

## Congregate Living Health Facility Change of Ownership (CHOW) Process

This document is meant to be an aid for CAHSAH members to use to help them during the Change of Ownership (CHOW) process. It should supplement the information, forms and paperwork you receive from your local Department of Health Services (DHS) district licensing and certification office. **Remember:** even though there are certain forms and regulations that mandate the CHOW, that this process is dynamic and fluid and is subject to delays because of workload, individual differences between staff in your local DHS district office, and filling out forms incorrectly. Make sure to start with ample time to avoid surprises in your planning process.

### Helpful Tips on the CHOW:

- You should make sure that the organization you are going to purchase has a licensed Congregate Living Health Facility in good standing and no conditions out from a previous survey before you purchase (or at least know that they don't before you purchase). Why? Because when you buy Congregate Living Health Facility, you inherit that agency's history, record and provider number. Their history becomes your history regardless if you have only owned them for a short time.
- You do have the option of terminating the provider number and establishing a new one, but this could take extra three months of processing time. When you terminate and take on a new provider number, **you can not bill while you are waiting for the new provider number.** You can also not bill retroactively. Many providers think they can bill while they are waiting for a new provider number, and they are often surprised when their claims get denied. This should be taken into consideration when you are making this decision. Call your DHS district office and ask about this issue.
- DHS **has** indicated that, if you are taking on the provider number of the Congregate Living Health Facility you are purchasing, you can start billing through a Management Agreement between the borrower and seller. Make sure to run this by your district office **before** you start billing to make sure that it is acceptable. There are risks involved in not waiting for the CHOW to be approved.
- Always remember to keep a copy of all forms you fill out. Sometimes DHS and CMS lose documents and it is very handy and time-saving to have copies of these documents.
- If you have any questions regarding change of ownership paperwork and requirements, you should work with your DHS, Licensing and Certification Office. The phone number and information for your local district DHS L&C office can be found here: <http://www.dhs.ca.gov/lnc/org/default.htm>. You should get on a first name basis with the analyst who is processing your Change of Ownership paperwork. This DHS L&C staff person will be the most important person in the process and can assist you with all your questions. Additionally, attached to this document is a copy of a Change of Ownership Letter that you can use to understand what DHS will ask from you. We recommend you start a few months before you know that you need to start billing, so you can have all your paperwork approved.
- **Time Frame:** This entire process from start to finish, generally takes 60-90 days (assuming you submit paperwork for FI, and DHS at the same time and you submit your paperwork correctly.)

### What is a Change of Ownership?

State regulations require that you file a change of ownership, per Title 22, Section 74667, in the following circumstances:

- (a) Changes Requiring New Application. An application shall be submitted to the Department within 10 working days whenever a change of ownership occurs. A change of ownership shall be deemed to have occurred where, among other things, when compared with the information contained in the last approved license application of the licensee, there has occurred a transfer of 50 percent or more of the issued stock of a corporate licensee, a transfer of 50 percent or more of the assets of the licensee, a change in partners or partnership interests of 50 percent or greater in terms of capital or share of profits, or a relinquishment by the licensee of the management of the Congregate Living Health Facility
- (b) Changes Requiring Written Notice. The licensee shall, within 10 days, notify the Department in writing of the following:
- (1) Change of name of Congregate Living Health Facility;
  - (2) Change of location and/or address of Congregate Living Health Facility;
  - (3) Change in the licensing information required by subsection (a) of [Section 74661](#).
  - (4) Change of the mailing address of the licensee;
  - (5) Change in the principal officer (chairman, president, general manager) of the governing board. Such written notice shall include the name and principal business address of each new principal officer;
  - (6) Change of the administrator including the name and mailing address of the administrator, the date the administrator assumed office and a brief description of qualifications and background of the administrator.
  - (7) Change of Director of Patient Care Services including the name and mailing address of the Director of Patient Care Services, the date the Director of Patient Care Services assumed office and a brief description of qualifications and background of the Director of Patient Care Services Administrator, the date the administrator assumed office and a brief description of qualifications and background of the administrator.
  - (8) Addition or deletion of services.

### **Change of Ownership Process:**

To do a Change of Ownership there are three entities involved: The Fiscal Intermediary (FI), Department of Health Services (DHS), Licensing and Certification, District Office (the one with where your parent Congregate Living Health Facility is located), and the Centers for Medicare and Medicaid Services (CMS).

