

which is no later than 6 months after the date CMS receives the FQHC's notice of intention to terminate.

(2) The effective date of termination may be less than 6 months following CMS's receipt of the FQHC's notice of intention to terminate if CMS determines that termination on such a date would not—

(i) Unduly disrupt the furnishing of FQHC services to the community; or

(ii) Otherwise interfere with the effective and efficient administration of the Medicare program.

(3) The termination is effective at the end of the last day of business as a FQHC.

(c) *Termination by CMS.* (1) CMS may terminate an agreement with a FQHC if it finds that the FQHC—

(i) No longer meets the requirements specified in this subpart; or

(ii) Is not in substantial compliance with—

(A) The provisions of the agreement; or

(B) The requirements of this subpart, any other applicable regulations of this part, or any applicable provisions of title XVIII of the Act.

(2) *Notice by CMS.* CMS will notify the FQHC in writing of its intention to terminate an agreement at least 15 days before the effective date stated in the written notice.

(3) *Appeal.* A FQHC may appeal CMS's decision to terminate the agreement in accordance with part 498 of this chapter.

(d) *Effect of termination.* When a FQHC's agreement is terminated whether by the FQHC or CMS, payment will not be available for FQHC services furnished on or after the effective date of termination.

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

#### § 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 in the area serviced by the FQHC prior to a prospective effective date or on the actual day that business ceases, if no prospective date of termination has been set. The notice must include—

(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 in the area serviced by the FQHC.

[57 FR 24978, June 12, 1992, as amended at 79 FR 25476, May 2, 2014; 82 FR 38509, Aug. 14, 2017]

#### § 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

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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, other institution used as a patient's home, or are hospice

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attending physician services furnished during a hospice election.

(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; 86 FR 65660, Nov. 19, 2021]

### § 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 by a or under the direct supervision of a physician, nurse practitioner, physician assistant, certified nurse midwife, clinical psychologist or clinical social worker employed by or under contract with the FQHC.

(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.