

CMS: Medicare Claims Processing Manual, Chapter 9- Rural Health Clinics/Federally Qualified Health Centers – Section 220.1 Termination of Agreement by Clinic or Center

A-General Rule

An RHC or FQHC that wishes to terminate its agreement to participate in the Medicare program may do so by:

1. Filing with CMS a written notice stating its intention to terminate its agreement;  
And
2. Informing CMS of the date upon which it wishes the termination to take effect.

B- Effective Date

Upon receiving the clinic or center's notice of its intention to terminate the agreement, CMS will set a date upon which the termination will take effect. This effective date may be:

- The date proposed by the clinic or center in its notice of intention to terminate the agreement; or
- A date set by CMS, which can be no later than six months following the CMS's receipt of the clinic or center's notice of its intention to terminate if CMS determines that termination on that date would not:
  - Unduly disrupt the furnishing of RHC/FQHC services to the community serviced by the clinic or center, or
  - Otherwise interfere with the effective and efficient administration of the Medicare program.

C – Voluntary Termination Without Notice of Intent

An RHC or FQHC is considered to have voluntarily terminated its agreement if it ceases to furnish RHC or FQHC services to the community. The termination is effective after the last day of business of the clinic or center.

220.3 – Effect of Termination

When an RHC or FQHC agreement is terminated, whether by the entity or by CMS, no payment is available to the RHC or FQHC for services it furnishes to Medicare beneficiaries on or after the effective date of the termination.

220.4 – Notice to the Public

Public notice of both the effective date and the effect of the termination of an RHC or FQHC agreement is made 15 days before the effective date of the termination in at least

one newspaper of general circulation in the area serviced by the clinic or center. The notice must be given by:

- The clinic or center if it has voluntarily terminated the agreement, and CMS has approved the termination and set an effective date for the termination ; and
- CMS when it has mandated a termination of the agreement.

Texas Medical Board governing the patient records under Chapter 165.1 to 165.5 in regards to physicians and the practice of medicine in Texas.

*Maintenance of medical records:* 1) A licensed physician shall maintain adequate medical records of a patient for a minimum of seven years from the anniversary date of the date of last treatment by the physician. 2) If a patient is younger than 18 years of age when last treated by the physician, the medical records shall be maintained by the physician until the patient reaches age 21 or for seven years from the date of last treatment, whichever is longer. 3) A physician may destroy medical records that relate to any civil, criminal or administrative proceeding only if the physician knows the proceeding has been finally resolved. 4) Physicians shall retain medical records for such longer length of time than that imposed herein when mandated by other federal or state statute or regulation. <Texas Medicaid regulations require a provider-based RHC to maintain patient Medicaid medical records for ten years and a freestanding RHC to maintain patient Medicaid records for six years> 5) Physicians may transfer ownership of records to another licensed physician or group of physicians only if the physician provides notice consistent with Section 165.5 (Transfer and Disposal of Records) of this chapter and the physician who assumes ownership of the records maintains the records consistent with this chapter. 6) Medical records may be owned by a physician's employer, to include group practices, professional associations, and non-profit health organizations, provided the records are maintained by these entities consistent with this chapter.

*Medical record release and charges:* a) As required by the Medical Practice Act, Section 159.006, a physician shall furnish copies of the medical and/or billing records requested or a summary or narrative of the records pursuant to a written release of the information as provided by the Medical Practice Act, Section 159.005, except if the physician determines that access to the information would be harmful to the physical, mental, or emotional health of the patient. The physician may delete confidential information about another patient or family member of the patient who has not consented to the release. b) The requested copies of the medical and/or billing records or a summary or narrative of the records shall be furnished by the physician within 15 business days after the date of receipt of the request and reasonable fees for furnishing

the information. c) If the physician denies the request for copies of medical or billing records, narrative or summary, in whole or in part, the physician shall furnish the patient a written statement, signed and dated, within 15 business days of receipt of the request stating the reason for denial and how the patient can file a complaint with the federal Department of Health and Human Services and the Texas Medical Board. A copy of the statement denying the request shall be placed in the patient's medical and/or billing records as appropriate. d) For purposes of this section "medical records" shall include those records as defined in Section 165.1(a) of this chapter and shall include copies of medical records of other health care practitioners contained in the records of the physician to whom the request for release of records has been made. e) The physician responding to a request for such information shall be entitled to receive a reasonable, cost-based fee for providing the requested information. A reasonable fee shall be a charge of no more than \$25 for the first twenty pages and a \$.50 per page for every copy thereafter. If an affidavit is requested, certifying that the information is a true and correct copy of the records, a reasonable fee up to \$15 may be charged for executing the affidavit. A physician may charge separate fees for medical and billing records requested. The fee may not include costs associated with searching for and retrieving the requested information. A reasonable fee shall include only the cost of: copying, including labor and cost of supplies for copying; postage, when the individual has requested the copy be mailed; and preparing a summary of records when appropriate. f) The physician providing copies shall be entitled to payment of reasonable fees prior to the release of information unless the information is requested by a licensed Texas healthcare provider or a physician licensed in any state, territory, or insular possession of the United States or province of Canada if requested for the purposes of emergency or acute medical care. g) In the event the physician receives a proper request for copies other than for emergency or acute medical care, the physician may retain the requested information until payment is received. If payment is not routed to the physician with such a request, within ten calendar days from receiving such a request for the release of such records, the physician shall notify the requesting party in writing of the need for payment and may withhold the information until payment of a reasonable fee is received. A copy of the letter regarding the need for payment shall be made part of the patient's records as appropriate. h) Requested records may not be withheld from the patient or authorized/designated agent or representative based on a past due account for medical care or treatment previously rendered to the patient. i) A subpoena is not required for the release of records if made by a patient, or by the patient's guardian or other representative authorized to obtain such records. j) a physician shall not be required to provide copies of billing records pertaining to medical treatment of a patient unless specifically requested pursuant to the request for release of medical records. k) A physician may not charge a fee for a medical record or mental health record if the request is related to a benefits or assistance claim based on the patient's disability.

