
DHCS – PROVIDER BULLETIN

DATE: 5/13/16

FROM: Quality Assurance Fee Unit
Safety Net Financing Division

SUBJECT: Hospital Quality Assurance Fee Program: Private Hospital Change of Ownership and “New Hospital” Status

INTRODUCTION

The current Hospital Quality Assurance Fee (HQAF) Program commenced on January 1, 2014, as authorized in the Medi-Cal Hospital Reimbursement Improvement Act of 2013 (HQAF Act or Act), Senate Bill 239 (Statutes of 2013), codified in Article 5.230 (commencing with Section 14169.50) of the Welfare and Institutions Code.¹ All statutory references herein are to the Welfare and Institutions Code, unless otherwise indicated.

A hospital is not eligible to receive HQAF Program payments after a change of ownership (CHOW) if it would be a “new hospital” for purposes of the HQAF Program pursuant to Section 14169.51, subdivision (ai), which states that a “new hospital” is:

[A] hospital operation, business, or facility functioning under current or prior ownership as a private hospital that does not have a days data source or a hospital that has a days data source in whole, or in part, from a previous operator where there is an outstanding monetary obligation owed to the state in connection with the Medi-Cal program and the hospital is not, or does not agree to become, financially responsible to the department for the outstanding monetary obligation in accordance with subdivision (d) of Section 14169.61.

However, on August 26, 2014, the Department of Health Care Services (DHCS) released a provider bulletin on the process for allowing a hospital to continue to participate in the current HQAF Program after a CHOW (the “CHOW Bulletin Process”).²

¹ This provider bulletin is published by the Department of Health Care Services under the authority specified in Section 14169.61, subdivision (d), paragraphs (1) and (3). (Section 14169.70 provides in part: “Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the Department may implement this article by means of provider bulletins, all plan letters, or other similar instruction, without taking regulatory action.”)

² “CHOW Eligibility and Processes Reminder for Participation in HQAF”, *Medi-Cal Update - Inpatient Services*, April 2015, Bulletin 487, #7, ii <http://files.medi-cal.ca.gov/pubsdoco/bulletins/artfull/ips201504.asp#a7>.

If the hospital fails to or cannot complete the CHOW Bulletin Process it cannot receive HQAF Program payments. Regardless, a hospital continues to be obligated to pay HQAF Program fees beginning from the CHOW date unless it is determined to be a “new hospital” by DHCS according to the process described below. If a hospital completes the CHOW Bulletin Process, the hospital will not be considered a “new hospital” and will continue to participate in the HQAF Program.

The purpose of this provider bulletin (Provider Bulletin) is to (1) augment the CHOW Bulletin Process by mandating that a Financial Responsibility for Known and Unknown Outstanding Monetary Obligations to the Medi-Cal Program (Financial Responsibility Agreement) be executed and received by DHCS within 30 calendar days of the issuance of the new owner’s Medi-Cal Certification in order to receive HQAF Program payments beginning the effective date of the new Medi-Cal certification; (2) to describe the manner in which the status of a hospital’s CHOW and Medi-Cal Certification that predate the publication of this Provider Bulletin will be determined; and (3) to establish the process for determining when and how a hospital may be deemed a “new hospital” in order not to participate in the HQAF Program (“New Hospital” Process).

Unless a hospital is determined to be a “new hospital” by DHCS, the hospital shall continue to be responsible for paying the HQAF Program fee.

CHOW BULLETIN PROCESS FROM THE AUGUST 26, 2014, PROVIDER BULLETIN – FINANCIAL RESPONSIBILITY AGREEMENT DEADLINE FOR CONTINUING TO RECEIVE HQAF PROGRAM PAYMENTS

As provided in the CHOW Bulletin Process, a new owner of a hospital must agree to be financially responsible to DHCS for the hospital’s known and unknown outstanding monetary obligations to the Medi-Cal program in order to avoid being a “new hospital” and to allow the hospital to continue to participate in the HQAF Program after a CHOW during a Program period where the “days data source” for the Program period is derived from a prior owner.

A new owner that completes the CHOW Bulletin Process, including signing a complete and correct Financial Responsibility Agreement between the new owner and DHCS, is conclusively deemed to have agreed to be financially responsible for known and unknown outstanding monetary obligations in connection with the Medi-Cal program under Section 14169.61, subdivision (d), paragraph (3),³. The new owner will be able to

³ To the extent that there is a conflict between this provider bulletin and a previously published provider bulletin or regulation, this provider bulletin supersedes the conflicting prior provider bulletin or regulation.

use the days data source from the prior owner, and will therefore not be a “new hospital”.

