

## § 416.40

(i) If the notice does not specify a date, or the date is not acceptable to CMS, CMS may set a date that will not be more than 6 months from the date on the ASC's notice of intent.

(ii) CMS may accept a termination date that is less than 6 months after the date on the ASC's notice if it determines that to do so would not unduly disrupt services to the community or otherwise interfere with the effective and efficient administration of the Medicare program.

(3) *Voluntary termination.* If an ASC ceases to furnish services to the community, that shall be deemed to be a voluntary termination of the agreement by the ASC, effective on the last day of business with Medicare beneficiaries.

(b) *Termination by CMS—*(1) *Cause for termination.* CMS may terminate an agreement if it determines that the ASC—

(i) No longer meets the conditions for coverage as specified under § 416.26; or

(ii) Is not in substantial compliance with the provisions of the agreement, the requirements of this subpart, and other applicable regulations of subchapter B of this chapter, or any applicable provisions of title XVIII of the Act.

(2) *Notice of termination.* CMS sends notice of termination to the ASC at least 15 days before the effective date stated in the notice.

(3) *Appeal by the ASC.* An ASC may appeal the termination of its agreement in accordance with the provisions set forth in part 498 of this chapter.

(c) *Effect of termination.* Payment is not available for ASC services furnished on or after the effective date of termination.

(d) *Notice to the public.* Prompt notice of the date and effect of termination is given to the public by—

(1) The ASC, after CMS has approved or set a termination date; or

(2) CMS, when it has terminated the agreement.

(e) *Conditions for reinstatement after termination of agreement by CMS.* When an agreement with an ASC is terminated by CMS, the ASC may not file another agreement to participate in the Medicare program unless CMS—

(1) Finds that the reason for the termination of the prior agreement has been removed; and

(2) Is assured that the reason for the termination will not recur.

[47 FR 34094, Aug. 5, 1982, as amended at 52 FR 22454, June 12, 1987; 56 FR 8844, Mar. 1, 1991; 61 FR 40347, Aug. 2, 1996; 82 FR 38515, Aug. 14, 2017]

## Subpart C—Specific Conditions for Coverage

### § 416.40 Condition for coverage—Compliance with State licensure law.

The ASC must comply with State licensure requirements.

### § 416.41 Condition for coverage—Governing body and management.

The ASC must have a governing body that assumes full legal responsibility for determining, implementing, and monitoring policies governing the ASC's total operation. The governing body has oversight and accountability for the quality assessment and performance improvement program, ensures that facility policies and programs are administered so as to provide quality health care in a safe environment, and develops and maintains a disaster preparedness plan.

(a) *Standard: Contract services.* When services are provided through a contract with an outside resource, the ASC must assure that these services are provided in a safe and effective manner.

(b) *Standard: Hospitalization.* (1) The ASC must have an effective procedure for the immediate transfer, to a hospital, of patients requiring emergency medical care beyond the capabilities of the ASC.

(2) This hospital must be a local, Medicare-participating hospital or a local, nonparticipating hospital that meets the requirements for payment for emergency services under § 482.2 of this chapter.

(3) The ASC must periodically provide the local hospital with written notice of its operations and patient population served.

[73 FR 68811, Nov. 18, 2008, as amended at 81 FR 64022, Sept. 16, 2016; 84 FR 51814, Sep. 30, 2019]