

§ 124.504

made up, and less any unused excesses accrued in prior years; or

(ii) Where the annual compliance level in such fiscal year is established under paragraph (a)(1) of this section, the remaining obligation is the average of the facility's annual compliance levels in the previous three years, multiplied by the number of years remaining in its period of obligation, plus any deficits required to be made up under this section, and less any unused excesses accrued in prior years.

[52 FR 46031, Dec. 3, 1987; 52 FR 48362, Dec. 21, 1987, as amended at 60 FR 16756, Mar. 31, 1995; 66 FR 49266, Sept. 26, 2001]

§ 124.504 Notice of availability of uncompensated services.

(a) *Published notice.* A facility shall publish in a newspaper of general circulation in its area notice of its uncompensated services obligation before the beginning of its fiscal year. The notice shall include:

(1) The plan of allocation the facility proposes to adopt;

(2) The amount of uncompensated services the facility intends to make available in the fiscal year or a statement that the facility will provide uncompensated services to all persons unable to pay who request uncompensated services;

(3) An explanation, if the amount of uncompensated services the facility intends to make available in a fiscal year is less than the annual compliance level. If a facility has satisfied its remaining uncompensated services obligation since the last published notice under this paragraph, or will satisfy the remaining obligation during the fiscal year, the explanation must include this information; and

(4) A statement inviting interested parties to comment on the allocation plan.

(b) *Posted notice.* (1) The facility shall post notices, which the Secretary supplies in English and Spanish, in appropriate areas in the facility, including but not limited to the admissions areas, the business office, and the emergency room.

(2) If in the service area of the facility the "usual language of households" of ten percent or more of the population according to the most recent fig-

ures published by the Bureau of the Census is other than English or Spanish, the facility shall translate the notice into that language and post the translated notice on signs substantially similar in size and legibility to and posted with those supplied under paragraph (b)(1) of this section.

(3) The facility shall make reasonable efforts to communicate the contents of the posted notice to persons who it has reason to believe cannot read the notice.

(c) *Individual written notice.* (1) In any period during a fiscal year in which uncompensated services are available in the facility, the facility shall provide individual written notice of the availability of uncompensated services to each person who seeks services in the facility on behalf of himself or another. The individual written notice must:

(i) State that the facility is required by law to provide a reasonable amount of care without or below charge to people who cannot afford care;

(ii) Set forth the criteria the facility uses for determining eligibility for uncompensated services (in accordance with the financial eligibility criteria and the allocation plan);

(iii) State the location in the facility where anyone seeking uncompensated services may request them; and

(iv) State that the facility will make a written determination of whether the person will receive uncompensated services, and the date by or period within which the determination will be made.

(2) The facility shall provide the individual written notice before providing services, except where the emergency nature of the services provided makes prior notice impractical. If this exception applies, the facility shall provide the individual written notice to the next of kin or to the patient as soon as practical, but not later than when first presenting a bill for services.

(3) The facility shall make reasonable efforts to communicate the contents of the individual written notice to persons who it has reason to believe cannot read the notice.

§ 124.505 Eligibility criteria.

(a) A person unable to pay for health services is a person who—