

agreement in accordance with § 488.865 of this part.

(d) *Termination time frame when there is no immediate jeopardy.* CMS terminates an HHA within 6 months of the last day of the survey, if the HHA is not in compliance with the conditions of participation, and the terms of the plan of correction have not been met.

(e) *Transfer of care.* An HHA, if its provider agreement terminated, is responsible for providing information, assistance, and arrangements necessary for the proper and safe transfer of patients to another local HHA within 30 days of termination. The State must assist the HHA in the safe and orderly transfer of care and services for the patients to another local HHA.

#### § 488.835 Temporary management.

(a) *Application.* (1) CMS may impose temporary management of an HHA if it determines that an HHA has a condition-level noncompliance and CMS determines that management limitations or the deficiencies are likely to impair the HHA's ability to correct deficiencies and return the HHA to full compliance with the conditions of participation within the timeframe required.

(2) [Reserved]

(b) *Procedures.* (1) CMS notifies the HHA that a temporary manager is being appointed.

(2) If the HHA fails to relinquish authority and control to the temporary manager, CMS terminates the HHA's provider agreement in accordance with § 488.865.

(c) *Duration and effect of sanction.* Temporary management continues until—

(1) CMS determines that the HHA has achieved substantial compliance and has the management capability to ensure continued compliance with all the conditions of participation;

(2) CMS terminates the provider agreement; or

(3) The HHA reassumes management control without CMS approval. In such case, CMS initiates termination of the provider agreement and may impose additional sanctions.

(4) Temporary management will not exceed a period of 6 months from the

date of the survey identifying non-compliance.

(d) *Payment of salary.* (1) The temporary manager's salary—

(i) Is paid directly by the HHA while the temporary manager is assigned to that HHA; and

(ii) Must be at least equivalent to the sum of the following:

(A) The prevailing salary paid by providers for positions of this type in what the State considers to be the HHA's geographic area (prevailing salary based on the Geographic Guide by the Department of Labor (BLS Wage Data by Area and Occupation);

(B) Any additional costs that would have reasonably been incurred by the HHA if such person had been in an employment relationship; and

(C) Any other costs incurred by such a person in furnishing services under such an arrangement or as otherwise set by the State.

(2) An HHA's failure to pay the salary and other costs of the temporary manager described in paragraph (d)(1) of this section is considered a failure to relinquish authority and control to temporary management.

#### § 488.840 Suspension of payment for all new patient admissions.

(a) *Application.* (1) CMS may suspend payment for all new admissions if an HHA is found to have condition-level deficiencies, regardless of whether those deficiencies pose immediate jeopardy.

(2) CMS will consider this sanction for any deficiency related to poor patient care outcomes, regardless of whether the deficiency poses immediate jeopardy.

(b) *Procedures—(1) Notices.* (i) Before suspending payments for new admissions, CMS provides the HHA notice of the suspension of payment for all new admissions as set forth in § 488.810(f). The CMS notice of suspension will include the nature of the noncompliance; the effective date of the sanction; and the right to appeal the determination leading to the sanction.

(ii) The HHA may not charge a newly admitted HHA patient who is a Medicare beneficiary for services for which Medicare payment is suspended unless