



DEPARTMENT OF HEALTH & HUMAN SERVICES  
CENTERS FOR MEDICARE & MEDICAID SERVICES  
WESTERN CONSORTIUM  
DIVISION OF SURVEY AND CERTIFICATION

June 5, 2006

**IMPORTANT NOTICE -PLEASE READ CAREFULLY  
VIA FACSIMILE TRANSMISSION AND FEDERAL EXPRESS**

**Provider Number: 05-2312**

R. Michael Alexander, Sr. VP/  
Kaiser Foundation Hospital/Health Plans  
2200 O'Farrell Street, 8<sup>th</sup> Floor  
San Francisco, California 94115

Dear Mr. Alexander:

To be approved for coverage under the Medicare program, a supplier of end stage renal disease (ESRD) services must meet the requirements in section 1881 of the Social Security Act (the Act), 42 USC Section 1395rr, and comply with the Conditions for Coverage published at 42 C.F.R. Part 405, Subpart U.

As you are aware, a Medicare federal survey of Kaiser Foundation Hospital (renal transplantation center) was completed by the Centers for Medicare & Medicaid Services (CMS) on May 12, 2006. During this survey CMS documented that Kaiser Foundation Hospital (renal transplantation center) was not complying with the following Conditions for Coverage:

- 42 C.F.R. §405.2136 (Governing body and management)
- 42 C.F.R. §405.2138 (Patients' rights and responsibilities)
- 42 C.F.R. §405.2170 (Director of a renal transplantation center)

Failure of a supplier of ESRD services to meet one or more of the Conditions for Coverage is a basis for termination of Medicare coverage of the services furnished by that supplier. 42 C.F.R. §405.2180. Accordingly, we are hereby initiating a process that will result in termination of Kaiser Foundation Hospital's approval for coverage as a supplier of ESRD services in the Medicare program unless by **close of business on June 15, 2006**, you submit to this office written evidence that the deficiencies cited on the enclosed CMS-2567 have been corrected. See 42 C.F.R. § 405.2180.

Denver Regional Office  
1600 Broadway, Suite 700  
Denver, CO 80202

San Francisco Regional Office  
75 Hawthorne Street, 4th Floor  
San Francisco, CA 94105

Seattle Regional Office  
2201 Sixth Avenue, RX-48  
Seattle, WA 98121

At a minimum this submission must describe the corrective actions, specify the monitoring process established to prevent recurrence of the violation, and identify (by title or position) the individual responsible for the corrective action and monitoring. A plan of correction at some future date or evidence of mere progress toward correction will not be sufficient. If we have not received a credible allegation of compliance by June 15, 2006, we will issue a public notice and proceed to terminate approval for Medicare coverage effective **August 12, 2006**.

If we receive a submission by the close of business on June 15, 2006, and if we conclude that the representations in the submission are credible, we may conduct a resurvey. Depending on the results of the resurvey we will take one of the following two actions:

1. If the survey establishes that the Kaiser Foundation Hospital (renal transplantation center) is back in compliance with all applicable Conditions for Coverage we will so notify you in writing and take no further steps to terminate your Medicare coverage.
2. If the survey establishes that Kaiser Foundation Hospital (renal transplantation center) remains out of compliance with one of more Conditions, we will notify you of this determination and set a date for termination of Medicare coverage no later than August 12, 2006.

#### **Application for a New Approval for Medicare Coverage**

If your approval to participate in the Medicare program as a supplier of ESRD services is terminated, CMS will not accept a new application for approval until it has been determined that the reason for the termination has been removed and there is a reasonable assurance that it will not recur. **Once your approval has been terminated, therefore, you must demonstrate through a reasonable assurance period that you can maintain compliance for at least ninety (90) consecutive days.** Compliance with the applicable requirements for coverage at 42 C.F.R. Part 405, Subpart U, will be verified by surveys, conducted at the beginning and end of this period. Additionally, before readmission to the Medicare program, you must demonstrate your ability to comply with all pertinent requirements of Title XVIII of the Social Security Act (including your financial ability to provide the services required for Medicare participation). See, generally, 42 C.F.R. §489.12(a)(3); 42 C.F.R. Part 489, Subpart B. Assuming compliance with the coverage requirements is documented at the beginning and end of the reasonable assurance period, and assuming all other Federal requirements are met, Medicare approval and reimbursement will begin following the conclusion of the reasonable assurance period in accordance with the terms of 42 C.F.R. §405.2180 (c), and 42 C.F.R. § 489.13.

#### **Appeal Rights**

If you do not agree with this determination, you may request a hearing before an administrative law judge of the Department of Health and Human Services, Departmental Appeals Board, in accordance with 42 C.F.R. Part 498. Such a hearing request must be filed in writing no later than sixty (60) days from receipt of this notice. Make your request to:

Steven D. Chickering, Survey and Certification Officer  
Centers for Medicare & Medicaid Services  
Division of Survey and Certification  
75 Hawthorne Street, 4th Floor  
San Francisco, CA 94105

Your request must identify the specific issues as well as the findings of fact and conclusions of law with which you disagree and explain your basis for contending that our findings and conclusions are incorrect. You will have an opportunity to present evidence and further argument at an in-person hearing, where you may be represented by counsel. Completion of the administrative review process established by 42 C.F.R. Part 498 is a prerequisite to obtaining judicial review.

We are coordinating this action with the Medicaid State Agency, which will take similar action under Title XIX of the Social Security Act.

Should you have any questions concerning this matter, please contact Gina Brown of my staff at 415-744-2931.

Sincerely,

*Reborah Romero for*

Steven Chickering, Survey and Certification Officer  
Division of Survey and Certification

cc: California Department of Health Services  
California Title XIX (Medicaid) Program  
Network 17