

§ 149.610 Secretary's authority to reopen and revise a reimbursement determination.

(a) The Secretary may reopen and revise a reimbursement determination upon the Secretary's own motion or upon the request of a sponsor:

(1) Within 1 year of the reimbursement determination for any reason.

(2) Within 4 years of a reimbursement determination for good cause.

(3) At any time, in instances of fraud or similar fault.

(b) For purposes of this section, the Secretary does not find good cause if the only reason for the revision is a change of legal interpretation or administrative ruling upon which the determination to reimburse was made.

(c) A decision by the Secretary not to revise a reimbursement determination is final and binding (unless fraud or similar fault is found) and cannot be appealed.

Subpart H—Change of Ownership Requirements

§ 149.700 Change of ownership requirements.

(a) *Change of ownership consists of:* (1) *Partnership.* The removal, addition, or substitution of a partner, unless the partners expressly agree otherwise as permitted by applicable state law.

(2) *Asset sale.* Transfer of all or substantially all of the assets of the sponsor to another party.

(3) *Corporation.* The merger of the sponsor's corporation into another corporation or the consolidation of the sponsor's organization with one or more other corporations, resulting in a new corporate body.

(b) *Change of ownership; exception.* Transfer of corporate stock or the merger of another corporation into the sponsor's corporation, with the sponsor surviving, does not ordinarily constitute change of ownership.

(c) *Advance notice requirement.* A sponsor that has a sponsor agreement in effect under this part and is considering or negotiating a change in ownership must notify the Secretary at least 60 days before the anticipated effective date of the change.

(d) *Assignment of agreement.* When there is a change of ownership as speci-

fied in paragraph (a) of this section, and this results in a transfer of the liability for health benefits, the existing sponsor agreement is automatically assigned to the new owner.

(e) *Conditions that apply to assigned agreements.* The new owner to whom a sponsor agreement is assigned is subject to all applicable statutes and regulations and to the terms and conditions of the sponsor agreement.

(f) Failure to notify the Secretary at least 60 days before the anticipated effective date of the change may result in the Secretary recovering funds paid under this program.

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