

§ 23.34

42 CFR Ch. I (10–1–10 Edition)

§ 23.34 What other conditions are imposed?

(a) The borrower must sign a loan agreement describing the loan and practice conditions, and a promissory note agreeing to repay the loan plus interest.

(b) The borrower must agree to enter into private full-time clinical practice in a HMSA for the time period specified in the loan agreement.

(c) The borrower must accept assignment, for the time period specified in the loan agreement, under section 1842(b)(3)(B)(ii) of the Social Security Act as full payment for all services for which payment may be made under part B of title XVIII of that Act.

(d) The borrower must enter into an appropriate agreement, for the time period specified in the loan agreement, with the State agency which administers the State plan for medical assistance under title XIX of the Social Security Act to provide services to individuals entitled to medical assistance under the plan.

(e) During the time period specified in the loan agreement, the borrower must provide health services to individuals at the usual and customary rate prevailing in the HMSA in which services are provided; however, services must be provided at no charge or at a nominal charge to those persons unable to pay for these services.

(f) The borrower must keep and preserve all documents, including bills, receipts, checks, and correspondence which affect the operation of the private practice and the expenditure of loan funds for the period of the practice obligation specified in the loan agreement plus 3 years. Accounts will be maintained under one of the accounting principles identified by the Secretary in the loan agreement.

(g) The borrower must provide the Secretary and the Controller General of the United States, or their representatives, access during normal working hours to accounts, documents, and records for the purposes of audit or evaluation; and must permit the Secretary or his or her representative to inspect the private practice at reasonable times during the period of the practice obligation specified in the loan agreement plus 3 years. All infor-

mation as to personal facts and circumstances about recipients of services shall be held confidential, and shall not be divulged without the individual's consent except as may be required by law or as may be necessary to provide medical service to the individual or to provide for medical or fiscal audits by the Secretary or his or her designee with appropriate safeguards for confidentiality of records.

(h) For the entire period of loan repayment, the borrower must acquire, maintain, and when requested, must provide the Secretary with copies of policies of insurance on equipment and supplies in amounts adequate to reasonably protect the borrower from risk, including public liability, fire, theft, and worker's compensation.

(i) If the Secretary retains a security interest pursuant to § 23.33, the borrower must keep and preserve all documents which affect that security interest for the period of the loan repayment and allow the Secretary or his or her designee access, during normal working hours, to those documents.

(j) The borrower must maintain the loan proceeds in a separate account from his or her other transactions and must agree to draw upon this account and expend the loan proceeds in accordance with § 23.32.

(k) The Secretary may impose other conditions which he or she deems appropriate under law or regulation to protect the Government's interests.

§ 23.35 What criteria are used in making loans?

Approval of loan applications will be based on the criteria set forth below:

(a) The need in the HMSA for the applicant's health profession as determined under section 332 of the Act;

(b) The applicant's need for the loan funds; and

(c) The comments from State or local health professional societies on the appropriateness of the applicant's intended private practice; and

(d) The applicant's credit worthiness and projected financial ability to repay the loan.