

**§ 124.504**

**42 CFR Ch. I (10–1–13 Edition)**

**§ 124.504 Notice of availability of uncompensated services.**

(a) *Published notice.* A facility shall publish in a newspaper of general circulation in its area notice of its uncompensated services obligation before the beginning of its fiscal year. The notice shall include:

- (1) The plan of allocation the facility proposes to adopt;
- (2) The amount of uncompensated services the facility intends to make available in the fiscal year or a statement that the facility will provide uncompensated services to all persons unable to pay who request uncompensated services;
- (3) An explanation, if the amount of uncompensated services the facility intends to make available in a fiscal year is less than the annual compliance level. If a facility has satisfied its remaining uncompensated services obligation since the last published notice under this paragraph, or will satisfy the remaining obligation during the fiscal year, the explanation must include this information; and
- (4) A statement inviting interested parties to comment on the allocation plan.

(b) *Posted notice.* (1) The facility shall post notices, which the Secretary supplies in English and Spanish, in appropriate areas in the facility, including but not limited to the admissions areas, the business office, and the emergency room.

(2) If in the service area of the facility the “usual language of households” of ten percent or more of the population according to the most recent figures published by the Bureau of the Census is other than English or Spanish, the facility shall translate the notice into that language and post the translated notice on signs substantially similar in size and legibility to and posted with those supplied under paragraph (b)(1) of this section.

(3) The facility shall make reasonable efforts to communicate the contents of the posted notice to persons who it has reason to believe cannot read the notice.

(c) *Individual written notice.* (1) In any period during a fiscal year in which uncompensated services are available in the facility, the facility shall provide

individual written notice of the availability of uncompensated services to each person who seeks services in the facility on behalf of himself or another. The individual written notice must:

- (i) State that the facility is required by law to provide a reasonable amount of care without or below charge to people who cannot afford care;
- (ii) Set forth the criteria the facility uses for determining eligibility for uncompensated services (in accordance with the financial eligibility criteria and the allocation plan);
- (iii) State the location in the facility where anyone seeking uncompensated services may request them; and
- (iv) State that the facility will make a written determination of whether the person will receive uncompensated services, and the date by or period within which the determination will be made.

(2) The facility shall provide the individual written notice before providing services, except where the emergency nature of the services provided makes prior notice impractical. If this exception applies, the facility shall provide the individual written notice to the next of kin or to the patient as soon as practical, but not later than when first presenting a bill for services.

(3) The facility shall make reasonable efforts to communicate the contents of the individual written notice to persons who it has reason to believe cannot read the notice.

**§ 124.505 Eligibility criteria.**

(a) A person unable to pay for health services is a person who—

- (1) Is not covered, or receives services not covered, under a third-party insurer or governmental program, except where the person is not covered because the facility fails to participate in a program in which it is required to participate by §124.603(c);
- (2) Falls into one of the following categories:

- (i) *Category A*—A person whose annual individual or family income, as applicable, is not greater than the current poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. The facility shall provide uncompensated

services to persons in Category A without charge.

(ii) *Category B*—A person whose annual individual or family income, as applicable, is greater than but not more than twice the poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. If persons in Category B are included in the allocation plan, the facility shall provide uncompensated services to these persons without charge, or in accordance with a schedule of charges as specified in the allocation plan.

(iii) *Category C*—With respect only to persons seeking or receiving nursing home services, a person whose annual or family income, as applicable, is more than twice but not greater than three times the poverty line issued by the Secretary pursuant to 42 U.S.C. 9902 that applies to the individual or family. If persons in Category C are included in the allocation plan, the facility shall provide uncompensated services to these persons without charge, or in accordance with a schedule of charges as specified in the allocation plan; and

(3) Requests services within the facility's allocation plan in effect at the time of the request.

(b) For purposes of determining eligibility for uncompensated services, revisions of the poverty line are effective 60 days from the date of their publication in the FEDERAL REGISTER.

(c) A person is eligible for uncompensated services if the person's individual or family annual income, as applicable, is at or below the level established under paragraph (a)(2) of this section, when calculated by either of the following methods:

(1) Multiplying by four the person's or family's income, as applicable, for the three months preceding the request for uncompensated services;

(2) Using the person's or family's income, as applicable, for the twelve months preceding the request for uncompensated services.

[52 FR 46031, Dec. 3, 1987, as amended at 60 FR 16756, Mar. 31, 1995]

**§ 124.506 Allocation of services; plan requirement.**

(a)(1) A facility shall provide its uncompensated services in accordance with a plan that sets out the method by which the facility will distribute its uncompensated services among persons unable to pay. The plan must:

(i) State the type of services that will be made available;

(ii) Specify the method, if any, for distributing those services in different periods of the year;

(iii) State whether Category B or, in the case of nursing homes only, Category C persons will be provided uncompensated services, and if so, whether the services will be available without charge or at a reduced charge;

(iv) If services will be made available to Category B persons at a reduced charge, specify the method used for reducing charges, and provide that the method is applicable to all persons in Category B;

(v) With respect to nursing homes only, if services will be made available to Category C persons at a reduced charge, specify the method used for reducing charges, provided that such method may not result in greater reductions than those afforded to Category B persons, and provide that this method is applicable to all persons in Category C; and

(vi) Provide that the facility provides uncompensated services to all persons eligible under the plan who request uncompensated services.

(2) A facility must adopt an allocation plan that meets the requirements of paragraph (a) by publishing the plan in a newspaper of general circulation in its area. The plan may take effect no earlier than 60 days following the date of publication.

(b)(1) If in any fiscal year a facility fails to adopt and publish a plan in accordance with paragraph (a) of this section, it shall provide uncompensated services in accordance with the last plan it published in a newspaper of general circulation in its area.

(2) If no plan was previously published in accordance with paragraph (a)(2) of this section, the facility must