

Center for Medicaid and State Operations/Survey and Certification Group

Ref: S&C-09-57
REVISED 3-19-2010

DATE: September 11, 2009

TO: State Survey Agency Directors

FROM: Director Survey and Certification Group

SUBJECT: Clarification of Survey Agency Responsibilities in Obtaining Information For Civil Rights Clearances for Initial Certifications and Changes of Ownership (CHOWs)

***Updated to include rural health clinics that are provider-based to a hospital or critical access hospital as those facilities requiring OCR clearance ***

Memorandum Summary

- **Purpose:** The purpose of this letter is to remind State survey agencies (SAs) of their role in the Office for Civil Rights (OCR) clearance process;
- **Regulation:** A health care provider that applies for participation in the Medicare Part A program must receive a civil rights clearance from OCR, as set forth in the regulation at [42 CFR 489.10\(b\)](#);
- **Initial Enrollment or CHOW:** SAs are to include the OCR Civil Rights Certification Information Request Packet (Civil Rights Packet) with their initial enrollment package that is sent to a potential provider or to a provider undergoing a CHOW;
- **Form Collection:** SAs are to collect the completed Civil Rights Packet (including signed questionnaire form, signed HHS-690 form, and civil rights policies and procedures) from the potential provider and forward it to the Centers for Medicare and Medicaid Services (CMS) Regional Office (RO), along with the rest of the Medicare application materials;
- **Entities with Civil Rights Corporate Agreements:** For providers that belong to corporations that have Civil Rights Corporate Agreements with OCR, SAs are to collect and forward ONLY the signed certification sheets;
- **Limited SA and CMS Roles:** The role of the SA is limited to collecting and forwarding the civil rights data to CMS, and the role of CMS is limited to collecting and forwarding the civil rights data to OCR.

Background:

Section 2010 of the State Operations Manual (SOM) requires CMS to obtain civil rights information from potential providers and those providers that have undergone CHOWs. OCR must determine whether the provider is in compliance with Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975. CMS RO approval is contingent on a potential provider receiving clearance from OCR.

Revision to SOM:

The SOM is being revised at Section 2010 to state: “The SA provides potential providers with the required OCR Civil Rights Certification Information Request Packet for OCR clearance and forwards the completed Packet, with signed questionnaire, signed HHS-690 form, and civil rights policies and procedures, to the RO.”

In accordance with revised Section 2010, SAs should take the following steps:

- Include the Civil Rights Packet with their initial enrollment package that is sent to a potential provider or to a provider undergoing a CHOW;
- Ask the potential provider or provider undergoing a CHOW to return the completed signed questionnaire, HHS-690 Form, and civil rights policies and procedures to the SA with the rest of the Medicare application package;
- Ensure that completed OCR documents are included in the Medicare package before forwarding to the CMS RO;
- Inform the potential provider or provider undergoing a CHOW that the Medicare application will not be forwarded to CMS until the civil rights documents and forms have been completed and returned to the SA.

NOTE: OCR has entered into Civil Rights Corporate Agreements with numerous major health care corporations. These corporations have adopted model civil rights policies and procedures, which OCR has determined meet the civil rights requirements necessary for participation in the Medicare Part A program. These corporations also commit to ensuring that their facilities adopt and implement these policies and procedures. Providers that belong to corporations with such Agreements do NOT need to submit the usual civil rights packet. They need to submit ONLY the signed certification sheets, as specified in the Civil Rights Corporate Agreement. Attached for your reference is a list of corporations that have Civil Rights Corporate Agreements.

Facilities Requiring Civil Rights Certification:

A health care provider that applies for participation in the Medicare Part A program must receive a civil rights clearance from OCR. These facilities include:

- skilled nursing facilities
- hospitals
- critical access hospitals
- home health agencies
- rehabilitation agencies (outpatient therapy, speech pathology)
- comprehensive outpatient rehabilitation facilities
- hospices,
- community mental health centers, and
- rural health clinics that are provider-based to a hospital or CAH

Facilities Not Requiring Civil Rights Certification:

Suppliers (ambulatory surgical centers, rural health clinics **that are not provider-based**, portable x-ray, end stage renal disease facilities, federally qualified health centers, and organ procurement organizations) **are not** subject to civil rights clearance. Also, Medicaid-only providers do not need OCR clearance.

Processing OCR Documents:

Upon receipt of the OCR documents, the CMS RO forwards them to OCR for processing and clearance. The role of the SA and CMS is limited to obtaining the documents and forwarding them to OCR.

Copies of the current version of the Civil Rights Packet can be downloaded from http://www.hhs.gov/ocr/civilrights/resources/providers/medicare_providers/index.html. Effective immediately, SAs must include this link with their initial certification and CHOW packages.

Questions concerning the Packet should be referred to your regional OCR office.

Effective Date: Immediately. CMS and the State agencies should disseminate this information within 30 days of the date of this letter.

Training: The information contained in this announcement should be shared with all survey and certification staff and with managers who have responsibility for processing initial Medicare certifications and CHOWs.

