

**§ 124.602 Definitions.**

As used in this subpart:

*Act* means the Public Health Service Act, as amended.

*Facility* means the an entity that received assistance under title VI or title XVI of the Act and provided a community service assurance.

*Fiscal year* means facility's fiscal year.

*Secretary* means the Secretary of Health and Human Services or his delegatee.

*Service area* means the geographic area designated as the area served by the facility in the most recent State plan approved by the Secretary under title VI, except that, at the request of the facility, the Secretary may designate a different area proposed by the facility when he determines that a different area is appropriate based on the criteria in 42 CFR 53.1(d).

*State agency* means the agency of a state fully or conditionally designated by the Secretary as the State health planning and development agency of the State under section 1521 of the Act.

**§ 124.603 Provision of services.**

(a) *General.* (1) In order to comply with its community service assurance, a facility shall make the services provided in the facility or portion thereof constructed, modernized, or converted with Federal assistance under title VI or XVI of the Act available to all persons residing (and, in the case of facilities assisted under title XVI of the Act, employed) in the facility's service area without discrimination on the ground of race, color, national origin, creed, or any other ground unrelated to an individual's need for the service or the availability of the needed service in the facility. Subject to paragraph (b) (concerning emergency services) a facility may deny services to persons who are unable to pay for them unless those persons are required to be provided uncompensated services under the provisions of Subpart F.

(2) A person is residing in the facility's service area for purposes of this section if the person:

(i) Is living in the service area with the intention to remain there permanently or for an indefinite period;

(ii) Is living in the service area for purposes of employment; or

(iii) Is living with a family member who resides in the service area.

(b) *Emergency services.* (1) A facility may not deny emergency services to any person who resides (or, in the case of facilities assisted under title XVI of the Act, is employed) in the facility's service area on the ground that the person is unable to pay for those services.

(2) A facility may discharge a person that has received emergency services, or may transfer the person to another facility able to provide necessary services, when the appropriate medical personnel determine that discharge or transfer will not subject the person to a substantial risk of deterioration in medical condition.

(c) *Third party payor programs.* (1) The facility shall make arrangements, if eligible to do so, for reimbursement for services with:

(i) Those principal State and local governmental third-party payors that provide reimbursement for services that is not less than the actual costs, as determined in accordance with accepted cost accounting principles; and

(ii) Federal governmental third-party programs, such as medicare and medicaid.

(2) The facility shall take any necessary steps to insure that admission to and services of the facility are available to beneficiaries of the governmental programs specified in paragraph (c)(1) of this section without discrimination or preference because they are beneficiaries of those programs.

(d) *Exclusionary admissions policies.* A facility is out of compliance with its community service assurance if it uses an admission policy that has the effect of excluding persons on a ground other than those permitted under paragraph (a) of this section. Illustrative applications of this requirement are described in the following paragraphs:

(1) A facility has a policy or practice of admitting only those patients who are referred by physicians with staff privileges at the facility. If this policy or practice has the effect of excluding persons who reside (or for title XVI facilities, are employed) in the community from the facility because they do