

Public Health Service, HHS

§ 53.113

the State agency to be not in compliance with the assurance, and the status of such remedial action.

(2) In addition, the State agency shall promptly report to the Regional Attorney and Regional Health Director of the Department of Health and Human Services the institution of any legal action against a facility or the State agency involving compliance with the assurance.

[37 FR 14721, July 22, 1972, as amended at 38 FR 16354, June 22, 1973; 40 FR 46203, Oct. 6, 1975]

§ 53.112 Nondiscrimination.

(a) Before an application is recommended by a State agency to the Secretary for approval, the State agency shall obtain an assurance from the applicant that all portions and services of the entire facility for the construction or modernization of which, or in connection with which, aid under the Act is sought will be made available without discrimination on account of creed and no professionally qualified person will be discriminated against on account of creed with respect to the privilege of professional practice in the facility.

(b) Each construction contract is subject to the condition that the applicant shall comply with the requirements of Executive Order 11246, September 24, 1965 (30 FR 12319), relating to nondiscrimination in construction contract employment, and the applicable rules, regulations, and procedures prescribed pursuant thereto.

(c) Attention is called to the requirement of title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d; 78 Stat. 252) which provides that no person in the United States shall, on the ground of race, color, or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. A regulation implementing such title VI, applicable to assistance under this part for construction and modernization of hospitals and medical facilities, has been issued by the Secretary of Health and Human Services

with the approval of the President (45 CFR part 80).

[37 FR 182, Jan. 6, 1972, as amended at 39 FR 31767, Aug. 30, 1974]

§ 53.113 Community service.

(a) *Applicability.* The provisions of this section apply to every applicant which heretofore has given or hereafter will give a community service assurance.

(b) *Definitions.* As used in this section:

(1) The term *community service assurance* means an assurance required by regulations promulgated pursuant to section 603(e)(1) of the Act or the predecessor of that section (section 622(f), Public Health Service Act, enacted by Pub. L. 79-725, 60 Stat. 1041).

(2) The term *facility* has the same meaning as is given it in § 53.111(b)(1).

(3) The term *applicant* has the same meaning as is given it in § 53.111(b)(2).

(4) The term *fiscal year* has the same meaning as is given it in § 53.111(b)(3).

(c) *Assurance.* Before an application under this part is recommended by a State agency to the Secretary for approval, the State agency shall obtain an assurance from the applicant that the facility will furnish a community service.

(d) *Compliance.* In order to comply with its community service assurance an applicant must:

(1)(i) Make the services it furnishes available to the general public, or

(ii) Limit the availability of such services only on the basis of age, medical indigency, or type or kind of medical or mental disability, or

(iii) If the facility constitutes a medical or nursing care unit of a home or other institution, make such home or other institution available in accordance with paragraph (d)(1) (i) or (ii) of this section; *and*

(2)(i) Make arrangements, if eligible to do so, for reimbursement for services with:

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