
Program Policy

Notice No. 09-07

February 4, 2009

- ◆ U.S. DEPARTMENT OF
HEALTH & HUMAN SERVICES
- ◆ Health Resources and
Services Administration
- ◆ Healthcare Systems Bureau

To: Facilities Assisted under Title VI and XVI of the Public Health Service (PHS)
Act – Hill-Burton

Subject: Requirements for Facilities Subject to the Federal Right of Recovery and
Waiver of Recovery

This notice is to remind facilities subject to the Hill-Burton recovery and waiver of recovery regulations (42 CFR 124, Subpart H) of some of the regulatory requirements applicable to facilities constructed or modernized with the aid of a grant under Title VI or XVI of the PHS Act.

The Secretary of the Department of Health and Human Services (HHS) is entitled to recover funds and authorized to waive that right under certain circumstances on grant-assisted facilities that are sold, transferred, or cease to be at any time within **20 years** from completion of their grant-aided construction or modernization.

A facility must:

1. Notify the HHS within 10 days of the change, if it ceases to be, is sold or transferred to an entity that **would not have been qualified** to receive a grant within 20 years after the completion of the grant-assisted construction.

The notice must specify the date of closure; cease to be action, sale or transfer and include copies of sale contracts, lease agreements, management contracts or other documents pertinent to the change. If the change is a sale or lease to an ineligible entity, the notice **must include** estimates of current assets, current liabilities, book value or equipment, the expected value of land on the new owner's books, and the remaining depreciation for all fixed assets involved in the transaction calculated on a straight line basis using commonly adopted expected useful lifetimes.

In addition, if the above **complete** notice **is** received within a timely manner (10 days), interest will commence 180 days following the notice. If the **complete** notice **is not** received within the required 10-day period, interest on

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the recovery amount will be charged beginning on the date of the sale, transfer, or change of use, and ending on the date the amount which the United States is entitled to recover is collected.

2. Report within 10 days to the HHS, if it transfers control or has a change of use to an entity **that would have been qualified** to receive a grant within 20 years after the completion of the grant-assisted construction. The events giving rise to a transfer area a lease, sale, merger, reorganization, bankruptcy, foreclosure, closure, management contract, or partial transfer.

If a facility's control is assumed by a nonprofit corporation, the HHS requires documentation evidencing the change of status and verification of the new organization's nonprofit status. Also required is a written statement from the governing board of the new nonprofit organization accepting the uncompensated and community service obligations of the grant assisted facility.

If you have any questions, please contact: Division of Facilities Compliance and Recovery, Healthcare Systems Bureau, Health Resources and Services Administration, Parklawn Building, 5600 Fishers Lane, Room 10-105, Rockville, Maryland 20857; telephone (301) 443-5656.

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