

Hospitals

JCAH and HEW agree on confidentiality

HEW has agreed to recognize that "accreditation letters and accompanying recommendations and comments" prepared by the Joint Commission on Accreditation of Hospitals (JCAH) and furnished to HEW as part of a hospital's Medicare validation survey "are confidential" under the Medicare law.

The agreement, reached October 8, brought an end to a suit filed May 30 in the U.S. District Court in Chicago, in which the JCAH sought to permanently enjoin HEW from public disclosure of the JCAH survey documents.

In the agreement, which took the form of a stipulation signed by both HEW and the JCAH that was submitted to the court and that formed the basis for the court's dismissal of the case, HEW said that it "will not release any accreditation letters . . . that may have been or may in the future be provided."

The JCAH will continue to provide, with the permission of the hospitals involved, accreditation information to the Bureau of Health Insurance (BHI), which is authorized by P.L. 92-603 to conduct validation studies of JCAH survey results. The Medicare law provides that any hospital undergoing a validation survey that refuses to grant permission to allow HEW access to the documents automatically will lose its "deemed status" for participation in the Medicare program.

HEW also agreed that in the event court action is instituted to force disclosure of the documents, it "will immediately notify" the JCAH so that the commission may seek to intervene in the matter to help ensure confidentiality of its documents.

The suit had claimed that former HEW Secretary Caspar W. Weinberger released 105 JCAH accreditation letters and accompanying recommendations and comments to a New York-based consumer group in

violation of the Medicare law. Release of these documents to the public, the suit contended, would present "a biased picture of the hospital" to the public because, the JCAH contended, the survey results are purposely critical in order to induce the surveyed hospital to achieve "optimal achievable standards."