



COMMISSIONER  
Jon Weizenbaum

April 13, 2015

To: Hospice Agencies Seeking Medicare Certification

Subject: **Provider Letter No. 2015-10** – Direction from the Centers for Medicare & Medicaid Services (CMS) on Prioritization of Initial Medicare Certification Surveys (Replaces PL 13-10)

The Texas Department of Aging and Disability Services (DADS) issues this letter to provide clarification and notification to hospice agencies seeking initial Medicare certification of the current CMS survey and certification (S&C) requirements. Each year CMS publishes a Mission and Priority Document (MPD) that describes the S&C workload and program requirements for state agencies. The MPD describes how state agencies must prioritize S&C activities. The MPD includes guidance on the impact of hospices applying for initial certification. The MPD also has guidance for a currently certified hospice agency applying for certification of a multiple location or an inpatient unit. Under its agreement with CMS, DADS must schedule and conduct surveys per the S&C priority rankings set for in the MPD.

### **CMS Direction**

The MPD contains four priority tiers for hospices (Tier I, II, III and IV) that reflect statutory mandates and program emphases. DADS must complete the S&C activities in Tier I, II and III before planning to complete Tier IV activities. Tiers I, II, and III include complaint surveys, validation surveys of deemed hospices, and routine surveys of non-deemed agencies. Initial Medicare certification surveys for hospices are a Tier IV priority because a hospice has the option to achieve deemed status (by demonstrating compliance with Medicare health and safety standards) through a survey conducted by a CMS - approved national accreditation organization (AO). Together with CMS, DADS prioritizes the workload within Tier IV and consults with the CMS Regional Office (RO) in the prioritizing process to ensure that the statutory requirements are met. The hospice is responsible for arranging the Medicare survey with the AO.

The MPD has special provisions for a priority exception request that is based on “access-to-care” problems. A hospice applying for initial Medicare certification may apply to CMS via DADS for an exception to the Tier IV priority assignment if the lack of Medicare certification would cause significant “access-to-care” problems for Medicare hospice beneficiaries.

For related information regarding CMS direction, please refer to the attached question and answer document.

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If you have questions about this provider letter, please contact a home and community support services agency program specialist in the Policy, Rules and Curriculum Development unit at (512) 438-3161.

Sincerely,

*[signature on file]*

Mary T. Henderson  
Assistant Commissioner  
Regulatory Services

**CMS Direction Regarding  
Hospice Workload Prioritization  
Questions and Answers**

**Question 1:**

My hospice agency is requesting only an initial licensure survey for the hospice services category. Does this direction regarding initial Medicare certification survey apply to my agency?

**Answer:**

No, this direction applies **only** when a hospice agency is requesting an initial licensure survey for the hospice services category **and** has also applied for initial Medicare certification as a hospice agency. DADS will continue to conduct initial state licensure surveys of the hospice services category after an agency submits a timely written request for an initial licensure survey. Refer to Texas Administrative Code, Title 40, Part 1, Chapter 97, §97.521, relating to Requirements for an Initial Survey.

**Question 2:**

Is there a cessation of or moratorium on new Medicare-certified hospice agencies in Texas?

**Answer:**

No. Currently there is no cessation or moratorium on initial Medicare certifications of new hospice agencies in Texas.

**Question 3:**

I have heard talk of “access-to-care” exceptions. May a hospice agency applying for initial Medicare certification make a priority exception request for “access-to-care” in a geographical area of the state and then be granted an initial Medicare certification survey by DADS?

**Answer:**

A licensed-only hospice agency that has applied for Medicare certification may submit a written request to CMS via DADS for an exception to the priority assignment of the initial Medicare certification survey if a lack of Medicare certification would cause significant “access-to-care” problems for patients served by the agency. However, before DADS will forward the request to CMS for approval, the agency must provide data and other evidence that effectively establishes the probability of serious, adverse patient healthcare access consequences if the agency is not enrolled to participate in Medicare. DADS will communicate with CMS before forwarding the request to the CMS RO. For further guidance on “access-to-care” procedures, please refer to [Regional S&C letter No. 10-01](#).

**Question 4:**

Will CMS continue authorizing DADS to conduct Medicare complaint investigations and other Medicare surveys?

**Answer:**

Yes. DADS continues to conduct recertification surveys, validation surveys and complaint investigations of Medicare-certified hospice agencies under its agreement with CMS.

**Question 5:**

How does this direction regarding an initial Medicare certification survey apply to a change of ownership (CHOW) for a Medicare-certified hospice agency?

**Answer:**

If a Medicare-certified hospice agency undergoes a CHOW, the hospice agency must seek clarification from CMS and its applicable Regional Home Health Intermediary/Medicare Administrative Contractor to determine if the provider agreement will transfer to the new owner. If CMS determines that the new owner of the hospice agency must apply for initial Medicare certification, the agency's initial Medicare certification survey (if the agency does not have accreditation with deemed status) would be a Tier IV activity for DADS unless the agency meets the criteria in Question 3. The hospice agency may also refer to Question 9 for an option for an initial Medicare certification survey for hospice agencies.

