CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-08 Medicare Program Integrity	Centers for Medicare & Medicaid Services (CMS)
Transmittal 11694	**Date: November 9, 2022**
	Change Request 12867

This Transmittal is no longer sensitive and is being re-communicated. This instruction may now be posted to the Internet. Transmittal 11597, dated September 15, 2022, is being rescinded and replaced by Transmittal 11694, dated, November 9, 2022, to make editorial changes to the manual instruction. All other information remains the same.

SUBJECT: Medicare Enrollment of Rural Emergency Hospitals (REHs)

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to update Chapter 10 of CMS Publication (Pub.) 100-08 with instructions regarding the processing of REH enrollment applications.

EFFECTIVE DATE: October 28, 2022
**Unless otherwise specified, the effective date is the date of service.*
IMPLEMENTATION DATE: October 28, 2022

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)
R=REVISED, N=NEW, D=DELETED-*Only One Per Row.*

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N	10/10.2/10.2.1.8.1/Rural Emergency Hospitals (REHs)

III. FUNDING:
For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

Business Requirements
Manual Instruction

Attachment - Business Requirements

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SUBJECT: Medicare Enrollment of Rural Emergency Hospitals (REHs)

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I. GENERAL INFORMATION

A. Background: Section 125 of Division CC of the Consolidated Appropriations Act, 2021, added a new Section 1861(kkk) to the Social Security Act (the Act) to establish REHs as a new Medicare provider type. The Calendar Year 2023 Hospital Outpatient Prospective Payment System and Ambulatory Surgical Center Payment Final Rule (CMS-1772) established, among other things, requirements that REHs must meet in order to bill Medicare. These included provider enrollment requirements. This CR updates Chapter 10 of Pub. 100-08 with instructions that contractors shall follow when processing REH enrollment applications.

B. Policy: Section 1861(kkk) of the Act and Section 125 of Division CC of the Consolidated Appropriations Act, 2021.

II. BUSINESS REQUIREMENTS TABLE

"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.

Number	Requirement	Responsibility								
		A/B MAC			DME	Shared-System Maintainers				Other
		A	B	HHH	MAC	FISS	MCS	VMS	CWF	
12867.1	The contractor shall process REH enrollment applications consistent with the instructions in Section 10.2.1.8.1 of Chapter 10 in Pub. 100-08.	X								

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility

		A/B MAC			DME MAC	CEDI
		A	B	HHH		
12867.2	Medicare Learning Network® (MLN): CMS will market provider education content through the MLN Connects® newsletter shortly after CMS releases the CR. MACs shall follow IOM Pub. No. 100-09 Chapter 6, Section 50.2.4.1 instructions for distributing the MLN Connects newsletter information to providers and link to relevant information on your website. You may supplement MLN content with your local information after we release the MLN Connects newsletter. Subscribe to the "MLN Connects" listserv to get MLN content notifications. You don't need to separately track and report MLN content releases when you distribute MLN Connects newsletter content per the manual section referenced above.	X				

IV. SUPPORTING INFORMATION

Section A: Recommendations and supporting information associated with listed requirements: N/A

"Should" denotes a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: All other recommendations and supporting information: N/A

V. CONTACTS

Pre-Implementation Contact(s): Frank Whelan, 410-786-1302 or frank.whelan@cms.hhs.gov

Post-Implementation Contact(s): Contact your Contracting Officer's Representative (COR).

VI. FUNDING

Section A: For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and

immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

ATTACHMENTS: 0

Medicare Program Integrity Manual
Chapter 10 – Medicare Enrollment
Table of Contents
(Rev. 11694; 11-09-22)

10.2.1.8.1 – Rural Emergency Hospitals (REHs)
(Rev. 11694; Issued: 11-09-22; Effective: 10-28-22; Implementation: 10-28-22)

Section 125 of Division CC of the Consolidated Appropriations Act, 2021 added a new section 1861(kkk) to the Social Security Act (the Act) to establish REHs as a new Medicare provider type to address the growing concern over closures of rural hospitals. In accordance with section 1861(kkk), a facility is eligible to convert to an REH if it was a CAH or rural hospital with not more than 50 beds as of December 27, 2020. REHs must provide emergency services and observation care and are prohibited by the statute from providing inpatient services.

The CY 2023 OPPS/ASC final rule (CMS-1772-F) established, among other things, requirements that REHs must meet in order to bill Medicare. These included enrollment requirements, addressed in part in new 42 CFR § 424.575. In short, the rule specified the following:

- *A CAH or rural hospital wishing to convert to an REH must submit a Form CMS-855A change of information application, rather than an initial application*
- *No application fee need be paid*
- *REHs will be in the "limited" screening category under 42 CFR § 424.518*
- *REHs fall within 42 CFR § 424.520(a) in terms of establishing an effective date of billing privileges.*

This section 10.2.1.8.1 instructs contractors on the processing of REH enrollment applications. Note that REHs (like CAHs) are not "transitioning" as that term is used in this chapter with respect to the survey and certification process.

