

## Long-Term Care Survey Alert

### Reader Question: So You're Thinking Of Getting Out Of Medicaid ...

It's possible to do, but you have to cover these bases.

Question: Our nursing facility is considering leaving the Medicaid program. What are the ins and outs and considerations for doing that? What kind of notice would we have to give our residents for transfer and discharge if we do withdraw from the program?

Answer: Due to the decrease in Medicaid reimbursement and the increasing acuity of patients in skilled nursing facilities, more providers appear to be considering withdrawing from the Medicaid program, says attorney **Chris Puri**, with **Boul Cummings Conners & Berry PLC** in Nashville, TN.

But before you take the leap, understand a facility can only withdraw from the Medicaid program on a prospective basis, advises Puri. Under federal laws, the facility has to allow any resident admitted prior to the date of withdrawal from Medicaid to continue as a resident. Therefore, a provider won't be completely out of the Medicaid program until all the facility's Medicaid residents (as of the effective date of withdrawal) transfer from the facility or die, he notes.

In other words, "some residents could end up being 'hold-over' Medicaid residents for years." And during that time, the facility remains bound by all state and federal laws, regulations and other provisions that apply to any Medicaid-certified facility. For a dually certified facility, however, many of those requirements are also Medicare requirements, he adds.

Important: A facility that does proceed with getting out of Medicaid must give notice to both patients and to the Medicaid agency. The **Centers for Medicare & Medicaid Services** requires facilities voluntarily terminating from the Medicaid program to provide 30 days notice and withdraw at the beginning of a quarter.

Current residents of the facility, at the time of withdrawal, must receive notice that:

- (a) The facility is not participating in the program under this title with respect to that resident; and
- (b) The facility may transfer or discharge the resident for non-payment if the resident doesn't pay the facility's charges, even though the resident may have become eligible for medical assistance for nursing facility services under Medicaid.

The facility must provide written and oral notice of the above items (a and b) to any resident admitted to the facility after the effective date of its withdrawal from Medicaid. The facility also must obtain and keep a separate acknowledgment that the resident received that information at admission, says Puri.

Other practical considerations: The facility withdrawing from Medicaid should work closely with its Medicaid agency to ensure it continues to receive Medicaid payments, counsels Puri.

"Many states also have various Medicaid provisions governing withdrawal in addition to what federal law requires," he adds, which a facility's counsel should review before the facility decides to terminate Medicaid participation. "There may also be considerations relative to state certificate of need conditions that have to be met."

Last but not least: A facility needs to carefully evaluate the financial impact of getting out of Medicaid -- and how various hospitals and physician referral sources will respond, adds Puri.