*Transfer and disposal of medical records:* a) When a physician retires, terminates employment or otherwise leaves a medical practice, he or she is responsible for: 1) ensuring that patients receive notification and are given the opportunity to obtain copies of their records or arrange for the transfer of the medical records to another physician. 2) notify the state board when they are terminating their practice or relocating, and are no longer available to the patients, specifying who has custodianship of the records and how the medical records may be obtained. 3) employers of departing physicians are not required to provide notification, however, the departing physician remains responsible for providing notification consistent with this section. c) Method of notification : 1) When a physician retires, terminates employment, or otherwise leaves a medical practice, he or she shall provide notice to patients of when the physician intends to terminate the practice, retire or relocate, and will no longer be available to patients. And offer the patients the opportunity to obtain a copy of their medical records. 2) Notification shall be accomplished by: (A) publishing notice in the newspaper of greatest circulation in each county in which the physician practices or practiced and in the local newspaper that services the immediate practice area; (B) placing written notice in the physician's office in a conspicuous location at least thirty days prior to the termination, sale or relocation with a copy of the notice sent to the state medical board thirty days prior as well; and (C) sending letters to patients seen in the last two years notifying them of discontinuance of practice.

*Prohibition Against Interference:* Other physicians remaining in the practice may not prevent the departing physician from posting the notice in the clinic. A physician group should not withhold information about a departing physician that is necessary for notification of the patients.

### Commercial Contract Terminations

Check your network agreement, the contract will tell you what you need to do to terminate it. Is it a termination without cause? Or is it a termination with cause? A termination with cause requires a valid reason for termination, and often allows the breaching party a period of time to cure the breach before termination can take effect.

How many days notice to terminate does the contract require? That information is in your contract and most contracts require a written termination notice. Write a letter to the payer- send it by certified mail to the person or office identified in the contract to whom you are to correspond with on contract issues or terminations.

If your contract permits you to terminate without cause, then your letter should : a) state you are terminating the contract and the effective date of that termination, your agreement will tell you how much notice you have to give; b) identify the section of the

contract that permits termination without cause; c) state that you have met all applicable contract terms regarding termination , i.e. minimum term participation or notifying your patients who are members of that plan you are terminating participating with; d) thank the payer for its service and ask the representative to contact you for any further questions.

### Change of Ownership Packet (CHOW) Processing Stages

After the rural health clinic owner(s) have decided to sell or turn over the clinic to a new owner, these are the processing stages that the change of owner packet (CHOW) will take:

- New prospective owner contacts the state survey agency of the impending change and requests a CHOW packet. The state survey office is the Texas Department of State Health Services (DSHS) Facility Licensure and Compliance Zone Office responsible for conducting RHC certification surveys.
- New prospective owner requests a CMS 855 Medicare Enrollment Form from the fiscal intermediary (FI) or downloads it from the FI's website [www.trailblazerhealth.com](http://www.trailblazerhealth.com)
- Prospective owner completes CHOW packet sent to them by the Zone office and returns it to the Zone office.
- Prospective owner completes the CMS Form 855 and sends it to the fiscal intermediary's address listed on the instructions (60-day FI internal suspense for completion, unless additional information is needed and then the FI has another 60-day suspension to complete their action).
- Zone office receives the CHOW packet from the potential new RHC owner and holds the CHOW packet until the Medicare FI sends the approved CMS Form 855 along with the FI's approval letter. (Normally a couple of weeks to combine the CHOW and 855 elapses before the complete package is submitted to the CMS Regional Office.)
- CMS logs the packet and forwards it to a reviewer who has a 45 day internal suspense.
- The sales agreement is reviewed. The Health Insurance Benefits Agreement is checked for signature. The CMS approval letter is prepared. The fiscal intermediary is notified.

The RHC provider number is changed when a clinic goes from being a provider-based RHC status to a freestanding (independent) status (or from freestanding to provider-based status). However, if the status of the clinic is not changed (for example remaining as a provider-based /hospital owned clinic, then the RHC Provider number does not change but remains the same for the new owner. This also occurs with a free standing RHC if it remains as a free standing RHC after the new owner takes over, the Medicare RHC Provider number issued to it does not change with a change of ownership unless the Type of RHC (independent or provider-based) changes, then a new number is issued since the provider number sequencing identifies the type of RHC it is for cost report and payment purposes.

The Medicare RHC provider number will be effective for the new owner upon the date shown on the change of ownership packet in assuming operations of the clinic.