A. Initial Process

(CMS will notify the contractors and the public as to when prospective REHs may begin to submit applications.)

1. Submission

In submitting a Form CMS-855A change of information (COI) application to convert to an REH, the facility must:

(a) Check the "You are changing your Medicare information" box in Section 1(A)

(b) Check the "Other" box in Section 2(A)(2) and write "Rural emergency hospital" or "REH" in the line next thereto

(c) Complete Sections 2(B) (with REH information), 3, and 15 and/or 16 (as applicable)

(d) Report any additions/deletions/changes to its current enrollment information (that is, its current CAH or rural hospital enrollment) that will stem from its conversion to an REH (e.g., new billing agency, adding/deleting two managing employees, deleting a 10 percent owner)

(e) Submit all required state licenses/certifications for operation as an REH (if available to the provider at the time)

(CMS will conduct outreach to the prospective REH community regarding the above requirements.)

However, the facility need not submit with its application:

- *An application fee*

- *Any documentation related to its existing enrollment as a CAH or rural hospital (e.g., CAH licensure) except if a new adverse legal action is also being reported, in which case the contractor shall follow the instructions in section 10.6.6 of this chapter concerning documentation acquisition.*

- *Any other documentation that: (1) is specific to the survey and certification process; and (2) a non-transitioned, certified provider/supplier typically submits directly to the state or SOG Location pursuant to this process (e.g., a signed provider agreement). The state or SOG Location will, as applicable, collect this information. If the provider nonetheless submits these materials with its application, the contractor shall include them in any recommendation package it sends to the state; however, the contractor need not review them for compliance, signatures, etc.*

2. Initial Contractor Review

In reviewing the application, the contractor shall adhere to the following:

(i) Eligibility - The contractor shall check PECOS to see whether the REH was enrolled as a CAH or a rural hospital as of December 27, 2020. (Facilities that were in a deactivated status in PECOS pursuant 42 CFR § 424.540(a)(2) or (3) as of that date still qualify as having been enrolled at that time.) If it was not, the contractor shall return the application pursuant to § 424.526(a)(7) on the basis that the application is inapplicable to the transaction in question. If it was, the contractor shall continue to process the application.

- *The term "rural hospital" as used above means a hospital as defined in section 1886(d)(1)(B) of the Act "with not more than 50 beds located in a county (or equivalent unit of local government) in a rural area (as defined in section 1886(d)(2)(D)), or was a subsection (d) hospital (as so defined) with not more than 50 beds that was treated as being located in a rural area pursuant to section 1886(d)(8)(E)." (See section 1861(kkk)(3)(B) of the Act for this quoted language.) Unless the contractor has strong reason to believe that the hospital in question is not a rural hospital, it need not perform any research to determine whether it is. This determination can be made after the application is referred to the state per the below. If the contractor has doubts as to whether it is a rural hospital, it can contact its PEOG BFL or the state for guidance.*

- *If the facility was enrolled as of December 27, 2020 but was thereafter voluntarily or involuntarily terminated, the contractor shall contact its PEOG BFL for guidance.*

(ii) Submission of New/Initial Enrollment – In the highly unlikely event that the facility submits a full, initial REH enrollment application rather than a COI, the contractor shall nonetheless process the application. No fee is required. (See subsection (A)(3) below for more information.)

(iii) Application Fee – If the facility submits an application fee and/or hardship waiver, the contractor shall refund/return it consistent with the instructions in this chapter. However, if the facility seeks to add a new location pursuant to its application, the contractor in all cases shall contact its PEOG BFL for guidance.

(iv) Returns – If the contractor determines that a basis exists for returning the application under 42 CFR § 424.526 and section 10.4.1.4.2 of this chapter, the contractor shall contact its PEOG BFL for guidance.

(v) Authorized/Delegated Officials – The facility is not required to assign and utilize new authorized and delegated officials pursuant to the conversion. It may continue to use the officials who are part of its existing CAH or rural hospital enrollment. However, as with any other change of information stemming from the conversion, the facility must report any changes to its current authorized/delegated officials; this could occur, for example, if the facility will be under new leadership or management.

(vi) Voluntary Termination – The facility is not required to submit a voluntary termination application to terminate its existing CAH or rural hospital enrollment. Any termination will be effectuated upon the approval of the REH's enrollment. (See subsection (B) below.)

3. Processing and PECOS

Subject to the provisions in subsections 10.2.1.8.1(A)(1) and (2) above, the contractor shall process the COI consistent with the COI processing instructions in this chapter. This includes, but is not limited to, performing all required verifications (e.g., a new managing employee and/or delegated official is reported), developing for any missing or incomplete data, etc. It does not include, however, making determinations normally reserved to the state or SOG Location. For REHs, this includes, but is not limited to: (1) the number of beds; (2) whether emergency services, observation care, and inpatient services will be performed; (3) whether the facility is indeed in a rural area; and (4) whether CoPs are met.

