
CMS Manual System

Pub. 100-07 State Operations Provider Certification

Department of Health &
Human Services (DHHS)
Centers for Medicare &
Medicaid Services (CMS)

Transmittal 53

Date: October 16, 2009

SUBJECT: Revising Chapter 2, “The Certification Process” - Ascertaining Compliance With the Office for Civil Rights (OCR) Requirements

I. SUMMARY OF CHANGES: Chapter 2, Section 2010 is being revised to clarify CMS’ role in obtaining OCR clearance

NEW/REVISED MATERIAL - EFFECTIVE DATE*: October 16, 2009

IMPLEMENTATION DATE: October 16, 2009

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual not updated.)
(R = REVISED, N = NEW, D = DELETED) – (Only One Per Row.)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	2/2010/Ascertaining Compliance with Civil Rights Requirement

III. FUNDING: No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2009 operating budgets.

IV. ATTACHMENTS:

	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification
	Recurring Update Notification

*Unless otherwise specified, the effective date is the date of service.

2010 - Ascertaining Compliance With Civil Rights Requirements

(Rev. 53; Issued: 10-16-09; Effective/Implementation Date: 10-16-09)

Before an agreement is executed with a provider to participate in the Medicare program *or with a provider undergoing a change in ownership (CHOW)*, there must be a determination of compliance with civil rights requirements. OCR conducts necessary investigations and makes determinations related to compliance with the requirements. If the RO cannot secure an OCR clearance within **20** calendar days, it issues a restricted provider agreement with a contingency clause, which states that if OCR approval is not obtained, payment will be recouped as of the date the provider agreement is effective.

The SA provides potential providers with *the* required OCR *Civil Rights Certification Information Request Packet* (Packet) for clearance. *The SA collects the completed Packet (including the signed questionnaire, signed HHS-690 form, and policies and procedures) from potential providers and forwards them to the RO.*

SAs should take the following steps:

- Include the Packet with the initial enrollment package that is sent to a potential provider or to a provider undergoing a CHOW;*
- Ask the potential provider or provider undergoing a CHOW to return the completed signed questionnaire, HHS-690 Form, and civil rights policies and procedures to the SA with the rest of the Medicare application package;*
- Ensure that completed OCR documents are included in the Medicare package before forwarding to the CMS RO; and*
- Inform the potential provider or provider undergoing a CHOW that the Medicare application will not be forwarded to CMS until the civil rights documents and forms have been completed and returned to the SA.*

NOTE: *OCR has Civil Rights Corporate Agreements (Agreements) with certain health care corporations. Providers that belong to those corporations need to submit ONLY the signed certification sheets, as specified in the corporations' Agreements.*

Processing OCR Documents - Upon receipt of the OCR documents, the CMS RO forwards them to the OCR for processing and clearance. The role of the SA and CMS is limited to obtaining the documents and forwarding them to OCR.

Copies of the current version of the Packet can be downloaded from http://www.hhs.gov/ocr/civilrights/resources/providers/medicare_providers/index.html. SAs must include this link with their initial certification and CHOW packages.

Regarding Medicaid-only providers, the States themselves are recipients of the Federal funds and may be considered to have a direct obligation to assure OCR of their compliance by assuring that funds go to providers who are in compliance. As with Medicare, *potential providers or providers undergoing a CHOW must be determined to be in compliance with civil rights laws by OCR as a condition for approving the provider's participation in the Medicaid program.*