

Important Reminder: Providers Selling or Purchasing a Business

Requirements and Procedures for Successor Liability

As introduced in regulation package R-04-04E, the California Department of Health Services (CDHS) wishes to remind providers of the ability to accept successor liability with joint and several liability requirements. These sections have been adopted to allow providers to assign their provider number to a new applicant by joining that new applicant to the provider agreement, on condition that the enrolled provider remains jointly and severally liable for all debts and obligations to CDHS arising from that agreement. This regulation is elective on the part of the provider and is not mandatory. However, if providers elect this option, they must strictly comply with its provisions. This option has been developed in response to providers' requests for some means by which a new owner can continue to use the existing provider number to bill and receive payments for services, goods, supplies or merchandise in the event of a change of ownership.

Using Successor Liability

Successor liability may apply when any of the following events occur:

- A change of ownership as defined in *California Code of Regulations (CCR)*, Title 22, Section 51000.6,
- A sale or transfer of 50 percent or more of the assets owned by the corporation at the location for which a provider number was issued,
- A cumulative change in the person(s) with an ownership or control interest of 50 percent or more since the information provided in the last complete application package that was approved for enrollment,
- When a new Taxpayer Identification Number is issued by the Internal Revenue Service (IRS), or
- When the Board of Pharmacy requires a new site permit

Form Requirements

To qualify for successor liability with joint and several liability, a provider transferor and transferee applicant must submit the *Successor Liability with Joint and Several Liability Agreement* form (DHS 6217), signed and dated by both providers, postmarked within five days of the occurrence of a circumstance listed in CCR, Section 51000.30(b). The form should include the following information:

- Legal name of provider transferor, which is the name currently on file with the Internal Revenue Service (IRS),
- Current provider number for the location affected,
- Fictitious business name of the provider transferor, if applicable,
- Legal name of transferee applicant, which is the name currently on file with the IRS,
- Current provider number(s) of the transferee applicant, if applicable,
- Fictitious business name of the transferee applicant, if applicable, and
- A statement signed and dated by both provider transferor and transferee applicant, wherein they accept joint and several liability for all debts arising from the Medi-Cal provider agreement applicable to the location from which the provider agreement and provider number was issued by CDHS

Application Package Requirements

Within 35 days of any of these events, if the provider transferor and the transferee applicant agree to assume joint and several liability for the purposes of successor liability, the transferee applicant shall submit a complete Medi-Cal enrollment application package.

If the transferee applicant's application package is denied, the provider number and provider agreement for that location will be deactivated effective the date of transfer. Both the provider transferor and the transferee applicant will be jointly and severally liable for all amounts paid for provided services, goods, supplies, etc. provided to a Medi-Cal beneficiary after the date of transfer.

For further information or to download the *Successor Liability with Joint and Several Liability Agreement* form (DHS 6217), please visit the Medi-Cal Web site (www.medi-cal.ca.gov) and click the "Provider Enrollment" link.