

**Temporary HHA Moratorium**

**Miami Florida FL and Chicago, IL**

**August, 2013**

**Survey/Certification Questions and Answers**

**Q 1. Which pending CMS-855 initial applications for prospective HHA providers, within the zip codes of the counties affected by the moratorium, may the State Survey Agency (SA) continue to process and forward to the CMS Regional Office (RO)?**

A. None. All initial HHA certification packets for prospective providers within the affected zip codes of the moratorium that were still at the SA as of 12:00 AM on July 30, 2013 are included within the moratorium. These applications will be denied by the MAC. The SA should cease all review of these applications.

**Q 2. Will the Medicare Administrative Contractor (MAC) contact all the prospective HHA providers whose applications were pending as of 12:00 AM on July 30, 2013 and which will be denied by the MAC?**

A. Yes. The MAC will notify the impacted HHA applicants that their application is being denied. There is no need for the SA or RO S&C staff to send any correspondence to these prospective providers since S&C is not denying their certification. Instead, we are not accepting the application.

**Q 3. What should the SAs do with the initial HHA application paperwork for those applications that were still pending as of 12:00 AM on July 30, 2013 and included within the moratorium?**

A. The current application information will not be considered in any future application for participation by the affected applicant and is no longer pertinent. CMS will issue separate instructions as to the disposition of the applications that were pending in the SAs and ROs as of 12:00 AM on July 30, 2013.

**Q 4. What responses should the SA/RO/AO provide prospective HHA providers who contact them regarding their pending applications?**

A. If the SA/RO/AO is contacted by any of the affected providers, the providers should be directed to contact the applicable MAC.

**Q 5. What applications for the addition of an HHA branch location may be processed during the moratorium?**

A. The moratorium impacts the addition of any branch office location in the affected areas. During the duration of the moratorium, no branch locations will be approved within the affected zip codes for either currently certified HHAs in the affected areas or for currently certified HHAs outside the affected areas. However, requests for branch locations in non-affected areas by either currently certified HHA providers in the affected areas or currently certified HHA providers outside the affected areas may be processed according to current CMS policy including any State restrictions.

**Q 6. What about Medicare-certified HHA agencies located outside the moratorium affected counties that provide services in the affected areas without approval from CMS? For example, if during the survey of a certified HHA in an adjoining county to the affected counties, the surveyor finds that an agency is providing services “unapproved” in one of the affected counties, what citation should be written?**

A. All existing HHA providers that are not approved by CMS (as of 12:00 AM July 30, 2013) to provide services in the moratorium affected areas may not provide Medicare or Medicaid services in those affected areas. Such action would represent an HHA’s non-compliance with 42 CFR 484.12(a) (*Compliance with Federal, State and Local Laws and Regulations*) and would be cited as a deficiency at the Condition level.

**Q 7. What initial HHA certification kits may the CMS RO complete after 12:00 AM July 30, 2013?**

A. None. All initial HHA certification kits for prospective providers in the affected areas that were still pending at the RO as of 12:00 AM on July 30, 2013 are included in the moratorium. The RO must cease all review of these pending applications. Pending at the RO means that the RO had not forwarded a tie-in notice (Form CMS-2007) to the MAC as of 12:00 AM on July 30, 2013. The MAC will deny these pending applications and notify the prospective providers.

**Q 8. Once the moratorium is lifted will there be any changes to the CMS survey priorities in the affected areas for initial HHAs.**

A. No. Initial certification surveys for HHAs will remain at a Tier 4 priority.

**Q 9. Is the certification being denied or is the application being deleted?**

A. S&C is not denying the certification for the prospective providers in the affected areas, rather the MAC will be issuing denials for applicants affected by the moratorium and providing

appropriate notice. S&C is not accepting these applications due to the Provider Enrollment denials.

**Q 10. Are there any exceptions for prospective HHA providers who were seeking participation through deemed status at the time of the moratorium?**

A. During the moratorium, a prospective HHA's accreditation by a CMS approved Accrediting Organization (AO) will not serve as the basis for Medicare participation through deemed status and a new provider agreement or a branch location will not be approved for affected applicants. In response to inquiries from HHA applicants in the affected zip codes that were seeking certification through accreditation by an AO, the RO/SA should advise that it is the decision of the applicant as to whether they wish to continue to seek accreditation status despite being affected by the moratorium.

**Q 11. Who will be responsible for providing notice to affected prospective HHA providers of the right to appeal?**

A. Notice of appeal rights will be included in the denial letters issued by the MAC. The standard enrollment appeal process for denials under 42 CFR Part 498 will apply and the process for appealing a denial of enrollment will be set forth in the denial letters sent by the MAC. S&C will not issue any correspondence based on the moratorium.

**Q 12. May the SA or RO use any part of the current application paperwork if the prospective HHA provider applies for participation again after the moratorium is lifted?**

A. No. Any prospective provider that was surveyed by the SA and denied enrollment pursuant to the moratorium must begin the entire enrollment /certification process again as a new applicant if it seeks to participate in the program once the moratorium is lifted.

**Q 13. Should all entries into the ASPEN system for an HHA applicant denied due to the moratorium be retained?**

A. All data that has already been entered into the ASPEN system for a prospective provider located in one of the affected areas should remain in the ASPEN system until further notice.

**Q 14. If the RO forwarded the Tie-In Notice to the MAC prior to 12:00 AM July 30, 2013 does that mean that the prospective provider will be enrolled?**

A. No. Once the MAC receives the tie-in notice from the RO, it must perform a site visit to ensure that the HHA is still operational; other final verification activities may be necessary as well. The application is not considered to be approved under this moratorium until the MAC has decided to switch the HHA's PECOS record to an "approved" status. Once the RO forwards

the tie-in to the MAC, it has no further responsibility in the approval/disapproval of the prospective provider.