

CMS Guidance Document	Department of Health & Human Services (DHHS)
Pub. 100-08 Program Integrity Manual	Centers for Medicare & Medicaid Services (CMS)
Executive Guidance Number 0075	Date: September 28, 2007
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PROGRAM AREA: Program Integrity

SUBJECT: Instructions for the Implementation and Execution of the "Medicare Provider Enrollment Demonstration for Home Health Agencies (HHAs) in High-Risk Areas"

APPLIES TO: Home Health Agencies

I. SUMMARY OF DOCUMENT: This change request outlines policies that Medicare contractors shall follow with respect to the implementation and execution of the "Medicare Provider Enrollment Demonstration for Home Health Agencies (HHAs) in High-Risk Areas."

II. CHANGES IN POLICY INSTRUCTIONS: (If not applicable, indicate N/A)

STATUS: R=REVISED, N=NEW, D=DELETED.

Status	CHAPTER/SECTION/SUBSECTION/TITLE
N/A	

III. CLEARANCES:

Clearance & Point of Contact (POC)	Name/Telephone/Component
Senior Official Clearance	Tim Hill/(410)-786-5448/OFM
Agency POC	Frank Whelan (410) 786-1302/OFM/PIG/DPSE

IV. TYPE (Check appropriate boxes for type of guidance)

	Audit Guide
X	Change Request
	HPMS
	Joint Signature Memorandum/Technical Director Letter
	Manual Transmittal/Non-Change Request
	State Medicaid Director Letters
	Other

V. STATUTORY OR REGULATORY AUTHORITY:

Attachment - One-Time Notification

Pub. 100-08	Transmittal:	Date:	Change Request: 5738
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SUBJECT: Instructions for the Implementation and Execution of the Medicare Provider Enrollment Demonstration for Home Health Agencies (HHAs) in High-Risk Areas.”

Effective Date: October 12, 2007

Implementation Date: October 19, 2007

I. GENERAL INFORMATION

A. Background: This change request outlines policies that Medicare contractors shall follow with respect to the implementation and execution of the “Medicare Provider Enrollment Demonstration for Home Health Agencies (HHAs) in High-Risk Areas.” Section 402(a)(1)(J), 42 U.S.C. §1395b-1(a)(1)(J), of the Social Security Amendments of 1967 permits the Secretary to “develop or demonstrate improved methods for the investigation and prosecution of fraud in the provision of care or services under the health programs established by the Social Security Act.” Pursuant to this authority, the Centers for Medicare & Medicaid Services (CMS) will implement the above-referenced demonstration project, which CMS believes will assist in developing and demonstrating improved methods for the investigation and prosecution of fraud occurring among HHA providers. The proposed 2-year demonstration project will focus on HHAs in Harris County, Texas and the following California counties: Los Angeles, Orange, Riverside, and San Bernadino. Under this demonstration, CMS will waive certain existing payment-related requirements.

There are four major components to this project:

1. Submission of Medicare enrollment applications (CMS-855A) in response to a revalidation request for all HHAs enrolled in the five aforementioned counties (the “demonstration locales”). This involves a waiver of the revalidation requirements set forth in 42 CFR §424.515 that provide for the revalidation of providers and suppliers every 5 years.
2. Criminal background checks of existing HHAs and their owners and managing employees in the demonstration locales.
3. Onsite visits of HHAs in the demonstration locales.
4. State surveys of HHAs in the demonstration locales that have undergone a change of ownership (CHOW) (under 42 CFR §489.18) within the past 2 years.

Two other regulatory provisions will be waived. First, an HHA’s billing privileges will be revoked if it did not report a change of ownership or address within 30 days, or another reportable change within 90 days. The former involves a waiver of 42 CFR §424.520(b), which currently does not include address changes within the gambit of the 30-day reporting requirement. Second, an HHA’s billing privileges will be revoked if a managing employee thereof has had a Federal or State felony conviction within the last 10 years. This involves a waiver of 42 CFR §424.535(a)(3), which currently only addresses felony convictions of providers, suppliers, and the owners thereof.

