

§ 405.2440

42 CFR Ch. IV (10–1–14 Edition)

§ 405.2440 Conditions for reinstatement after termination by CMS.

When CMS has terminated an agreement with a FQHC, CMS does not enter into another agreement with the FQHC to participate in the Medicare program unless CMS—

- (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.

[57 FR 24978, June 12, 1992, as amended at 79 FR 25476, May 2, 2014]

§ 405.2442 Notice to the public.

(a) When the FQHC voluntarily terminates the agreement and an effective date is set for the termination, the FQHC 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 FQHC of the—

- (1) Effective date of termination of the provision of services; and
 - (2) Effect of termination of the agreement.
- (b) When CMS terminates the agreement, CMS will notify the public through publication in at least one newspaper in general circulation in the FQHC's service area.

[57 FR 24978, June 12, 1992, as amended at 79 FR 25476, May 2, 2014]

§ 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 FQHC corporation into another corporation, or the consolidation of two or more corporations, one of which is the FQHC corporation, resulting in the creation of a new corporation, constitutes a change of ownership. (The merger of another corporation into the FQHC 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 CMS*. A FQHC which is contemplating or negotiating change of ownership must notify CMS.

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

(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 issued including, but not limited to, the following:

- (1) Compliance with applicable health and safety standards.
- (2) Compliance with the ownership and financial interest disclosure requirements of part 420, subpart C of this subchapter.

[57 FR 24978, June 12, 1992, as amended at 79 FR 25476, May 2, 2014]

§ 405.2446 Scope of services.

(a) For purposes of this section, the terms rural health clinic and RHC when they appear in the cross references in paragraph (b) of this section also mean Federally qualified health centers and FQHCs.

(b) FQHC services that are paid for under this subpart are outpatient services that include the following:

- (1) Physician services specified in § 405.2412.
- (2) Services and supplies furnished as incident to a physician's professional service, as specified in § 405.2413.
- (3) Nurse practitioner, physician assistant or certified nurse midwife services as specified in § 405.2414.
- (4) Services and supplies furnished as incident to a nurse practitioner, physician assistant, or certified nurse midwife service, as specified in § 405.2415.
- (5) Clinical psychologist and clinical social worker services specified in § 405.2450.
- (6) Services and supplies furnished as incident to a clinical psychologist or clinical social worker service, as specified in § 405.2452.
- (7) Visiting nurse services specified in § 405.2416.
- (8) Preventive primary services specified in § 405.2448 of this subpart.

(9) Medical nutrition therapy services as specified in part 410, subpart G of this chapter, and diabetes outpatient self-management training services as specified in part 410, subpart H of this chapter.

(c) FQHC services are covered when provided in outpatient settings only, including a patient's place of residence, which may be a skilled nursing facility or a nursing facility or other institution used as a patient's home.

(d) FQHC services are not covered in a hospital, as defined in section 1861(e)(1) of the Act.

[57 FR 24979, June 12, 1992, as amended at 61 FR 14657, Apr. 3, 1996; 71 FR 69782, Dec. 1, 2006; 79 FR 25476, May 2, 2014]

§ 405.2448 Preventive primary services.

(a) Preventive primary services are those health services that—

(1) A FQHC is required to provide as preventive primary health services under section 330 of the PHS Act; and

(2) Are furnished—

(i) By a or under the direct supervision of a physician, nurse practitioner, physician assistant, certified nurse midwife, clinical psychologist or clinical social worker; or

(ii) By a member of the FQHC's health care staff who is an employee of the FQHC or by a physician under arrangements with the FQHC.

(3) Except as specifically provided in section 1861(s) of the Act, include only drugs and biologicals that cannot be self-administered.

(b) Preventive primary services which may be paid for when provided by FQHCs are the following:

(1) Medical social services.

(2) Nutritional assessment and referral.

(3) Preventive health education.

(4) Children's eye and ear examinations.

(5) Prenatal and post-partum care.

(6) Perinatal services.

(7) Well child care, including periodic screening.

(8) Immunizations, including tetanus-diphtheria booster and influenza vaccine.

(9) Voluntary family planning services.

(10) Taking patient history.

(11) Blood pressure measurement.

(12) Weight.

(13) Physical examination targeted to risk.

(14) Visual acuity screening.

(15) Hearing screening.

(16) Cholesterol screening.

(17) Stool testing for occult blood.

(18) Dipstick urinalysis.

(19) Risk assessment and initial counseling regarding risks.

(20) Tuberculosis testing for high risk patients.

(21) For women only.

(i) Clinical breast exam.

(ii) Referral for mammography; and

(iii) Thyroid function test.

(c) Preventive primary services do not include group or mass information programs, health education classes, or group education activities, including media productions and publications.

(d) Screening mammography is not considered a FQHC service, but may be provided at a FQHC if the FQHC if the center meets the requirements applicable to that service specified in § 410.34 of this subchapter. Payment is made under applicable Medicare requirements.

(e) Preventive primary services do not include eyeglasses, hearing aids, or preventive dental services.

[57 FR 24980, June 12, 1992, as amended at 61 FR 14657, Apr. 3, 1996; 79 FR 25477, May 2, 2014]

§ 405.2449 Preventive services.

For services furnished on or after January 1, 2011, preventive services covered under the Medicare FQHC benefit are those preventive services defined in section 1861(ddd)(3) of the Act, and § 410.2 of this chapter. Specifically, these include the following:

(a) The specific services currently listed in section 1861(ww)(2) of the Act, with the explicit exclusion of electrocardiograms.

(b) The Initial Preventive Physical Examination (IPPE) (as specified by section 1861(ww)(1) of the Act as added by section 611 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (Pub. L. 108-173) and § 410.16 of this chapter).

(c) The Personalized Prevention Plan Services (PPPS), also known as the "Annual Wellness Visit" (as specified