



COMMISSIONER  
Jon Weizenbaum

Date: September 12, 2016

To: Home and Community Support Services Agencies (HCSSAs)

Subject: Provider Letter No. 16-35 – Frequently Asked Questions (FAQs) relating to licensing and the Centers for Medicare & Medicaid Services (CMS) Moratorium on Home Health Agency (HHA) Enrollment in Texas (Replaces PL 14-12)

The federal moratorium on enrollment of HHAs in the Medicare, Medicaid and Children’s Health Insurance Programs (CHIP), is expanded to include the entire state of Texas. The initial moratorium, first implemented on January 30, 2014 and extended through July 28, 2016, affected the enrollment of HHAs in certain counties located in the metropolitan areas of Dallas and Houston, Texas.

The statewide moratorium, effective July 29, 2016, applies only to initial licensed and certified home health agencies (L&CHHS) and does not affect the HCSSA categories of licensed home health (LHH), personal assistance services (PAS), or hospice. The current statewide moratorium period will last through December 28, 2016 and may be lifted or extended for subsequent six month periods. Further action will be announced by CMS in the [Federal Register](#).

For more information about the moratorium (including the authority of CMS and the purpose and length of the moratorium) HCSSAs may refer to [Survey and Certification \(S&C\) memorandum 16-36-HHA](#) as well as the Announcement of the Implementation and Extension of Temporary Moratoria on Enrollment of Part B Non-Emergency Ground Ambulance Suppliers and Home Health Agencies in Designated Geographic Locations and Lifting of the Temporary Moratoria on Enrollment of Part B Emergency Ground Ambulance Suppliers in All Geographic Locations published in the Federal Register Volume 81, Number 149, pages 51120 - 51124.

CMS also announced a demonstration project that will allow for “access to care-based exceptions” to the moratorium in certain limited circumstances. This will allow enrollment of an HHA after CMS determines that a beneficiary access-to-care issue exists and conducts an extensive heightened review of that provider. Information about the Provider Enrollment Moratoria Access Waiver Demonstration of Part B Non-Emergency Ground Ambulance Suppliers and Home Health Agencies in Moratoria-Designated Geographic Locations, including how to submit a waiver application to CMS, is in the [Federal Register Volume 81, Number 149, pages 51116 – 51120](#) and [S&C 16-36-HHA](#).

Since the issuance of the moratorium, the Texas Department of Aging and Disability Services (DADS) has received a number of questions. The attached FAQ document addresses the CMS moratorium and its application to existing and newly licensed HCSSAs seeking Medicare-certified locations.

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If you have questions regarding this letter, please contact a HCSSA program specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161. If you have questions regarding the moratorium, the access waiver demonstration, or the status of a Provider Enrollment Application (CMS-855), please contact Palmetto GBA at (803) 735-1034.

Sincerely,

*[signature on file]*

Mary T. Henderson  
Associate Commissioner  
Regulatory Services

MTH:cg

Attachment: Moratorium FAQs

## **Moratorium FAQs**

**Question 1:** Does the CMS moratorium include hospice agencies?

**Answer:** No. Currently, the CMS moratorium does not apply to hospice agencies.

**Question 2:**

How long will the statewide CMS moratorium last?

**Answer:** Currently, the statewide moratorium is in effect for six months from July 29, 2016 through December 28, 2016. CMS may lift or extend the moratorium for subsequent six-month periods.

**Question 3:** What counties are included in the moratorium?

**Answer:** All counties in Texas are included in the moratorium.

**Question 4:** I am applying for an initial HCSSA license without the L&CHHS category. Will DADS process my application?

**Answer:** Yes. DADS continues to process applications for the licensure categories only, including LHH, PAS and hospice. The CMS moratorium affects an applicant requesting the L&CHHS category on its license.

**Question 5:** I had my initial Medicare certification survey with an accrediting organization (AO) prior to July 29, 2016, but DADS did not receive notification until after July 29, 2016. Will DADS process my documents and send them to CMS for approval?

**Answer:** No. DADS received instructions from CMS to cease the review of applications for certification statewide as of July 29, 2016. All HHA applications not approved by the Medicare Administrative Contractor (MAC) as of July 29, 2016 will not be processed. The MAC will notify all applicants with an approved Tie-In notice from CMS of the status of their applications. For additional information, please refer to [S&C 16-36-HHA](#).

**Question 6:** If I wish to reapply for Medicare certification after the CMS moratorium is lifted, will I be required to submit another CMS Form 855 and have another initial survey from an AO?

**Answer:** If a HCSSA wishes to seek Medicare certification and enrollment again once the moratorium is lifted, it must submit a new Provider Enrollment application (CMS-855) and have a new survey conducted. For additional information, please refer to [S&C 16-36-HHA](#).

**Question 7:** How does the moratorium regarding Medicare certification apply to a change of ownership (CHOW) for a Medicare-certified HHA?

**Answer:** The moratorium does not affect a CHOW unless CMS determines that the new owner of the HHA must apply for initial Medicare certification as required by [Title 42 of the Code of Federal Regulations, §424.550](#). If a Medicare-certified HHA undergoes a CHOW, the HHA must ask CMS and its applicable Regional Home Health Intermediary or MAC to determine if the provider agreement will transfer to the new owner.

**Question 8:** Will DADS approve a parent Medicare-certified HHA's application to DADS for a branch office location with the L&CHHS category?

**Answer:** No. DADS will not approve any Medicare-certified branch office licenses. However, DADS will process the application for a licensed-only branch office license if the HHA is non-deemed. DADS will not approve a parent Medicare-certified HHA's request to add the L&CHHS category to a new or existing branch office license.

**Question 9:** May an existing licensed-only HHA add the L&CHHS category to its license?

**Answer:** No. A licensed-only HHA may not add the L&CHHS category to its existing license.

**Question 10:** May a deemed parent Medicare-certified HHA use a CMS-approved national AO, with deeming authority, to obtain a new Medicare-certified branch office?

**Answer:** No. A deemed parent Medicare-certified HHA may not use a CMS-approved national AO to obtain certification for a new branch office.

**Question 11:** May an existing L&CHHS HCSSA expand or relocate to another area of the state?

**Answer:** The moratorium currently does not affect relocations or service area expansions. The HCSSA must notify both DADS and its applicable Regional Home Health Intermediary or MAC within the required timeframes if it relocates or expands its service area. The CMS Regional Office may approve or deny a relocation request. For more information about reporting changes and associated fees, please refer to the [HHS website](#).

**Question 12:** Is there an "access to care" exemption for HHAs applying to serve areas with a demonstrated need?

**Answer:** Yes. On August 3, 2016, CMS announced a temporary demonstration project that gives CMS the authority to grant waivers to the statewide enrollment moratoria on a case-by-case basis in response to access to care issues, and to subject providers enrolling via the waivers to heightened screening, oversight, and investigations. Waivers will only be provided in certain limited circumstances, and HCSSAs must apply directly to the MAC to be considered. For more information about the criteria and process for the waivers, please refer to [S&C 16-36-HHA](#) or contact the MAC.