

| | | |
|---|--|---|
|  | MEDICAL ASSISTANCE BULLETIN COMMONWEALTH OF PENNSYLVANIA * DEPARTMENT OF PUBLIC WELFARE | |
| | SUBJECT Medical Assistance Surety Bonds - Interim Procedures | BY  Robert S. Zimmerman, Jr., M.P.H. Deputy Secretary for Medical Assistance Programs |
| NUMBER: | 23-98-06 | |
| ISSUE DATE: | May 1, 1998 | |
| EFFECTIVE DATE: | May 1, 1998 | |

PURPOSE:

The purpose of this bulletin is to provide interim procedures for home health agency participation in the Medical Assistance (MA) Program until the Health Care Financing Administration (HCFA) issues its technical revisions to the surety bond regulations published at 63 Fed. Reg. 292 (Jan. 5, 1998).

SCOPE:

This bulletin applies to all home health agencies that participate or seek to participate in the MA Program.

BACKGROUND/DISCUSSION:

The Balanced Budget Act of 1997 (BBA '97) requires each home health agency (HHA) to furnish a surety bond in an amount of at least \$50,000 in order to participate in the Medicaid program. This requirement applies to all participating Medicaid HHAs, regardless of the date their participation began. These provisions were implemented in a final rule published in the Federal Register (63 FR 292-315) on January 5, 1998. The comment period for that rule closed on March 6, 1998.

Generally, the January 5 final rule prohibits payment to a State for home health services furnished to Medicaid recipients unless the HHA has furnished the State Medicaid agency with a surety bond in a form specified by the Secretary of the Department of Health and Human Services, obtained from an acceptable authorized Surety, in an amount that is the greater of \$50,000 or fifteen percent of the annual amount paid to the HHA by the Medicaid program. In a Notice of Intent to Amend Regulations (Notice of Intent) published in the Federal Register (63 FR 10732-10733) on March 4, 1998, HCFA stated that the percentage is open to consideration.

The March 4 Notice of Intent also described contemplated changes in the form of technical revisions to the January 5 final rule which resulted from comments received. The March 4 Notice of Intent states that HCFA intends to proceed expeditiously at the close of the March 6 comment period to make whatever changes are necessary in the final regulation.

Also in the Federal Register (63 FR 10729-10731) on March 4, 1998, a final rule deleting the February 27, 1998 effective date for all HHAs to furnish a surety bond which had been established in the January 5 final rule. The new compliance date will be sixty days after the date of publication of the final rule that implements the technical changes necessary in the final regulation. Until that compliance date, no action will be taken to initiate termination of, or withhold Federal Financing Participation with respect to, an HHA that has not furnished a surety bond.

Interim procedures for submitting surety bonds to the Department of Public Welfare (Department) follow.

PROCEDURE:

Due to the concerns that have been raised and the technical changes that are being considered by HCFA, HHAs will be given additional time to submit a surety bond. Many HHAs have already obtained surety bonds. For those HHAs that have been able to obtain a bond, proof of the bond should be submitted to the Department. HHAs that have been unable to secure a bond should notify the Department of this in writing on company letterhead. The Department WILL NOT take any action to initiate the termination of an HHA's provider agreement due to failure to furnish a surety bond until further notice from HCFA.

HCFA has indicated that the compliance date for submitting bonds will be specified in the final rule and will be effective sixty

days after the publication of that final rule. Until that compliance date is determined, no action will be taken to initiate termination of an HHA's provider agreement. Also, Federal Financial Participation (FFP) will not be withheld from the state Medicaid agency with respect to an HHA that has not furnished a surety bond.

During this interim period, the Department advises that it will follow these procedures:

1. HHA has obtained a surety bond.

For an HHA that has obtained a surety bond, the Department will continue to process the surety bonds received.

Send the surety bond to:

Office of Medical Assistance Programs
Bureau of Fee-For-Service Programs
Surety Bond Section
P.O. Box 8045
Harrisburg, Pennsylvania 17105-8045

2. HHA has notified Department of its inability to obtain a surety bond.

In those situation where an HHA has been unable to obtain a surety bond and has notified the Department by letter, the Department will hold these letters pending further instructions from HCFA.

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate toll-free telephone number for your provider type.

Visit the Office of Medical Assistance Programs website at www.dpw.state.pa.us/omap.