



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

**Ref: S&C: 18-03-HHA**

**DATE:** November 17, 2017  
**TO:** State Survey Agency Directors  
**FROM:** Director  
Survey and Certification Group  
**SUBJECT:** Home Health Agency (HHA) Subunits

**Memorandum Summary**

- **New HHA Conditions of Participation, which will be effective January 13, 2018, no longer contain a definition for HHA Subunits.**
- **The Subunits existing at the time of the effective date of the regulations will become freestanding HHAs unless they notify the State Survey Agency (SA) and the Medicare Administrative Contractor (MAC) that they wish to become a Branch of the Parent.**

**Background**

On January 13, 2017, the Centers for Medicare & Medicaid Services (CMS) published a final rule revising the Conditions of Participation (CoPs) for HHAs which was scheduled to become effective on July 13, 2017. A subsequent rule delayed the implementation of these CoPs until January 13, 2018. The final rule eliminated the definition for “subunit,” previously set forth at §484.2 and the regulation preamble stated:

“On the effective date of this rule, any existing subunits, which already operate under their own provider number, will be considered distinct HHAs and will be required to independently meet all CoPs, including having an independent governing body and administrator. Subject to State-specific laws and regulations, this Federal regulatory change will permit a subunit to apply to become a branch of its existing parent HHA if the parent provides “...direct support and administrative control” of the branch.”

Under the current CoPs for HHAs, Subunits are surveyed and certified separately from their Parent and must meet all the CoPs independently, with the exception that the Subunit and Parent may share a governing body and an administrator. A Subunit is assigned its own CMS Certification Number (CCN) and its own provider agreement.

In preparation for the implementation of the new HHA CoPs, the MACs have already established separate enrollment records for the currently existing Subunits.

***I. The Subunit Elects to Become a Distinct/Freestanding HHA***

If a current Subunit wishes to be a distinct/freestanding HHA pursuant to the new CoPs, it must submit a revised CMS-855A to the MAC changing its Provider Type (Section 2 of the CMS-855A) from Home Health Agency (Subunit) to Home Health Agency. This is considered a Change of Information and no further action is required by the former Subunit. Also, since the former Subunit now has a separate enrollment record, the Parent does not need to make any changes to their CMS-855A regarding the transition of the Subunit to a distinct/freestanding HHA.

If the SA does not receive notification from the former Subunit that it wishes to transition to a Branch, it should assume that the former Subunit will become a distinct/freestanding HHA as of the implementation date of the new CoPs. Accordingly, as of January 13, 2018 the SA should request that each former Subunit, which either notified the SA of its intent to become a freestanding HHA or provided no notification of its intent, submit a revised Form CMS-1572a. Fields 1-15B and 16-20 should be completed by the former Subunit. The field on the form, *Type of Survey*, should be denoted and the form entered into ASPEN as “initial (1).” At the time of the next standard survey, the updated Form CMS-1572a should be entered into ASPEN with the *Type of Survey* denoted as “Resurvey (1).” The SA will revise the associated Parent’s current Form CMS-1572a to change field 15B to “no” and enter the change into ASPEN as a “Resurvey (1).”

The SA communicates the transition of the former Subunit to a distinct/freestanding HHA with the CMS Regional Office via Form CMS-1539. No further action is required by the CMS RO. The new distinct/freestanding HHA retains its CCN and its provider agreement.

Although, the new distinct/freestanding HHA must meet all the HHA CoPs (including having an independent governing body and administrator) as of January 13, 2018, SAs are not required to go onsite on or before January 13, 2018 to ensure that the new distinct/freestanding HHA now provides its own governing body and administration. A standard survey must be completed within one (1) year of the January 13, 2018 effective date of the rule to verify that the now distinct/freestanding HHA is in compliance with all HHA CoPs including 42 CFR 484.105 *Organization and administration of services* and §484.115 *Personnel qualifications*.

Since this action is considered a Change of Information, the transition of the former Subunit to a distinct/freestanding HHA does not impact any applicable HHA Moratorium currently imposed by the CMS Center for Program Integrity.

***II. The Subunit Elects to Become a Branch of its Parent***

If a former Subunit elects to become a Branch office of the Parent, the Parent must submit a revised Form CMS-1572a to denote the addition of the Branch or Branches. Field 15D of the form must be completed. Field 12 of the form should be denoted as “Resurvey (1).” The Parent must also submit evidence of its ability to provide supervision of the new Branch(es). The SA will review each request to ensure that supervision can be provided to the new

Branch(es) by the Parent per §484.2 and Section 2182 of the SOM. While the submitted evidence must be reviewed, no survey activity is required until the next scheduled survey of the Parent. In the event that the former Subunit operated a Branch(es), these locations may also be transferred to the Parent as Branch(es) pending compliance with the supervision requirements at §484.2 and Section 2182 of the SOM.

Once the Branch approval is completed, the SA communicates, via Form CMS-1539, its recommendation to the CMS RO for approval of the transition of the former Subunit and its Branch(es) (if applicable) to the Parent. If the CMS RO agrees with the SA recommendation, the former Subunit CCN is terminated. A CCN, which is a derivative of the Parent CCN, is issued to the new Branch(es). No provider agreement is issued to the new Branch(es) as they will be certified and operate under the Parent’s provider agreement.

The SA should confirm that the former Subunit submitted a revised Form CMS-855A to its MAC terminating its separate enrollment as a distinct/freestanding HHA (already set up by the MAC). **Simultaneously**, the Parent must submit a revised Form CMS-855A to the MAC adding the former Subunit and its Branches (if applicable) as a Branch(es) on its enrollment record. Refer the provider to the MAC for any questions concerning the completion of the Form CMS-855A.

The CMS RO must forward a Form CMS-2007 to the MAC communicating approval of the addition of all Branch(es) for the Parent. In the Remarks section of the Form CMS-2007, the CMS RO should enter, “Former HHA Subunit transitioned to Branch(es) pursuant to CMS 3819-F. CCN has been terminated.”

Although the former Subunit may be located within a HHA Moratorium area, as defined by the CMS Center for Program Integrity, there is no prohibition against the former Subunit becoming a Branch within the moratorium area. The former Subunit was an existing provider within the designated moratorium area and thus the former Subunit transition to a Branch(es) does not create the addition of a new provider within the moratorium area.

### ***III. The Subunit Elects to Terminate its Participation in Medicare***

A subunit may opt to voluntarily terminate. If so, the former Subunit should notify the SA of its decision to voluntarily terminate its provider agreement and the SA/RO will proceed with the established process for voluntary termination of a provider agreement.

**Contact:** For a list of the HHA Subunits or questions related to this memorandum, please contact your CMS Regional Office.

**Effective Date:** Immediately. This policy should be communicated with all survey and certification staff, their managers and the State/Regional Office training coordinators within 30 days of this memorandum.

/s/  
David Wright

cc: Survey and Certification Regional Office Management