As stated in business requirement 5738.20 below, the contractor will complete and provide to CMS the spreadsheets identified as Attachments 2 and 3 of this change request. CMS wishes to clarify several of the data elements identified on the spreadsheets:

- The “Revalidations” category includes all revalidations performed during the 2-year period of the demonstration.
- Unless specified otherwise on the spreadsheet, “revoked” providers are those for which the revocation has become effective. They do not include revocations for which a revocation letter has been sent to the provider but the 30-day period following the letter’s issuance has not yet expired.
- In the “Changes of Information” category, the “Changes Approved” and “Changes Denied” elements are for those changes that normally do not require a referral to the State or CMS regional office (RO).
- The “Non-CMS-855A Revocations” category refers to revocations occurring outside of the normal CMS-855A submission process. For example, if the contractor learns that the sole owner of a large HHA has just been convicted of a felony and subsequently revokes the provider’s billing privileges, this data would be included in the “Non-CMS-855A Revocations” category” because the revocation did not occur pursuant to the submission of a CMS-855A application.
- The “Revalidation CHOWs” category pertains only to those providers that meet both of the following requirements: (1) the provider received the letter identified in business requirement 5738.3 of this change request, and (2) underwent a CHOW in the 2-year period preceding the contractor’s review of the HHA’s revalidation application. The “Non-Revalidation CHOWs” category includes providers that either: (1) underwent a CHOW after the contractor reviewed the HHA’s revalidation application, or (2) enrolled in Medicare for the first time after the commencement date of the demonstration and subsequently underwent a CHOW (e.g., an HHA that enrolled in Medicare on May 1, 2008, and underwent a CHOW in January 2009 would be included in the “Non-Revalidation CHOW” category).

B. Policy: The purpose of this change request is to ensure that contractors implement the provisions of this demonstration in a consistent and efficient manner. The instructions below will be updated as necessary to deal with any new and emerging issues that arise during the demonstration. Note that because this project is limited to five counties, most Medicare contractors will have no need to implement most of the business requirements of this change request.

II. BUSINESS REQUIREMENTS TABLE

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I 	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
5738.1	The contractor shall review its files to determine whether it serves as the audit intermediary for any HHA in the demonstration locales.	X		X			X					
5738.2	If – and only if - the contractor, in executing business requirement 5738.1, determines that it is the audit intermediary for any HHA in the demonstration locales, it shall abide by business	X		X			X					

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
5738.4.3	The contractor shall return to its demonstration HHA any pending CMS-855A revalidation application that was <u>not</u> submitted in response to the letter identified as Attachment 1 of this change request. (For purposes of business requirement 5738.4.3, the term “pending” includes any application that has not yet been processed to completion.)	X		X			X					
5738.5	Unless specified otherwise in this change request or other CMS directive pertaining to this demonstration, the contractor shall process all CMS-855A revalidation applications submitted by its demonstration HHAs using all applicable procedures identified in Publication 100-08, chapter 10.	X		X			X					
5738.5.1	The contractor shall process 90 percent of all CMS-855A revalidation applications received as part of this demonstration within 120 calendar days of receipt.	X		X			X					
5738.6	The contractor shall perform criminal background checks on all persons and entities listed in sections 2, 5 and 6 of each CMS-855A revalidation application submitted by its demonstration HHAs.	X		X			X					
5738.7	The contractor shall determine whether any of its demonstration HHAs underwent a change of ownership (CHOW) (as that term is defined in 42 CFR §489.18) or stock transfer within the 2 calendar years preceding the commencement date of this demonstration.	X		X			X					
5738.8	The contractor shall perform a site visit of each of its demonstration HHAs. (This task shall be performed regardless of the results of any of the activities in business requirements 5738.5, 5738.6, and 5738.7.)	X		X			X					
5738.8.1	The site visit identified in 5738.8 need not be performed in cases where the contractor’s demonstration HHA: (1) failed to submit the requested CMS-855A revalidation application within 60 calendar days of the request, or (2) failed to timely respond to the contractor’s request for additional or clarifying information in response to the latter’s submission of a CMS-855A revalidation application (per business requirement 5738.4.2).	X		X			X					
5738.8.2	No later than October 31, 2007, the contractor shall: (1) explain in writing to DPSE how it plans	X		X			X					

