



**Center for Clinical Standards and Quality/Survey & Certification Group**

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Updated**

**DATE:** March 28, 2014 **Updated May 16, 2014**

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** CMS-435 State Agency Budget Form- **New** Proposed Change – Medicaid Share of Home Health Surveyor Costs

**Memorandum Summary**

**Proposed CMS-435 Changes:** With the final approval of Rule CMS-1450-P, Home Health Agency survey costs reporting utilizing a 50/50 split between Medicare and Medicaid Survey and Certification costs, adequate tracking of these expenses requires a modification to the CMS-435 Budget report to add columns in the Title XIX section of the form. **In addition, we are adding columns for the State Licensure figures will assist in ensuring that proper cost accounting is being utilized.**

**A. Background – Medicaid Fair Share**

In FY2012 CMS published a notice of proposed rule-making to clarify that State Medicaid programs must contribute to the cost of home health surveys in accordance with the cost allocation principles articulated in OMB circular A-87. The Circular, available at <http://www.whitehouse.gov/omb/circulars/a087/2004>, is intended to provide a uniform approach for determining costs and to promote effective program delivery, efficiency, and better relationships between governmental units and the federal government.

In order to provide more adjustment time for States that have not already made provision for full compliance with A-87, CMS delayed publication of the Medicaid portion of the rule until FY2013. CMS re-issued the notice of proposed rule-making, widely communicated its intent to enforce the cost allocation principles (see, e.g., S&C Memorandum 13-26 issued on June 28, 2013), and then provided States with more adjustment time by delaying the effective date of enforcement until July 1, 2014. **The final rule was published in final form on December 2, 2013 (78 Federal Register 72311).**

As explained in S&C Memorandum 13-26, however, the obligation for Medicaid to pay its fair share of costs for HHA surveys is not a new requirement. It is a current obligation based on the

tenets of proper cost accounting, as articulated clearly in 2 CFR Part 225; Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A-87). States should ensure that these provisions are met. States that have not ensured that the cost allocation principles for home health surveys are fully met by July 1, 2014 will be subject to fiscal disallowances for survey activity after that date. A disallowance applies to funds already spent and disallows a State claim for reimbursement of incurred Medicaid expenses.

## **B. Background – State Licensure Amounts**

On February 13, 2009, the GAO released its report GAO-09-64 entitled, “CMS Needs to Reexamine Its Approach for Funding State Oversight of Health Care Facilities.” The report included the following conclusion: “CMS lacks information on state contributions, which impeded an overall assessment of the resources available for state surveys.” The GAO’s recommendations included:

“To improve the oversight of state expenditures, we recommend that the CMS Administrator take the following two actions:

- Collect information about current state shares, including the methodologies used to determine them and the date that they were last reviewed.
- Regularly review state shares to ensure that they are accurate, explore ways to obtain information from states on non-Medicaid expenditures where such information is relevant for ensuring that costs are actually shared on an equitable basis, and consider ways to simplify the process of determining state shares.”

While some CMS Regional Offices have requested the State licensure information in the past, we have not done so in every Region nor arranged the CMS-435 Form to accommodate such data. The 1864 Agreement allows us to obtain this information, as indicated in Article IX, Cost of Administration, item L:

*The State shall furnish or make available such supplemental accounts, records, or other information as may be requested by the Secretary to substantiate any estimates, expenditures, or reports as may be necessary for auditing purposes, or to verify the allowability of the State’s expenditures under this Agreement.*

We agree with the GAO that the State licensure information will be necessary to adequately be able to track appropriate cost accounting principles with the addition of displaying Title XIX NLTC costs.

## **B. New Proposed CMS-435 Budget Form**

The current CMS-435 budget form is split between Title XVIII (columns A-D) and Title XIX (columns E-G) Long Term Care (LTC) expenses. In an effort to enable all of the new data requested, the form has been streamlined to limit the amount of columns. As is demonstrated on Attachment 1, the FTE information is listed in-line with the budgetary data for each column. The only exception to this is in the Title XIX columns where the FTE information is only in the FFP column. We are expecting these FTE’s to encompass the total FFP and State positions;

however to lessen the workload on the State, just the total FTEs (which is all the current form requires) is requested to be entered.

The final two new columns in Attachment 1 will encompass the reporting of the State Licensure share amounts for both LTC and NLTC. As was noted before, this information is necessary to adequately review the use of proper cost accounting across all funding sources of the Survey & Certification program.

The HHA rule, as stated previously, takes effect July 1, 2014. While it would be desirable to have a new form in place to meet the 4<sup>th</sup> quarter reporting period, due to some limitations of reports of the Automated Budget System any proposed modification cannot take effect until 1<sup>st</sup> quarter of FY15. However, adequate lead time to allow for proper system testing and understanding of any new form requires that modifications begin by early June 2014. With this in mind, we are asking for any thoughts and/or concerns to be sent to Bary Slovikosky ([Bary.Slovikosky@cms.hhs.gov](mailto:Bary.Slovikosky@cms.hhs.gov)) by COB May 30, 2014.

Thomas E. Hamilton

Attachment

cc: Survey and Certification Regional Office Management