After a CHOW, DHCS must receive a complete and correct Financial Responsibility Agreement from the new owner within 30 calendar days of the date of the letter from the State granting Medi-Cal Certification to the new owner of the hospital. DHCS will either send the new owner a fully executed Financial Responsibility Agreement or notify the new owner that the Financial Responsibility Agreement submitted by the new owner is disapproved because it is incomplete, incorrect, or unsigned by the hospital within 30 calendar days of the day on which DHCS received the Financial Responsibility Agreement from the new owner. If DHCS notifies the new owner that the Financial Responsibility Agreement has been disapproved, the new owner will have 30 calendar days from the date of the notice of disapproval from DHCS to resubmit the Financial Responsibility Agreement. DHCS determines if the hospital submitted a complete and correct Financial Responsibility Agreement when DHCS signs the Financial Responsibility Agreement.

The HQAF Program payments will begin according to the following timelines:

- If DHCS receives the complete and correct Financial Responsibility Agreement within 30 calendar days from the date of the letter from the State granting Medi-Cal Certification, then the new owner will be eligible to receive HQAF Program payments as of the effective date of its Medi-Cal Certification.
- If DHCS receives a complete and correct Financial Responsibility Agreement more than 30 calendar days after the date of the letter from the State granting Medi-Cal Certification to the new owner, the new owner will be eligible to receive payments under the HQAF Program beginning on the date DHCS receives a complete and correct Financial Responsibility Agreement.
- If DHCS receives an incomplete, incorrect, or unsigned Financial Responsibility Agreement from the new owner, then the new owner’s eligibility for payment under the HQAF Program will begin on the date DHCS receives a complete and correct Financial Responsibility Agreement.
- Payments under the HQAF Program to the new owner will be pro-rated for the subject fiscal quarter beginning on the date on which the new owner is eligible to receive payments under the HQAF Program, as provided in the above bullets.

The August 26, 2014 Provider Bulletin provides that a new owner must notify DHCS at least 60 days prior to a CHOW and submit a Public Records Act (PRA) request to

DHCS for a listing of a hospital's known and publicly disclosable outstanding monetary obligations. However, the new owner may choose to forego the prior notice and PRA submission and simply send the Financial Responsibility Agreement to DHCS for assuming all of the hospital's known and unknown monetary obligations without a listing of such obligations from DHCS.

The Financial Responsibility Agreement does not expire until all applicable financial obligations are satisfied regardless of whether the HQAF Program ends before such financial obligations are satisfied.

The DHCS Financial Responsibility Agreement forms can be found at <http://www.dhcs.ca.gov/provgovpart/Pages/HQAF.aspx>.

CHOW and Medi-Cal Certification Prior to Publication of this Provider Bulletin

If a hospital's CHOW and Medi-Cal Certification predate the publication of this Provider Bulletin (even including before the start of the HQAF Program) and the hospital must use the days data source from a prior owner to receive HQAF Program payments for a Program period, the hospital must submit a Financial Responsibility Agreement to DHCS. Upon DHCS signing the Financial Responsibility Agreement, the effective date for the hospital to receive HQAF Program payments will be the hospital's Medi-Cal Certification date rather than the date of DHCS' receipt of the Financial Responsibility Agreement. However, such a hospital may only avail itself of this option if DHCS receives a complete and correct Financial Responsibility Agreement within the first full fiscal quarter after the publication date of this Provider Bulletin. Otherwise, the hospital will be deemed to be eligible to receive HQAF Program payments as of the date DHCS receives the complete and correct Financial Responsibility Agreement, and associated HQAF Program payments will be pro-rated for that subject fiscal quarter.

A hospital does not have to submit a Financial Responsibility Agreement to participate in the HQAF program and receive payments for a Program period for which the hospital is not using the days data source from a prior owner. By way of example, if a hospital CHOW occurred in 2008 and the current hospital operator was licensed to operate the hospital for a fiscal year ending in calendar year 2010 and submitted an OSHPD financial disclosure report for that fiscal year, the hospital would not be required to submit a Financial Responsibility Report for the current Program period ending December 31, 2016.

“NEW HOSPITAL” PROCESS – TRANSITIONING OUT OF PARTICIPATION IN THE HQAF PROGRAM AFTER A CHOW

Each licensed hospital not exempted by statute is required to pay the HQAF Program fee even after a CHOW unless it is determined to be a “new hospital” by DHCS. A hospital that complies with the “New Hospital” Process outlined in this Provider Bulletin will be considered a “new hospital.” A hospital that undergoes the “New Hospital” Process will not receive payments under the HQAF Program and is not required to pay the HQAF Program fees for the period during which the hospital is considered a “new hospital”.

After a CHOW, a hospital that wants to be determined a “new hospital” by DHCS and therefore not required to pay the HQAF Program fee (but also not eligible for payments under the HQAF Program), must submit a completed and signed attestation package to DHCS within 30 calendar days of the date of the letter from the State granting Medi-Cal Certification to the new owner of the hospital.

A complete attestation package consists of the following:

- 1) A signed attestation form developed by DHCS wherein the hospital attests that it meets the definition of a “new hospital.” The attestation form must be signed under penalty of perjury by the hospital’s Chief Executive Officer or equivalent position. The DHCS “new hospital” attestation form can be found at <http://www.dhcs.ca.gov/provgovpart/Pages/HQAF.aspx>.
- 2) The necessary supporting documentation, which includes the following:
 - a) A copy of the new license issued to the licensee by Licensing & Certification of the California Department of Public Health.
 - b) A copy of the new Medi-Cal Certification/letter from the State granting Medi-Cal Certification.
 - c) A copy of the agreement that transfers ownership or control of the hospital.

