




**Commonwealth of Massachusetts**  
**Executive Office of Health and Human Services**  
**Office of Medicaid**  
*www.mass.gov/masshealth*



MassHealth  
Transmittal Letter HHA-46  
August 2012

**TO:** Home Health Agencies Participating in MassHealth  
**FROM:** Julian J. Harris, M.D., Medicaid Director   
**RE:** *Home Health Agency Manual* (Home Health Advanced Beneficiary Notice (HHABN))

This transmittal letter informs you of potential provider financial liability for Medicare home health claims submitted on behalf of dually eligible members to Medicare as a result of an ongoing TPL recovery project. The potential liability applies to home health services that were paid by Medicaid and that did not include a valid Home Health Advanced Beneficiary Notice (HHABN) as determined by Medicare.

This letter also transmits a new Appendix E of the *Home Health Agency Manual*. Appendix E explains the review criteria that MassHealth uses to determine HHA liability for invalid HHABN notices.

These criteria for claims are effective January 1, 2011.

### **MassHealth Website**

This transmittal letter and attached pages are available on the MassHealth website at [www.mass.gov/masshealth](http://www.mass.gov/masshealth).

### **Questions**

If you have any questions about the information in this transmittal letter, please contact MassHealth Customer Service at 1-800-841-2900, e-mail your inquiry to [providersupport@mahealth.net](mailto:providersupport@mahealth.net), or fax your inquiry to 617-988-8974.

### **NEW MATERIAL**

(The pages listed here contain new or revised language.)

#### **Home Health Agency Manual**

Pages vi, E-1, and E-2

### **OBSOLETE MATERIAL**

(The pages listed here are no longer in effect.)

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## **Invalid Home Health Advanced Beneficiary Notice (HHABN) Conditions**

MassHealth will recover Medicaid payments from home health agencies (HHAs) for services delivered to dually eligible members when a Medicare contractor and the Office of Medicare Hearing and Appeals determine that

- (1) Medicare coverage criteria have not been met and the claim has been denied; and
- (2) the dually eligible member is not liable for the costs of the services claimed due to an invalid Home Health Advanced Beneficiary Notice (HHABN).

All of the criteria used to conclude the validity of an HHABN is in accordance with 42 USC 1879 et.seq; 42 USC 1891(a)(1)(E); 42 USC 1395bbb(a)(1); 42 CFR, sec. 411.406; 42 CFR 405.1200; and CMS Policy Manual Financial Liability for Providers, Ch 30, sec. 60-70. An HHABN is considered **invalid** when issued by an HHA if the HHABN meets one of the following conditions.

- (1) The HHABN is not delivered to the dually eligible member in accordance with federal statute, federal regulations, and CMS Policy Manual guidelines required and stated in the Medicare rules, regulations, policies, and statutes cited above.
- (2) The HHABN does not clearly state
  - (a) the reason that the HHA expects that Medicare may not pay for each listed item or service;
  - (b) the estimated cost for each item and/or service; and
  - (c) the beneficiary's options.
- (3) The HHABN is illegible or incomprehensible, or it can be demonstrated that the HHA did not make every effort to ensure that the member understood the entire HHABN before signing it.
- (4) The HHABN is not signed by the dually eligible member or his or her representative (unless appropriate documentation explaining the absence of signature is recorded on the HHABN in accordance with Medicare rules, regulations, policies, and statutes).

MassHealth uses these criteria after appeal efforts for Medicare coverage have been exhausted. **Note:** The list of criteria invalidating an HHABN is not exhaustive. MassHealth reserves the right to expand the list of criteria if Medicare rules, regulations, policies, or statutes change. In such instances, MassHealth will inform HHAs before changing its criteria.

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