

**§ 35.21**

**42 CFR Ch. I (10–1–02 Edition)**

(3) When the service or document is requested by an attorney in the prosecution of a Service beneficiary's personal injury claim against a third person, involving the concurrent assertion of a government medical care claim under 42 U.S.C. 2651–2653. In such case, the service or document requested will be furnished only upon compliance with all additional requirements for the release of records in third party recovery cases, including the proper execution of form PHS–4686, Agreement to Assign Claim Upon Request.

(4) When the service or document is requested by, and furnished to, a Member of Congress for official use.

(5) When the service or document is requested by, and furnished to, a court in lieu of the personal court appearance of an employee of the Public Health Service.

(6) When the service or document is required to be furnished free in accordance with a Federal statute or an Executive order.

(7) When the furnishing of the service or document requested without charge would be an appropriate courtesy to a foreign country or international organization.

(Sec. 501, 65 Stat. 290; 31 U.S.C. 483(a); sec. 215, 58 Stat. 690, as amended; 42 U.S.C. 216)

[32 FR 6842, May 4, 1967]

**Subpart B—Transfer of Patients**

**§ 35.21 Authorization of transfer.**

Except as otherwise provided by law or regulation with respect to certain classes of patients, the officer in charge of a station or hospital of the Service may provide, without any cost to the patient, for the transfer of the patient either from such station or hospital to another station or hospital of the Service or to any non-Service station or hospital at which the patient may be received, or from any non-Service hospital at which he is receiving care or treatment as a patient of the Service to a station or hospital of the Service.

**§ 35.22 Attendants.**

Patients shall be transferred by such means and accompanied by such medical, nursing, or other attendants as

may be necessary to protect the health and safety of the patient and other persons likely to come into contact with him, including in the case of a prisoner such guards as may be necessary to assure his safekeeping. A female patient requiring the services of attendants shall be accompanied by at least one female attendant. Medical or nursing attendants shall be qualified to care for persons suffering from the type of disease or disorder with which the patient is afflicted and shall be provided with equipment and medicines necessary for the care of the patient.

**Subpart C—Disposition of Articles Produced by Patients**

**§ 35.31 Retention by patients.**

Subject to the rules of the station or hospital, patients may be accorded the privilege of retaining articles produced by them in the course of their curative treatment with the aid of materials furnished by the Service. Articles not retained by patients shall be disposed of as provided in this subpart. The provisions of this subpart do not apply to the products of industrial activities established for narcotic addicts.

**§ 35.32 Board of appraisers.**

The officer in charge shall appoint, from the personnel of the station or hospital, a board of three persons to serve at his pleasure. The board shall provide for the sale of articles having commercial value and shall keep appropriate records of such articles and their disposition.

**§ 35.33 Sale; prices; deposit of proceeds.**

The board shall determine and redetermine from time to time the prices at which articles are to be sold, and in doing so shall consider the cost of materials used, reasonable handling charges, and the fair market value of the articles. The sale price shall be indicated on each article by tag or other appropriate means, and a list of articles offered for sale and their respective sale prices shall be posted from time to time in the hospital or station area. In its discretion, the board may offer such articles for purchase by

other patients or by charitable organizations before offering them for purchase to the general public. No article shall be sold or resold to any officer or employee of the Service. Moneys received from the sale of articles shall be deposited into the Treasury to the credit of the appropriation from which the materials for making such articles were purchased.

**§ 35.34 Resale.**

No article purchased under the provisions of this subpart shall be resold in the hospital or station area at a price to exceed the sale price fixed by the board for such article.

**§ 35.35 Unsalable articles.**

Articles having no commercial value shall be stored, destroyed, or otherwise disposed of as the officer in charge may direct.

**Subpart D—Disposal of Money and Effects of Deceased Patients**

**§ 35.41 Inventory.**

Promptly after the death of a patient in a station or hospital of the Service, an inventory of his money and effects left therein shall be made by two or more officers or employees of the Service designated for such purpose by the officer in charge.

**§ 35.42 Notice upon death.**

The officer in charge shall notify in writing all persons known to him to whom delivery of the patient's money and effects might be made hereunder, and, in the case of an alien patient, a consul of the country of his apparent nationality. Each person so notified shall be requested to furnish information concerning (a) the existence or whereabouts of any persons to whom delivery of the deceased patient's money and effects may be made pursuant to these provisions, and (b) the permanent residence or home of the deceased.

**§ 35.43 Delivery only upon filing claim; forms; procedure.**

(a) Delivery of the money and effects of a deceased patient shall be made only to a person who has filed a claim

therefor on a form prescribed by the Surgeon General.

(b) A claimant shall furnish, in addition to the information on the prescribed form, such additional information as the officer in charge may consider necessary to establish the identity of the claimant and the truth of his statements.

(c) A person filing a claim as a legal representative shall be required to present letters of administration or a certificate of a court attesting his qualification or appointment.

(d) If a claim is made after the money, or proceeds from the sale of the effects, of a deceased patient have been deposited in the Treasury, the claim shall be referred to the General Accounting Office. If the claim is for checks or evidences of indebtedness of the United States which have been transmitted to the issuing agency pursuant to §§ 35.47 and 35.48, the claimant shall be referred to such agency.

**§ 35.44 Delivery to legal representative; to other claimants if value is \$1,000 or less.**

The money and effects of the deceased patient shall in all cases be delivered to the legal representative, if any, of his estate. If the value is \$1,000 or less, and the officer in charge has neither notice nor other knowledge of the appointment or qualification of a legal representative, nor reason to believe that a legal representative will be appointed or qualified, he shall deliver all the money and effects, as soon as practicable after the expiration of 10 days from the sending of notices to one of the following in the indicated order of priority:

(a) A person, if any, designated in writing by the patient to receive the same.

(b) The patient's surviving spouse.

(c) The patient's child or children in equal parts.

(d) The patient's parent or parents in equal parts.

(e) Any other person who would be entitled to receive the money and effects under the law of the patient's domicile: *Provided*, That delivery of such money and effects may be made immediately upon application by one