

ATTACHMENT G WITHDRAWAL OF EQUITY

Withdrawal of Equity

Beginning April 1, 2009, residential health care facilities may not withdraw equity or transfer assets, which in the aggregate total, exceed 3% of the facility's Medicaid revenue without the Department's approval. Beginning April 1, 2010, the law was updated to state the aggregate limit was 3% of the facility's total reported annual revenue for patient care services. Determination to approve or disapprove the withdrawal of equity or assets are to be made within 60 days of receiving a written request from the facility.

Factors considered when reviewing a request to withdraw equity include: the facility's overall financial condition, indicators of financial distress, delinquent payments owed to the department, and immediate jeopardy or substandard quality of care. *If the facility did not request, nor receive, prior approval as required, then an equity withdrawal violation has occurred.* Violators have an opportunity for a hearing, after which the commissioner may require replacement of the withdrawn equity or assets and may impose a penalty in an amount not to exceed 10% of any amount withdrawn without prior approval.

Facilities that plan to withdraw equity or transfer assets are required to submit a cover letter to the Department indicating the request for prior approval, and enclose a completed and signed Equity Withdrawal/Transfer of Asset Request Form, available on the HCS. Other financial documents are also required and are indicated on the form. The cover letter and the Form must be sent to the Department via email to nfrates@health.ny.gov.

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