### **I. Fiscal Intermediary (FI) Involvement:**

\* Fill out the 855A Application, the Application for Health Care Providers that will Bill Medicare Fiscal Intermediaries, if you plan on billing for Medicare services. Read the instructions, it specifically states what to do if you are doing a CHOW. The FI just checks it to make sure that the financials of the corporation are sound and accurate and reports this to both CMS and DHS. It depends on the FI. Some FIs send a copy to both to CMS and DHS District Office. Other FIs send it just to DHS and DHS sends to CMS. CMS will need this approval before they can process the CHOW. Once the FI approves or denies the CHOW, they are no longer involved in the process. **Time frame:** up to 60 days depending on workload. You should receive the form from your DHS L&C office. However, if you need it, the 855 A form can be found here: <http://www.cms.hhs.gov/providers/enrollment/forms/>

## II. DHS Involvement

You should write to DHS and request the CHOW application packet. We strongly recommend that you work through the DHS office, so you can be on record as starting the CHOW process and get all the official forms and paperwork from your district DHS L&C office, as well as establish contact with a DHS employee. However, if you want to download or review copies of these forms, you can by going to: <http://www.dhs.ca.gov/publications/forms/L&C/B4.htm>. (Note: at this time, Congregate Living Health Facility forms are combined with nursing home forms.) The attached sample letter from DHS L&C Alameda is an example of a letter you would receive with all of the forms and information attached. Call (916) 641-5795 and ask for the DHS example letter in hot file L6.

Much like a new Congregate Living Health Facility the following are the forms required for a CHOW:

- HS 200 – Application for a facility license;
- HS 215 – Applicant Information;
- HS 308 – Designation of Administrative Responsibility
- HS 309 – Administrative Organization
- A check for the license fee payable to Department of Health Services
- HS 310 – Date of Ownership Change**
- HS 690 – Assurance of Compliance
- MC 803 – Medi-Cal Provider Data Form
- HCFA 1513 – Ownership and Control Interest Disclosure Statement
- HCFA 1561 – Health Insurance Benefits Agreement (two copies)
- HCFA 1572 – Copy of Federal Survey Report Form (retain for your information)
- HCFA 2572 – Statement of Financial Solvency\*
- DHS 1051 Civil Rights Compliance Review
- HS 413 – Intermediary Preference\*

Additionally:

- \* If a nonprofit organization, a copy of IRS Letter of Determination of Nonprofit Status;
- \* A copy of State Franchise Tax Board Letter of Determination of Nonprofit status;
- \* If the owner is a corporation, a copy of the Articles of Incorporation as filed with the Secretary of State, State of California, or if the owner is a partnership, a signed copy of the Partnership Agreement;
- \* Evidence of possession of property (lease, rental agreement, deed, bill of sale)
- \* Notice – Relative to Effective Date of Provider Agreement;
- \* Office of Civil Rights Letter;
- \* A copy of any management agreement(s) signed and dated by both parties;
- \* A copy of instructions on the Implementation of Patient Self-Determination Provision of OBRA 90 (No need to return);
- \* CMS 855A Medicare General Enrollment-Health Care Provider/Supplier Application – Mail original to intermediary (as explained above) and provide DHS with a copy.
- \* Evidence of adequate capitalization to fund the business for three (3) months without Medicare/Medi-Cal reimbursement. Initial HHA's are required to have a capitalization plan that satisfies the federal requirement (90 days) as referenced in the July 31, 1998 Federal Register, Volume #63, Number 147.

**For a CHOW, You must also do the following:**

1. A letter from the current licensee to the Department with a copy of the letter to the new licensee stating that the present license will be relinquished to the Department for cancellation upon issuance of a new license.
2. A letter from the new licensee to the Department stating where stored patient medical records will be maintained, and that they will be made available to the previous licensee.
3. A copy of any management agreements signed and dated by both parties.

**DHS Recommendation Process:** Once you submit the paperwork to DHS, then they will review and make a recommendation and forward their recommendation to CMS regarding the CHOW. CMS, more than likely, will approve whatever DHS recommends. DHS indicated that if they have a lot of concerns about the Congregate Living Health Facility, they will also do a change of ownership survey. **Time Frame:** Depends on the workload in each district office. It is best to call DHS and ask them how long it would take them to process your CHOW.

**III. CMS Involvement – Final Approval of the CHOW**

Generally, per DHS, CMS doesn't care about change of ownership and usually accepts the DHS recommendation. CMS tends to be more concerned with changes of address rather than ownership. However, CMS does make the final determination regarding the CHOW and will send an effective date of the change of ownership along with a contact letter to the Congregate Living Health Facility notifying the Congregate Living Health Facility that they have been approved or denied.

If you also will bill for Medi-Cal services, then CMS will also send a transmittal (in-house form) to the State DHS, Provider Certification Office (in Sacramento), to the Provider Enrollment Branch to make sure that you get authorized to process Medi-Cal claims. This letter will let Medi-Cal know that your CHOW has been approved with a certain effective date and that your Congregate Living Health Facility will be receiving payment for Medi-Cal.