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	to carry out business requirement 5738.8 (e.g., whether it will hire a separate contractor to conduct the site visits), and (2) secure DPSE’s approval of the contractor’s proposed mechanism for performing site visits.											
5738.8.3	In conducting site visits, the contractor shall adhere to the requirements outlined in Pub. 100-08, chapter 10, section 5.3, and shall ensure that the information its demonstration HHA furnished in sections 4A and 4D of its CMS-855A revalidation application is accurate.	X		X			X					
5738.9	Upon completion of all verification and validation activities (including the site visit), the contractor shall revoke the Medicare billing privileges of any of its demonstration HHAs if an owner or managing employee (as that term is defined in 42 CFR §424.502) thereof has been convicted of a felony within the previous 10 years.	X		X			X					
5738.10	Upon completion of all verification and validation activities (including the site visit), the contractor shall revoke the Medicare billing privileges of any demonstration HHA for which any of the revocation reasons identified in 42 CFR §424.535(a) are implicated.	X		X			X					
5738.11	The contractor shall revoke the Medicare billing privileges of any HHA for which it serves as the audit intermediary if it discovers – through any means - that the HHA failed to submit a CMS-855A change request reporting an ownership change or change of address within 30 days of the effective date of the change. (The HHA need not have been a demonstration HHA; for instance, the HHA could have been a newly-established HHA that enrolled in Medicare 1 year after the commencement of this demonstration.)	X		X			X					
5738.11.1	The contractor shall note that business requirement 5738.11 does not apply to address changes that occurred prior to the date the contractor mailed to the provider the letter identified in business requirement 5738.3.	X		X			X					
5738.11.2	The contractor shall note that business requirement 5738.11 does not apply to ownership changes that occurred on or before June 21, 2006.	X		X			X					
5738.12	For purposes of business requirements 5738.11 and 5738.11.2, the term “ownership change” includes:	X		X			X					

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	(1) CHOWs under 42 CFR §489.18, and (2) any change in ownership that is otherwise required to be reported in section 5 or 6 of the CMS-855A (e.g., change in limited partner, change in stock ownership).											
5738.13	The contractor shall revoke the Medicare billing privileges of any HHA for which it serves as the audit intermediary if it discovers – through any means - that the HHA failed to submit a CMS-855A change request reporting a change other than an ownership change within 90 days of the effective date of the change. (The HHA need not have been a demonstration HHA.)	X		X			X					
5738.13.1	The contractor shall note that business requirement 5738.13 applies only to changes that occurred on or after June 21, 2006.	X		X			X					
5738.13.2	Prior to revoking an HHA’s billing privileges for the reason identified in business requirement 5738.13, the contractor shall contact DPSE.	X		X			X					
5738.14	Unless otherwise specified in this change request or other CMS directive pertaining to this demonstration, the contractor shall perform all revocations using the procedures identified in Pub. 100-08, chapter 10, section 13.2.	X		X			X					
5738.14.1	If the contractor determines that a revocation is warranted under the circumstances described in business requirements 5738.4, 5738.4.2, or 5738.9 through 5738.13, the contractor itself shall revoke the provider’s Medicare billing privileges, rather than make a recommendation for revocation as described in Pub. 100-08, chapter 10, section 13.2.	X		X			X					
5738.14.2	For purposes of this demonstration, the contractor shall notify the applicable State agency and RO of any revocation it performs no later than 15 calendar days after the effective date of the revocation. (The specific mechanism of notification is left to the contractor’s discretion.)	X		X			X					
5738.15	If, upon completion of all verification and validation activities (including the site visit), the contractor finds that all requirements have been met and that no basis for revocation exists, the contractor shall send a recommendation for approval to the State agency (with a cc: to the RO) if: (1) a State survey must be performed pursuant to business requirement 5738.7, or (2) updated data	X		X			X					

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	furnished on the demonstration HHA’s application effectively represents a change of information requiring RO approval under Publication 100-08, chapter 10, sections 7.2 or 11.1 (e.g., change of address).											
5738.16	Unless otherwise specified in this change request or other CMS directive pertaining to this demonstration, the contractor shall perform the activities described in business requirements 5738.5, 5738.5.1, 5738.6, 5738.8, and 5738.8.3 for all CMS-855A initial enrollment applications submitted by HHAs in the demonstration locales during the demonstration period.	X		X			X					
5738.16.1	For all CMS-855A initial enrollment applications submitted by HHAs in the demonstration locales during the demonstration period, the contractor need not perform the site visit identified in business requirement 5738.8 if the provider’s application otherwise warrants a recommendation for denial.	X		X			X					
5738.17	For initial CMS-855A applications submitted by HHAs in the demonstration locales during the demonstration period, the contractor shall recommend denial of the provider’s application if an owner or managing employee (as that term is defined in 42 CFR §424.502) of the provider has been convicted of a felony within the previous 10 years.	X		X			X					
5738.18	The contractor shall perform criminal background checks on all persons and entities listed in sections 2, 5 and 6 of any CMS-855A change request submitted by an HHA in the demonstration locales during the demonstration period.	X		X			X					
5738.18.1	The contractor shall revoke the Medicare billing privileges of any HHA described in business requirement 5738.18 if any owner or managing employee (as that term is defined in 42 CFR §424.502) thereof has been convicted of a felony within the previous 10 years.	X		X			X					
5738.19	Unless specified otherwise in this change request or other CMS directive pertaining to this demonstration, the contractor shall process all CMS-855A initial applications and changes of information submitted by HHAs in the demonstration locales using the procedures – and under the timeframes - identified in Publication	X		X			X					

