



What New Home Health Agencies (HHAs) Need to Know About Being Placed in a Provisional Period of Enhanced Oversight

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Note: We revised this article on February 12, 2020, to provide information on the impact of the final rule with comment CMS-1711-FC and to include a link to that final rule.

PROVIDER TYPES AFFECTED

This MLN Matters® Special Edition Article is intended for new Home Health Agencies (HHAs) in the Medicare program.

WHAT YOU NEED TO KNOW

SE 19005 provides important information about the Centers for Medicare & Medicaid Services' (CMS) placement of new HHAs into a provisional period of enhanced oversight. You and your staff should be aware of these procedures.

BACKGROUND

The Affordable Care Act (ACA) included new statutory authority for a provisional period of enhanced oversight for new providers and suppliers to the Medicare program. See § 6401(a)(3) of the ACA and § 1866(j)(3) of the Social Security Act. The provisional period of enhanced oversight authority can help CMS address fraud, waste, and abuse concerns regarding particular providers and suppliers. Additionally, the provisional period of enhanced oversight will help CMS closely monitor provider or supplier types that historically have engaged in high levels of fraud, waste, and abuse.

What types of providers and/or suppliers will be affected by the initial use of the provisional period of enhanced oversight authority?

CMS will focus on new HHAs in all states and territories during the provisional period of enhanced oversight authority for new HHAs that involves a suppression of Requests for Anticipated Payment (RAPs). See *below for more information*. In general, “new” providers, in the context of a provisional period of enhanced oversight, include providers that newly-enroll in the program, providers that submit changes of ownership (CHOWs) that fall under 42 C.F.R §489.18, and providers that submit changes of information reporting a 100% ownership change. However, please note that as a result of [CMS-1711-FC](#), published November 8, 2019, this

particular provisional period of enhanced oversight involving a suppression of RAP payments will no longer apply to newly-enrolled HHAs (those certified to participate in Medicare on or after January 1, 2019) beginning January 1, 2020. HHAs that were certified to participate in Medicare on or after January 1, 2019 will not receive RAPs in calendar year 2020 and beyond based, instead, on the authority at 42 C.F.R. § 484.205(g)(2)(ii). This excludes all initial enrollments from this particular provisional period of enhanced oversight. However, the provisional period of enhanced oversight involving a suppression of RAP payments for new HHAs will continue to apply in CHOWs and changes of information that reflect a 100% change in ownership to the extent that these HHAs were certified to participate in Medicare prior to January 1, 2019.

What type of enhanced oversight?

The provisional period will include a suppression of all RAP payments for 30 days to 1 year. RAPs are upfront payments HHAs receive before the beginning of a 60 day episode of home health services. All new HHAs will not receive RAPs as part of their billing process during the period of time they are in the provisional period of enhanced oversight. Each new HHA will receive individual notice of how long it will be in the provisional period of enhanced oversight with RAP suppression - the time period can vary from 30 days to 1 year.

When a new HHA submits a RAP while it is in the provisional period of enhanced oversight, the RAP will receive no payment. However, a new HHA must still submit a RAP for each home health episode in order for the final claim to be processed. New HHAs that are subject to RAP suppression will receive the appropriate, total payments for their services for each particular home health episode *after the submission of a final claim*.

When will CMS start to place new HHAs into a provisional period of enhanced oversight?

CMS began placing new HHAs into a provisional period of enhanced oversight with RAP suppression immediately following the issuance of MLN article SE19005.

How long will new HHAs be in a provisional period of enhanced oversight?

New HHAs will be in a provisional period of enhanced oversight—and during that time subject to RAP suppression—for at least 30 days and not more than 1 year as per statutory authority.

How will new HHAs be notified that they are in a provisional period of enhanced oversight?

CMS or one of its contractors will mail correspondence to new HHAs that are being placed in a provisional period of enhanced oversight. The correspondence will be mailed to the correspondence address that is on file for the HHA. The correspondence will include:

- The date on which the provisional period of enhanced oversight will be effective for the HHA and when it will end.
- Notice that while the HHA is in the provisional period of enhanced oversight all RAP payments will be suppressed.
- Notice that the HHA still needs to submit a RAP for each home health episode in order for the final claim to be processed.

Is this related to the Medicare final rule published November 13, 2018 (CMS-1689-FC) that eliminated RAP payments for newly-enrolled HHAs beginning January 1, 2020?

No. The provisional period of enhanced oversight authority is a separate authority in the ACA and is unrelated to a recently published Medicare final rule with comment known as

CMS-1689-FC.¹ As a result of this rule, newly-enrolled HHAs (those certified to participate in Medicare on or after January 1, 2019) will not receive RAP payments beginning January 1, 2020. If you would like more information about CMS-1689-FC and what it might mean for you, please submit an email inquiry to: HomeHealthPolicy@cms.hhs.gov

References

- Section 6401(a)(3) of the Affordable Care Act is available at <https://www.hhs.gov/sites/default/files/ppacacon.pdf> beginning on page 687.
- Section 1866(j)(3) of the Social Security Act is available at https://www.ssa.gov/OP_Home/ssact/title18/1866.htm.
- **Final rule with comment CMS-1711-FC is available at** <https://www.federalregister.gov/documents/2019/11/08/2019-24026/medicare-and-medicaid-programs-cy-2020-home-health-prospective-payment-system-rate-update-home>.

DOCUMENT HISTORY

Date of Change	Description
February 12, 2020	We revised the article to provide information on the impact of the final rule with comment CMS-1711-FC and to include a link to that final rule.
October 25, 2019	We revised this article to clarify the answer to “What types of providers and/or suppliers will be affected by the initial use of the provisional period of enhanced oversight authority?” It also clarified when CMS started to place new HHAs into a provisional period of enhanced oversight. The article release date was updated.
February 15, 2019	Initial article released.

¹ The full name of CMS-1689-FC is “Medicare and Medicaid Programs; CY2019 Home Health Prospective Payment System Rate Update and CY2020 Case-Mix Adjustment Methodology Refinements; Home Health Value-Based Purchasing Model; Home Health Quality Reporting Requirements; Home Infusion Therapy Requirements; and Training Requirements for Surveyors of National Accrediting Organizations”

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