



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

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**Ref: S&C: 14-14-HHA**

**REVISED 05-20-2014**

**DATE:** March 14, 2014

**TO:** State Survey Agency Directors

**FROM:** Director  
Survey and Certification Group

**SUBJECT:** **REVISED** - Home Health Agency (HHA) State Operations Manual (SOM) revisions: Appendix B, HHA Enforcement Guidance and revisions to Chapter 2, Certification Process

**Memorandum Summary**

- **Appendix B – Guidance to Surveyors: Home Health Agencies** – Recent establishment of survey and enforcement regulations as well as changes to other HHA policies have necessitated revisions to previously published survey guidance.
- **HHA Survey and Enforcement regulations** – The final rule on available alternative sanctions for HHAs with condition-level deficiencies was published in 2012. Among other things, this rule allows for the imposition of civil money penalties (CMP), directed in-service training, directed plan of correction, suspension of payment, and temporary management. The Centers for Medicare & Medicaid Services (CMS) has developed a new SOM chapter 9 to guide State Agencies (SAs) and Regional Offices (ROs) on imposing these sanctions, as well as on the procedures regarding an informal dispute resolution process (IDR). **Office of Strategic Operation and Regulatory Affairs (OSORA) has determined that the Chapter 9 designation is already in use. This chapter has been renumbered as Chapter 10.**
- **SOM, Chapter 2, Certification, Sections 2180-2202.19** – Survey protocols, HHA enforcement regulations, changes to Outcome and Assessment Information Set (OASIS) data transmission and other policy changes have resulted in the need to update the HHA sections of Chapter 2. **An error in section 2202.10 has resulted in 2 corrections.**

**A. Background**

On February 11, 2011, CMS published guidance, S&C 11-11, for HHA surveyors on revisions to survey protocols. These protocols revised the survey process for HHAs, including Level 1 and Level 2 standards and guidance for deficiency citations. These revised protocols became effective in May 2011. On November 8, 2012, we published the final rule “Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2013, Hospice Quality Reporting Requirements, and Survey and Enforcement Requirements for Home Health

Agencies” (77 Fed. Reg. 67068). This rule codified the requirements for unannounced, standard, and extended surveys of HHAs and set forth alternative sanctions that can be imposed instead or, or in addition to, termination of an HHA’s participation. Under this rule, CMS now has the authority to impose the alternative sanctions of civil money penalties directed in-service training, directed plans of correction, suspension of payment for new admissions, and temporary management on HHAs that are found to have condition level deficiencies. The rule also allows for an IDR process. The enforcement sanctions and new IDR process for HHAs are similar to those for nursing homes.

The SOM, Chapter 2, Sections 2182-2202 had not been revised since 2005 and changes were needed. Policy changes, including policies related to CMS OASIS data transmission and other minor changes have now been completed. **After publication of the original S&C letter, an error was identified in section 2202.10. This has been corrected to read:**

*To acquire an HHA personal login ID, agencies will be required to complete and submit the CMSNet Access Request form and the OASIS Individual User Account Request form. The forms are available on the QIES Technical Support Office website (www.qtso.com). To meet the OASIS transmission requirements prior to the initial certification survey, new HHAs need two different sets of user identification numbers and passwords; one set to access the **CMSnet** and one set to access the OASIS System.*

**The following sentence has been deleted:**

~~*Once Medicare approval has been determined the HHA must apply for permanent user identification numbers and passwords for access to the CMSNet by contacting the help desk at 1-800-905-2069.*~~

To aid SAs and ROs in selecting and imposing the alternative sanctions, CMS Central Office (CO) has developed a new SOM Chapter 9 pertaining to HHA enforcement. Furthermore, Chapter 2 and Appendix B of the SOM are being updated as well to reflect the new alternative sanctions, the modifications to survey protocols in the final rule, as well as updating guidance related to branches and enrollment modifications to HHA policy.

## **B. Request**

Please review the guidance and familiarize yourself with the processes therein. The guidance should also be distributed to all appropriate personnel.

## **C. Additional Information**

Training on imposing the alternative sanctions was provided on August 7, 2013. This webinar will be posted on the CMS website along with guidance in this letter. Additional guidance related to Automated Survey Processing Environment (ASPEN) Enforcement Management will also be available later in the year.

Questions concerning this chapter or memo may be addressed to Pat Sevast at [patricia.sevast@cms.hhs.gov](mailto:patricia.sevast@cms.hhs.gov).

**Effective Date:** The regulations pertaining to directed in-service training, temporary management, and directed plans of correction became effective on July 1, 2013, therefore the guidance related to those provisions will be effective immediately. The provisions pertaining to the imposition of CMPs and suspension of payment for new admissions as well as the provisions for the IDR process will become effective on July 2, 2014.

/s/

Thomas E. Hamilton

Attachments – Chapter 2: The Certification Process;  
Chapter 9: Survey and Enforcement for Home Health Agencies;  
Appendix B: Guidance to Surveyors: Home Health Agencies

cc: Survey and Certification Regional Office Management