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	100-08, chapter 10.											
5738.20	No later than the 15 th day of each month (beginning in the month <u>following</u> the commencement date of the demonstration), the contractor shall complete and submit to DPSE the spreadsheets identified as Attachments 2 and 3 of this change request. (The spreadsheets will record data pertaining to HHAs: (1) located in the Houston and Los Angeles areas, respectively, and (2) for which the contractor is the audit intermediary.)	X		X			X					

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an “X” in each applicable column)										
		A / B M A C	D M E M A C	F I E R	C A R R I E R	D M E R C	R H H I	Shared-System Maintainers				OTHER
								F I S S	M C S	V M S	C W F	
	None. (Alternative outreach materials are currently being prepared.)											

IV. SUPPORTING INFORMATION

A. For any recommendations and supporting information associated with listed requirements, use the box below:

X-Ref Requirement Number	Recommendations or other supporting information:

B. For all other recommendations and supporting information, use this space:

V. CONTACTS

Pre-Implementation Contact(s): Frank Whelan, (410) 786-1302, frank.whelan@cms.hhs.gov.

Post-Implementation Contact(s): Frank Whelan, (410) 786-1302, frank.whelan@cms.hhs.gov.

VI. FUNDING

A. For Fiscal Intermediaries, Carriers, and the Durable Medical Equipment Regional Carrier (DMERC):
Funding for implementation activities will be provided to contractors through the regular budget process.

B. For Medicare Administrative Contractors (MAC), use the following statement:

The contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the Statement of Work (SOW). The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

3 Attachments

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard
Baltimore, Maryland 21244-1850



Provider
Street
City, State XXXXX

Dear Sir or Madam:

Pursuant to the authority given to the Secretary of the Department of Health and Human Services under Section 402(a)(1)(J), 42 U.S.C. §1395b-1(a)(1)(J), of the Social Security Amendments of 1967, the Centers for Medicare and Medicaid Services (CMS) has implemented a demonstration project entitled “Medicare Provider Enrollment Demonstration for Home Health Agencies (HHAs) in High-Risk Areas.” This two-year demonstration, the purpose of which is to develop improved methods for the investigation and prosecution of home health fraud, will focus on HHAs in Harris County, Texas, as well as the following California counties: Los Angeles, Orange, Riverside, and San Bernadino (hereinafter collectively referred to as the “demonstration locales”). These areas have experienced an inordinate amount of fraudulent behavior by a significant number of HHAs, which has cost the Medicare program billions of dollars. With this demonstration project, CMS hopes to combat and deter such conduct.

The demonstration project consists of several crucial components:

- Submission of Medicare enrollment applications (CMS-855A) in response to a revalidation request for all HHAs enrolled in the demonstration locales;
- Criminal background checks of existing HHAs and their personnel in the demonstration locales;
- Onsite visits of HHAs in the demonstration locales;
- State surveys of HHAs in the demonstration locales that have undergone a change of ownership with the past two years.

Through its review of the information contained in the CMS-855A application, the Medicare contractor will, under this demonstration, revoke the Medicare billing privileges of any HHA that:

- Failed to report a change of ownership or address change within 30 days of the effective date of the change;

- Has an owner or managing employee, as defined in 42 C.F.R. §424.502, that has had a felony conviction within the last 10 years;
- Is not in compliance with all applicable Medicare regulations.

The implementation and administration of the activities of this demonstration will be coordinated between CMS's central and regional offices, its fiscal intermediaries (including (contractor)), its program safeguard contractors, and State survey agencies.

At the conclusion of this demonstration project, CMS will evaluate the results thereof to determine whether additional tools are needed to combat fraudulent behavior by HHAs and/or whether to implement the tasks used in this demonstration in other areas of the country.

Pursuant to this demonstration, therefore, you are required to submit a complete CMS-855A enrollment application to the following address:

Name
Street
City, State, ZIP

We must receive this application no later than (date). The application must be fully completed, with all supporting documentation furnished. You can obtain a PDF version of the CMS-855A application at www.cms.hhs.gov/cmsforms, or from the provider enrollment home page at www.cms.hhs.gov/MedicareproviderSupEnroll.

For additional background information on this demonstration project, you may visit www.cms.hhs.gov/XXXXXX.

Sincerely,

(Contractor)

HHA DEMONSTRATION REPORT - HOUSTON[illegible]

[illegible]

[illegible]

[illegible]

HHA DEMONSTRATION REPORT - LOS ANGELES[illegible]

[illegible]

[illegible]