Once the hospital has submitted the attestation package, DHCS will make its best effort to review the attestation package and approve or reject the attestation package within 30 calendar days of the date on which the attestation package is received by DHCS. DHCS will promptly notify the hospital if it anticipates that the review and determination will take more than 30 calendar days. If the attestation package is approved by DHCS, then the hospital will be determined a “new hospital” and excluded from the HQAF Program effective upon the transaction date of the change of ownership.

DHCS may reject the attestation package if it is incomplete or incorrect and request in writing additional information. The hospital will have 30 calendar days after it receives DHCS' request to resubmit the attestation package with the additional information requested, and DHCS will make its best effort to review the resubmitted attestation package and approve or reject the resubmitted attestation package within 30 calendar days on which the resubmitted attestation package is received by DHCS. DHCS will promptly notify the hospital if it anticipates that the review and determination will take more than 30 calendar days. If the resubmitted attestation package is approved by DHCS, then the hospital will be deemed a "new hospital" and excluded from the HQAF Program effective upon the date of receipt by DHCS of the resubmitted attestation package.

If DHCS rejects a hospital's attestation package, the hospital may choose to submit a Financial Responsibility Agreement rather than to resubmit the attestation package or otherwise continue to seek new hospital status. If the hospital makes this election, then the hospital is subject to the Financial Responsibility Agreement timelines contained in the "CHOW BULLETIN PROCESS FROM THE AUGUST 26, 2014, PROVIDER BULLETIN – FINANCIAL RESPONSIBILITY AGREEMENT DEADLINE FOR CONTINUING TO RECEIVE HQAF PROGRAM PAYMENTS" section. To be clear, the hospital must still submit the complete and correct Financial Responsibility Agreement within 30 calendar days from the date of the letter granting the Medi-Cal Certification, as noted in the timelines, in order to be eligible to receive HQAF program payments retroactive to the date of the letter granting the Medi-Cal Certification.

CHOW Prior to Publication of this Provider Bulletin

If a hospital completed a CHOW prior to the publication of this Provider Bulletin (including even before the start of the HQAF Program), then it constitutes a "new hospital" if it complies with the "New Hospital" Process requirements of this Provider Bulletin. The effective date of the "new hospital" status is the hospital's licensure date under the new ownership if DHCS receives the attestation package within the first full subject fiscal quarter after the publication date of this Provider Bulletin. If DHCS receives the attestation package for such a hospital after the first full subject fiscal quarter, then the effective date of its "new hospital" status will be the date DHCS receives the complete and correct attestation package; HQAF Program payments and obligations will be prorated accordingly.

"New Hospital's" Transition Out of the HQAF Program

When a hospital submits the complete and correct attestation package and DHCS approves it, then DHCS shall deem the hospital to be a "new hospital." At this point, the

hospital is ineligible to participate in the HQAF Program and shall be transitioned out of the HQAF Program fee and payment model. Any fees under the HQAF Program collected in excess of the amount due from the hospital based on the effective date of the “new hospital” status shall be refunded by DHCS to the hospital and any payments made to the hospital under HQAF Program in excess of amounts due to the hospital under the HQAF Program based on the effective date of the “new hospital” status shall constitute an overpayment that DHCS shall recover from the hospital. This shall be accomplished under the following transition process.

During the subject fiscal quarter in which the hospital is deemed a “new hospital,” HQAF Program fees and payments shall remain in force.

In the subsequent subject fiscal quarters of the Program Period, the “new hospital” will be removed from the HQAF IV model and it will not pay the HQAF Program fees nor receive HQAF Program payments. However, at this time DHCS shall conduct a reconciliation of the previous subject fiscal quarter (i.e. the quarter in which the hospital was deemed a “new hospital”) to determine what HQAF Program fees and payments are due from or owed to the hospital. In this reconciliation, DHCS will calculate the hospital’s HQAF Program payments and fees by taking the number of days that the hospital was eligible in the previous subject fiscal quarter, and dividing by the number of days in the previous subject fiscal quarter. If the hospital was overpaid then it shall return the overpayment. If the hospital was underpaid then the hospital shall receive an additional payment.

Payments shall not be made to a “new hospital” for any subsequent subject fiscal quarter in this HQAF Program except for any payment resulting from the reconciliation described in the prior paragraph and except as noted below.

“New Hospital” Status Limitations

The determination of “new hospital” status pursuant to the “New Hospital” Process is not a waiver of the hospital’s future participation in a HQAF Program. A hospital’s “new hospital” status is only effective for this Program period, as defined in Section 14169.51(aq), and ends at the conclusion of this Program period for the licensee that went through the “New Hospital” Process.