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## Department of Health

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Executive Deputy Commissioner

April 14, 2015

**DAL: DHCBS 15-05**  
**Subject: CHHAs & LTHHCPs – Provision of  
Care Management Services to Managed Long  
Term Care Plan Enrollees**

Dear Administrator:

This letter is in response to questions received by the Department of Health (Department) regarding the provision of Care Management services through contractual arrangements to individuals enrolled in Managed Long Term Care Plans (MLTCPs).

The purpose of this letter is to provide guidance and clarify for Certified Home Health Agencies (CHHAs) and Long Term Home Health Care Programs (LTHHCPs) the requirements that apply when providing Care Management services based on Centers for Medicare and Medicaid Services (CMS) guidance found in the State Operations Manual (SOM) Parts 2180C and 2183.

This guidance, presented in a Q & A format, represents questions we have received to date from providers and other stakeholders.

1. **Question:** If the LTHHCP or CHHA is providing only Care Management services for a MLTC enrollee through a Care Management Services Agreement with the MLTCP (i.e. the LTHHCP/CHHA is not providing any other service), is the CHHA/LTHHCP provider subject to the Federal Conditions of Participation (CoPs) requirements (e.g., comprehensive assessment and OASIS requirements, developing a CHHA/LTHHCP plan of care, obtaining physician orders, supervision of aide services, etc.) related to that case?

**Response:** The CoPs define the standards for the agency and help ensure the health and safety of individuals furnished services by the agency, for all patients regardless of the service(s) provided. According to §1861(o)(6) of the Social Security Act, the CoPs apply to the CHHA/LTHHCP as an entire entity and are applicable to all individuals served by the agency not just to Medicare beneficiaries. Therefore the CoPs would not apply ONLY if the agency is able to demonstrate that it operates a “separate entity” or separate line of business for provision of Care Management services to which the CoPs do not apply.

2. **Question:** Can the CHHA/LTHHCP provide Care Management services ONLY as a “separate entity?” (Therefore, the CoPs would not apply.)

**Response:** Yes, the organization’s contractual arrangement and relationship with the MLTCP to provide “Care Management Services” could be considered a separate line of business from the CHHA/LTHHCP’s “normal” operation for the provision of home health services. The following parameters apply:

- The entity is not conducting a patient home visit for provision of Care Management services. If the service requires crossing the threshold of the patient’s home, then the CoPs will apply;
- The entity is not providing any other home health service(s) to the MLTC enrollee; and
- The entity must comply with all CMS guidelines for operating a “separate entity” found in Section 2183 of the SOM.

3. **Question:** What are the CMS guidelines for operating a “separate entity?”

**Response:** The organization must differentiate the services offered by the CHHA/LTHHCP from other services offered by the larger organization. It must be clear to staff and consumers that the “separate entity” is separate and distinct from the larger organization. The organization must demonstrate that it operates a “separate entity” in the operation of the agency, and through consumer and staff awareness.

4. **Question:** What is required to demonstrate that the organization operates a “separate entity?”

**Response:** The agency must demonstrate that it operates a “separate entity” or separate line of business to which the CoPs do not apply. It must be apparent that there is a separate entity that is different from the CHHA/LTHHCP and addresses operation, consumer awareness and staff awareness.

- Consumer awareness: the organization should differentiate the home health services of the agency from other services (care management) that it offers. Advertisements and written materials should clearly identify the program as separate and distinct from other programs of the organization.
- Staff awareness: Personnel must be knowledgeable about the agency’s policies and procedures, the regulatory requirements related to their role in the delivery of care in the agency, and identify the differences in services they provide for the CHHA/LTHHCP and the Care Management Program.

5. **Question:** Are there other guidelines the organization must comply with in order to provide Care Management services through the “separate entity?”

**Response:** Yes. In addition to the requirements specified in the contractual arrangement between the provider and the MLTC Plan, the following guidelines apply to provide Care Management services through the “separate entity”:

- There must be separate policies and procedures specific to the provision of “Care Management Services” that would describe at a minimum the process by which the care management service would be conducted; the responsible personnel; the supervisory structure; and the separate line of business distinctions.
- Professional Scope of Practice is not waived. Plans and providers must ensure the care management tasks are provided as appropriate to the professional discipline’s scope of practice. For example, those tasks involving assessing needs, identifying needs, or developing a plan of care must be performed by a RN and may not be performed by administrative personnel.

- The separate line of business for Care Management Services must be separate and distinct from the CHHA/LTHHCP and requires:
  - Separate policies and procedures for admission, including separate consent forms;
  - Separate clinical records for those patients receiving care management services only;
  - Current listing of staff employed by or contracted by the organization for provision of Care Management Services;
  - Personnel records;
  - Time sheets or other records to demonstrate distinct assignment of personnel; and
  - Separate budgets.

6. **Question:** If the agency provides Care Management services and Nursing services to a MLTCP enrollee do the CoPs apply?

**Response:** Yes, the CoPs apply in cases when the agency is providing any home health service, including skilled services such as nursing, in addition to Care Management services to an individual enrolled in a MLTCP.

7. **Question:** Where may I access the CMS guidelines and the State Operations Manual?

**Response:** The CMS guidelines outlined in this directive are found in Sections 2180B and 2183 of the State Operations Manual (SOM) located at: <https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107c02.pdf>.

If you have questions about this information or require additional clarification, please contact [homecare@health.ny.gov](mailto:homecare@health.ny.gov). Questions pertaining to specific contractual requirements, should be directed to the Managed Long Term Care Plan.

Sincerely,



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Office of Primary Care and Health Systems  
Management