Absent clear evidence to the contrary, the contractor can assume that any Form CMS-855A data that is not reported as changing per subsection (A)(1)(d) above is remaining intact. For instance, suppose the provider does not report any changes in Section 4 of the COI. The contractor can assume that the provider's practice location data will remain as is.

During the aforementioned process, the contractor shall create a new enrollment record in PECOS for the REH. The record shall include: (1) the data submitted on the COI; and (2) data that is currently part of the CAH's or rural hospital's enrollment record but is not changing on the COI. To illustrate, assume a CAH submits a COI to convert to an REH. Sections 6, 7, and 8 are blank, but Section 2(B) contains new REH licensure data. The new REH enrollment record shall include the Section 2(B) REH licensure information as well as the Section 6, 7, and 8 data that is in the CAH's current enrollment record. The CAH's enrollment record shall remain active and intact at this point.

For submitted initial applications:

- *The contractor shall process the application consistent with this chapter's instructions for processing initial applications involving non-transitioning certified providers/suppliers.*

- *While the contractor shall create a new PECOS enrollment record for the REH, it need not (unlike with a COI) populate it with data from the facility's existing CAH or rural hospital record. It can simply use the data on the initial application; the application shall be designated as an initial application in PECOS.)*

4. Recommendation/Disposition

i. Approval Recommended – If the contractor believes that a recommendation for approval is warranted, it shall forward its recommendation to the state consistent with the instructions for processing non-transitioned certified provider/supplier applications. The state will perform a survey and thereafter refer the matter to the SOG Location for final review.

ii. Rejection or Denial – If the contractor believes the application should be rejected or denied, it shall send an e-mail to its PEOG BFL that: (1) identifies the provider (e.g., LBN);

(2) explains the basis for the contractor's position; and (3) if a potential denial is involved, includes a copy of the draft denial letter for non-transitioned certified providers/suppliers. PEOG will review the matter. If PEOG approves the rejection or denial, the contractor shall --- within 3 business days of receiving said approval --- follow existing procedures for rejecting or denying an application; the state and SOG shall be copied on any denial letter.

B. Post-SOG Location Procedures

1. Denial

If the SOG Location denies the REH's request for participation, it will notify the contractor thereof. The contractor shall accordingly follow the procedures in this chapter for denying non-transitioned certified provider/supplier applications. (No prior PEOG approval of the denial is needed.) The facility's CAH or rural hospital enrollment, however, remains as is.

2. Approval

If the SOG Location notifies the contractor of its approval of the REH's request for participation, the contractor shall follow the procedures in this chapter for approving non-transitioned certified provider/supplier applications. As part of this, the contractor shall: (a) switch the REH's PECOS record to "Approved" (using the participation effective date on the SOG Location approval notice); and (b) deactivate the facility's CAH or rural hospital enrollment (with a status of "voluntary withdrawal"), as well as any CAH reassignments, effective the day before the REH's approval effective date

C. Additional Considerations

1. State Survey - The contractor shall follow the instructions in section 10.4.2.3.4 of this chapter in the event of a state survey failure.

2. Letters

- *Denial – Any denial letter sent pursuant to this section 10.2.1.8.1 shall include the following language: "Your existing enrollment as a [insert critical access hospital or other hospital type, as applicable] is not affected by this determination."*

The contractor shall use the denial letter applicable to the type of application submitted (e.g., a COI denial letter for a COI application).

- *Approval – The approval letter shall include the following language: "With your enrollment as a rural emergency hospital, your existing enrollment as a [insert critical access hospital or other hospital type, as applicable] has been deactivated effective [insert date]. You will no longer be able to bill for [insert critical access hospital or other hospital type, as applicable] services under this enrollment." (No separate voluntary termination letter is required.)*

The contractor shall use the approval letter applicable to the type of application submitted (e.g., an initial approval letter for an initial application).

The exact placement of the aforementioned language in the letters lies within the contractor's discretion.

3. Processing Alternatives and Clock Stoppages – Except as otherwise indicated in this section 10.2.1.8.1, all processing alternatives and clock stoppages described in this chapter apply to REH enrollment applications.

D. Enrolled REHs

Once enrolled, the REH, like all providers and suppliers, must maintain compliance with the enrollment requirements in 42 CFR Part 424, subpart P. This includes, but is not limited to, reporting changes to its enrollment information, undergoing revalidation (and submitting the required fee with this application), etc. The contractor need not undertake any special actions unique to enrolled REHs that are different from those applicable to all other provider/supplier types.

It is possible that an enrolled REH may seek to return to its former status as a CAH or rural hospital. To do so---and consistent with 42 CFR Part 424, subpart P and this chapter---it must submit an initial enrollment application and, for the REH enrollment, a voluntary termination application. It cannot do so via a change of information.