

§ 405.2440

(i) Unduly disrupt the furnishing of Federally qualified health center services to the community; or

(ii) Otherwise interfere with the effective and efficient administration of the Medicare program.

(3) The termination is effective at the end of the last day of business as a Federally qualified health center.

(c) *Termination by HCFA.* (1) HCFA may terminate an agreement with a Federally qualified health center if it finds that the Federally qualified health center—

(i) No longer meets the requirements specified in this subpart; or

(ii) Is not in substantial compliance with—

(A) The provisions of the agreement; or

(B) The requirements of this subpart, any other applicable regulations of this part, or any applicable provisions of title XVIII of the Act.

(2) *Notice by HCFA.* HCFA will notify the Federally qualified health center in writing of its intention to terminate an agreement at least 15 days before the effective date stated in the written notice.

(3) *Appeal.* A Federally qualified health center may appeal HCFA's decision to terminate the agreement in accordance with part 498 of this chapter.

(d) *Effect of termination.* When a Federally qualified health center's agreement is terminated whether by the Federally qualified health center or HCFA, payment will not be available for Federally qualified health center services furnished on or after the effective date of termination.

§ 405.2440 Conditions for reinstatement after termination by HCFA.

When HCFA has terminated an agreement with a Federally qualified health center, HCFA will not enter into another agreement with the Federally qualified health center to participate in the Medicare program unless HCFA—

(a) Finds that the reason for the termination no longer exists; and

(b) Is assured that the reason for the termination of the prior agreement will not recur.

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§ 405.2442 Notice to the public.

(a) When the Federally qualified health center voluntarily terminates the agreement and an effective date is set for the termination, the Federally qualified health center must notify the public prior to a prospective effective date or on the actual day that business ceases, if no prospective date of termination has been set, through publication in at least one newspaper in general circulation in the area serviced by the Federally qualified health center of the—

(1) Effective date of termination of the provision of services; and

(2) Effect of termination of the agreement.

(b) When HCFA terminates the agreement, HCFA will notify the public through publication in at least one newspaper in general circulation in the Federally qualified health center's service area.

§ 405.2444 Change of ownership.

(a) *What constitutes change of ownership—*(1) *Incorporation.* The incorporation of an unincorporated FQHC constitutes change of ownership.

(2) *Merger.* The merger of the center corporation into another corporation, or the consolidation of two or more corporations, one of which is the center corporation, resulting in the creation of a new corporation, constitutes a change of ownership. (The merger of another corporation into the center corporation does not constitute change of ownership.)

(3) *Leasing.* The lease of all or part of an entity constitutes a change of ownership of the leased portion.

(b) *Notice to HCFA.* A center which is contemplating or negotiating change of ownership must notify HCFA.

(c) *Assignment of agreement.* When there is a change of ownership as specified in paragraph (a) of this section, the agreement with the existing center is automatically assigned to the new owner if it continues to meet the conditions to be a Federally qualified health center.

(d) *Conditions that apply to assigned agreements.* An assigned agreement is subject to all applicable statutes and regulations and to the terms and conditions under which it was originally