has notified the Medicaid agency under § 430.42 of this subpart that a State's claim for FFP is not allowable;
- (ii) The agency has requested a reconsideration of the disallowance to the Administrator under § 430.42 of this chapter and has chosen to retain the FFP during the administrative reconsideration process in accordance with paragraph (c)(2) of this section;

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