/s/

Thomas E. Hamilton

cc: Survey and Certification Regional Office Management

Attachment

CHECKLIST
Civil Rights Clearance for Facilities that Belong to Corporations With
Agreements With the Office for Civil Rights

Facilities that belong to a corporation with a Civil Rights Corporate Agreement with the Office for Civil Rights (OCR) do not need to submit the usual civil rights pre-grant review documentation. The facilities need to submit only certification sheets and documents as specified in their Corporate Agreements, as follows:

1. **Amedisys:**
 - a. Attachment I (Facility Notification & Acknowledgement of Compliance)
 - b. Attachment J (OCR: Facility Specific Data/Documentation Requirements)
 - c. Attachment K (Sign Language Interpreter Form)
2. **ARC Therapy Services:**
 - a. Attachment J (Agency Acknowledgement of Compliance)
 - b. Attachment K (Agency specific Data)
 - c. Attachment F (Interpreter Services Chart)
3. **ARC Therapy Services Home Health (ISCHH)**
 - a. Attachment J (Agency Notification & Acknowledgement of Compliance)
 - b. Attachment K (Agency Specific Data)
4. **Catholic Healthcare West:**
 - a. Attachment H (Acknowledgement Letter)
 - b. Attachment I (Facility-specific data sheet)
5. **Consulate HealthCare:**
 - a. Attachment L (Acknowledgement/Certification Letter)
 - b. Attachment M (Facility-Specific Data Sheet)
 - c. Two charts listing interpreter services
6. **Envoy HealthCare:**
 - a. Attachment L (Acknowledgement/Certification Letter)
 - b. Attachment M (Facility-Specific Data Sheet)
 - c. Two charts listing interpreter services
7. **Genesis Healthcare Corp:**
 - a. Attachment L (Center Notification & Acknowledgement of Compliance with Civil Rights Statutes)
 - b. Attachment M (Center-Specific Data/Documentation Requirements)
8. **Gentiva Health Services:**
 - a. Information Request Checklist
9. **HCR ManorCare Hospice & Home Health:**
 - a. Attachment F (Facility Notification & Acknowledgement of Compliance)
 - b. Attachment G (Facility Specific Data/Documentation Requirements)
10. **HCR ManorCare Rehabilitation Facilities:**
 - a. Attachment I, Tab 2 (Heartland Rehabilitation Clinic Notification & Acknowledgement of Compliance)
 - b. Attachment I, Tab 3 (Clinic Specific Data/Documentation Requirements)
11. **HCR ManorCare SNFs:**
 - a. Attachment I, Tab 2 (Facility Notification & Acknowledgement of Compliance)
 - b. Attachment I, Tab 3 (Facility Specific Data/Documentation Requirements)

12. **HealthSouth Corp:**
 - a. Attachment E (Facility Administrator Acknowledgement Letter)
 - b. Attachment E (cont.) (Facility Specific Data/Documentation Requirements)
13. **Heritage Enterprises:**
 - a. Attachment L (Acknowledgement Letter for Agreements)
 - b. Attachment M (Facility-specific Data-Documentation Form)
 - c. Attachment N (Charts of language and sign language interpreters)
14. **Kindred Healthcare:**
 - a. Facility Notification & Acknowledgement of Compliance
 - b. Signed Assurance of Compliance
 - c. Notice of Program Accessibility
15. **Odyssey HealthCare:**
 - a. Attachment J (1) (Facility Acknowledgement Letter)
 - b. Attachment J (2) (Signed Assurance of Compliance)
 - c. Attachment J (3) (Civil Rights Information Request Form)
 - d. Attachment J (4) (Chart or list of sign language interpreters)
16. **Petersen Health Care:**
 - a. Attachment L (Administrator Acknowledgement Letter)
17. **Providence Health & Services-WA:**
 - a. Attachment J (Acknowledgement/Certification Letter)
 - b. Attachment K (Facility-specific data sheet)
 - c. Attachment L (Sign language interpreter form/chart)
 - d. Attachment M (Language interpreter services form/chart)
18. **Regency Healthcare Group:**
 - a. Hospice Center Notification & Acknowledgement of Compliance Sheet
 - b. Facility-Specific Data/Documentation Requirements Sheet
 - c. Sign Language Interpreter Chart
19. **SavaSeniorCare:**
 - a. Attachment K (Acknowledgement Letter)
 - b. Attachment J (Facility-specific data sheet)
20. **Select Medical Corp:**
 - a. Attachment K (Facility Specific Data Documentation Requirements)
 - b. Attachment I (Facility Notification & Acknowledgement of Compliance)
21. **TNMO Healthcare:**
 - a. Hospice Center Notification & Acknowledgement of Compliance Sheet
 - b. Facility-Specific Data/Documentation Requirements Sheet
 - c. Sign Language Interpreter Chart
22. **Trilogy Health Services**
 - a. Facility Notification & Acknowledgement of Compliance
 - b. Facility Data Sheet
 - c. Attachment L (Charts for Listing Interpreter Services)
23. **VistaCare:**
 - a. Attachment J (1) (Facility Acknowledgement Letter)
 - b. Attachment J (2) (Signed Assurance of Compliance)
 - c. Attachment J (3) (Civil Rights Information Request Form)
 - d. Attachment J (4) (Chart or list of sign language interpreters)