



Health Care Regulation and Quality Improvement
800 NE Oregon Street, Suite 305
Portland, Oregon 97232
971-673-0540
971-673-0556 (Fax)

Health Care Regulation and Quality Improvement (HCRQI) has an agreement with the Centers for Medicare and Medicaid Services (CMS) to assist in the determination of compliance of End Stage Renal Disease (ESRD) facilities with the Federal Conditions of Participation.

When the ownership of a facility is changed, and the new owners intend to participate in the Medicare program, the facility must meet the required Federal Medicare regulations. The new owners must complete, sign, and return the following forms and documents to this office (HCRQI):

- CMS 3427, End Stage Renal Disease Application/Notification and Survey and Certification Report, (This form has been updated as of June 2009 - if you are using a form that is not dated 06/09 please contact our office)
- CMS 855A – Medicare Provider/Supplier Enrollment form to be obtained from and submitted to the Fiscal Intermediary (FI). If there are questions or concerns regarding the completion of the CMS 855A document, please call the ESRD facility's FI.
- Statement of acceptance/refusal of previous owner's Medicare provider agreement and number
- State of Oregon License Application form for Outpatient Renal dialysis Facilities, including the applicable licensing fee, found at:

www.healthoregon.org/hcrqi

Based on Federal regulation 42 CFR § 489.18, CMS has been granted the right to hold new owners responsible for overpayment to previous owners. CMS has the right to recover losses from the buyer even when a sales agreement specifically states that the buyer will not accept the liability of the seller. The enclosed chart has been prepared to outline the effect of accepting or not accepting the assignment of an existing Medicare provider agreement. Please

be advised of the related risks and benefits. Enclose a written, signed statement which indicates whether the new owners will be accepting or refusing the previous owner's provider agreement.

After you have obtained and/or completed all of the required documents and forms, return them to this office (HCRQI) with a cover letter to indicate that a change of ownership has occurred and the effective date that the change was made. Include in this letter any other applicable changes, such as a new address, administrator, director of professional services, etc.

The new owners will receive written notification from CMS that the facility's continued Medicare certification under the new ownership has been approved. This notification will occur after it has been determined by CMS that all of the Medicare requirements have been met. Those facilities which are denied Medicare certification will be notified and given the reasons for the denial and information about their right to appeal the decision.

All certified ESRD facilities are subject to routine surveys to evaluate and ensure continued compliance with the Federal regulations.

Please call this office at 971-673-0540 if you have any questions or concerns regarding this issue.

Sincerely,

Client Care Surveyor
CMS Representative
Oregon Health Authority
Public Health Division
Health Care Regulation and Quality Improvement

If you need this document in an alternate format please contact our office at
971-673-0540.

MEDICARE PROVIDER AGREEMENTS AND CHANGES OF OWNERSHIP

NEW OWNER ACCEPTS ASSIGNMENT OF PREVIOUS OWNER'S PROVIDER AGREEMENT

Consequences: New owner is given previous owner's provider number and agreement. There is no break in coverage, but new owner becomes liable for all penalties, sanctions, and liabilities imposed on or incurred by previous owner. If, after accepting the assignment, the new owner subsequently elects to terminate its provider agreement, it must (under the provisions of section 1866(b)(1) of the Act) file a written notice of its intention, and follow the procedures for voluntary termination.

- The regulations specify that when there is a change of ownership, the existing Medicare agreement is automatically assigned to the new owner (42 CFR 489.18(c)). New owners are not required to accept assignment of the agreement but they must state their refusal in writing.

NEW OWNER REFUSES ASSIGNMENT OF PREVIOUS OWNER'S PROVIDER AGREEMENT

Consequences: The previous owner's provider agreement terminates on the date the previous owner ceased doing business.

- **NEW OWNER DOESN'T WANT TO PARTICIPATE IN PROGRAM**
Consequences: New owner has, in effect, purchased only capital assets. The business ceased being a Medicare provider on the last day of business of the previous owner.
- **NEW OWNER WANTS TO PARTICIPATE IN PROGRAM**
Consequences: New owner will have to request to participate in the program, undergo an initial survey, meet the participation requirements, and be certified. There will be no Medicare coverage or payments until the provider is certified, and no retroactive payments for the period between the termination of the previous owner's provider agreement and the commencement of the new owner's provider agreement. However, the new owner is free of any penalties, sanctions, or liabilities imposed on or incurred by the previous owner.