**Question 6:**

My licensed-only hospice agency applied for and requested initial Medicare certification and submitted a request to DADS for an initial Medicare certification survey **before** this direction was issued in June 2007. Will DADS conduct an initial Medicare certification survey of my hospice agency?

**Answer:**

DADS **will not** conduct an initial Medicare certification survey until all Tier I, II and III survey activity is complete in addition to the completion of all higher priority Tier IV survey activity. The licensed-only hospice agency may refer to Questions 3 and 9 for an option for an initial Medicare certification survey for hospice agencies.

**Question 7:**

If a **non-deemed** Medicare-certified hospice agency wishes to relocate, the hospice must contact CMS. If CMS determines that the hospice agency is required to seek initial Medicare certification because of the agency's relocation, how does this direction regarding initial Medicare certification surveys apply?

**Answer:**

Since CMS reviewed your request to relocate and determined that your hospice agency must seek initial Medicare certification because of the agency's relocation, you may refer to Questions 3 and 9 for an option for an initial Medicare certification survey for hospice agencies.

**Question 8:**

May a licensed-only hospice agency seek initial Medicare certification through a CMS-approved national accrediting organization (AO) with deeming authority?

**Answer:**

Yes. A CMS-approved national AO with deeming authority such as the Joint Commission (JC), the Community Health Accreditation Program, Inc. (CHAP) or the Accreditation Commission for Health Care (ACHC) may conduct initial Medicare certification surveys for hospice agencies.

**Question 9:**

My licensed-only hospice agency has applied for and requested initial Medicare certification and has decided to seek initial Medicare certification through a CMS-approved national AO with deeming authority such as JC, CHAP or ACHC. What do I need to do?

**Answer:**

The licensed-only hospice agency must request an initial licensure survey by submitting the DADS Form 2020 Notification of Readiness for Initial Survey no later than six months after the effective date of an agency's initial license (refer to 40 TAC §97.521(a)). The agency must also contact the national AO directly for information regarding the initial Medicare certification and accreditation process.

**Question 10:**

My licensed-only hospice agency began the initial Medicare certification accreditation process and is nearing the end of the agency's two-year licensure period with no accreditation or initial Medicare certification survey. My hospice agency has met the requirements in 40 TAC §97.521 for an initial licensure survey conducted by DADS. What do I do?

**Answer:**

To continue providing hospice services to clients, the hospice agency must submit a renewal application within the time frames specified in 40 TAC §97.17 relating to Application Procedures for a Renewal License.

**Question 11:**

If a licensed-only hospice agency is ready for its initial survey and has submitted DADS Form 2020 to the designated survey office will DADS conduct an initial Medicare certification survey? Will DADS surveyors perform the initial Medicare certification survey while conducting the initial licensure survey?

**Answer:**

DADS surveyors will conduct **only** the initial licensure survey. DADS **will not** conduct an initial Medicare certification survey until all Tier I, II and III survey activity is complete in addition to the completion of all higher priority Tier IV survey activity. The licensed-only hospice agency may refer to Questions 3 and 9 for an option for an initial Medicare certification survey for hospice agencies.

**Question 12:**

While conducting a licensure complaint investigation, may a surveyor also conduct an initial Medicare certification survey if a licensed-only hospice agency has applied for and requested Medicare certification and sent a notice of readiness to DADS for its initial Medicare certification survey?

**Answer:**

No. Because the onsite visit is to conduct a licensure complaint investigation **only**, DADS surveyors will be determining only the agency's compliance with state licensing regulations.

**Question 13:**

While conducting a complaint investigation, may a surveyor also conduct an initial Medicare certification survey of a non-deemed parent Medicare-certified hospice agency's new multiple location if the hospice agency has applied for and requested initial Medicare certification survey of the new multiple location as defined in 42 CFR §418.3?

**Answer:**

No. Because the onsite visit is to conduct a complaint investigation, DADS surveyors will only conduct the complaint investigation.

**Question 14:**

Can a parent Medicare-certified hospice agency submit an application to DADS for a hospice alternate delivery site (ADS) license and apply to CMS via DADS for Medicare certification of the ADS as a hospice multiple location with or without an inpatient unit?

**Answer:**

Yes, a parent Medicare-certified hospice agency may submit an application to DADS for an ADS license and apply to CMS for Medicare certification of the ADS as a multiple location. The hospice agency's application for an ADS license may include a request to operate an inpatient unit at the licensed ADS location from which the hospice will also provide the home levels of hospice services. DADS will process only the application for a licensed-only hospice ADS location, with or without an inpatient unit. The agency's request for initial Medicare certification of the multiple location with or without an inpatient unit **will not** be conducted by DADS until all Tier I, II and III survey activity is complete in addition to the completion of all higher priority Tier IV survey activity.

**List of AOs and websites:**

Community Health Accreditation Partner (CHAP): <http://www.chapinc.org/>

The Joint Commission: <http://www.jointcommission.org/>

Accreditation Commission for Health Care, Inc. (ACHC): <http://www.achc.org/>