Report on Medicare Compliance Volume 28, Number 44. December 16, 2019
CMS Ends RAPs for Some HHAs Sooner Than Regulation, Expands Meaning of 'Newly Enrolled'

By Nina Youngstrom

When the new owner of a home health agency (HHA) notified the Medicare administrative contractor (MAC) it was under new ownership because of a stock transfer, he expected a routine letter acknowledging the change of information. Instead, the response was disheartening and made him regret the price he paid for the HHA. In addition to accepting the change and asking for additional enrollment information, the MAC informed the HHA it was not eligible for requests for anticipated payments (RAP) for a year because it's "new" to Medicare.

"You are being placed in a provisional period of enhanced oversight that includes a suppression of all Requests for Anticipated Payment (RAP) for 1 year," the MAC wrote to the HHA, which didn't want to be identified. "Thus, your provisional period of enhanced oversight begins with the date of this approval letter and will end after a period of 1 year." RAPs keep some HHAs afloat, and because RAPs are being phased out, it meant this HHA would probably never see a RAP again.

There are many things wrong with what happened to the HHA, both in terms of the way CMS enforces policy through regulations versus guidance—a topic of increasingly pitched debate in the past year—and the timing and sense of fair play, says the HHA's attorney, Richelle Marting of the Forbes Law Group in Overland Park, Kansas. Presumably other HHAs are in a similar situation, and she has taken it up with the CMS regional office.

"This significantly affects payments for providers," she says, at least until all HHAs lose RAPs in 2021. "I would challenge this as policymaking in the absence of rulemaking."