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MLN Matters® Number: MM6750

Related Change Request (CR) #: 6750

Related CR Release Date: December 18, 2009

Effective Date: January 1, 2010

Related CR Transmittal #: R318PI

Implementation Date: January 1, 2010

Implementation of Home Health Agency Program Safeguard Provisions

Provider Types Affected

Home Health Agencies (HHAs) submitting claims to Medicare contractors (Fiscal Intermediaries (FIs), A/B Medicare Administrative Contractors (A/B MACs), and/or Regional Home Health Intermediaries (RHHIs)) for services provided to Medicare beneficiaries.

Provider Action Needed

This article is based on Change Request (CR) 6750, which implements two provisions from the Home Health Agency (HHA) Prospective Payment System Final Rule (CMS-1560-F). The first provision requires an HHA whose Medicare billing privileges have been deactivated to undergo a State survey or obtain accreditation from a CMS-approved accrediting organization prior to having its billing privileges reactivated. The second provision holds that an HHA may not undergo a change of ownership or transfer of ownership if the effective date of the change or transfer occurs within 36 months of: (1) the effective date of the provider's enrollment in Medicare, or (2) the effective date of the last ownership change or transfer for the HHA. The provider must instead enroll as a new HHA, undergo a State survey or obtain accreditation from a CMS-approved accrediting organization, and sign a new provider agreement.

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Background

An “ownership change” includes any of the following:

- Change of ownership (CHOW);
- Acquisition/merger;
- Consolidation;
- Change request reporting a 5 percent or greater ownership change (including , stock transfer or asset sale); or
- Change request reporting a change in partners, regardless of the percentage of ownership involved.

If a Medicare contractor receives an application for an ownership change from an HHA, it will determine whether the effective date of the transfer is within 36 months of either the effective date of the provider’s initial enrollment in Medicare or last ownership change. The Medicare contractor will verify the effective date of the ownership transfer by requesting a copy of the transfer agreement, sales agreement, bill of sale, etc., rather than relying upon the projected date of the sale listed on the application.

If the transfer date falls within the 36-month period after the effective date of the provider’s enrollment in Medicare or last ownership change, the Medicare contractor will return the application and notify the provider that, per 42 CFR 424.550(b), the HHA must:

- Enroll as an initial applicant;
- Obtain a new State survey or accreditation from a CMS-approved accrediting organization after it has submitted its initial enrollment application and the Medicare contractor has made a recommendation for approval to the State; and
- Sign a new provider agreement as part of the initial enrollment.

As the new owner must enroll as a new provider, the Medicare contractor will also deactivate the HHA’s billing privileges if the sale has already occurred. If the sale has not occurred, the contractor will alert the HHA that it must submit a CMS-855A voluntary termination application (see <http://www.cms.hhs.gov/cmsforms/downloads/cms855a.pdf> on the CMS website).

If the transfer date is more than 36 months after the effective date of the provider’s enrollment in Medicare or most recent ownership change, the application can be processed normally, without the need for a new State survey or an approval from an approved accreditation organization.

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Additional Information

The official instruction, CR 6750, issued to your FI, A/B MAC, and RHHI regarding this change may be viewed at

<http://www.cms.hhs.gov/Transmittals/downloads/R318PI.pdf> on the CMS website.

If you have any questions, please contact your FI, A/B MAC, or RHHI at their toll-free number, which may be found at

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website

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