

§482.12(d)(5) (Continued)

A capital expenditure is not subject to section 1122 review if 75 percent of the health care facility's patients who are expected to use the service for which the capital expenditure is made are individuals enrolled in a health maintenance organization (HMO) or competitive medical plan (CMP) that meets the requirements of section 1876(b) of the Act, and if the Department determines that the capital expenditure is for services and facilities that are needed by the HMO or CMP in order to operate efficiently and economically and that are not otherwise readily accessible to the HMO or CMP because--

- (i) The facilities do not provide common services at the same site;**
- (ii) The facilities are not available under a contract of reasonable duration;**
- (iii) Full and equal medical staff privileges in the facilities are not available;**
- (iv) Arrangements with these facilities are not administratively feasible; or**
- (v) The purchase of these services is more costly than if the HMO or CMP provided the services directly.**