

PUBLICATION

CMS Reinstates Policy for Enrollment Denials Related to Unpaid Medicare Overpayments [Ober|Kaler]

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The saga related to CMS' policy to deny enrollments based on a history of unpaid Medicare debts continues. We first reported on the proposed regulations and corresponding policy announcement, via Transmittal 469, expanding CMS' authority to deny enrollments in a June 12, 2013 *Payment Matters* article "Enrollment Rules Continue to Provide Expanded Bases for Enforcement." In a subsequent August 7, 2013 *Payment Matters* article, we reported the withdrawal by CMS of its planned implementation of a policy, which would have authorized the **denial of an enrollment application** in which any direct or indirect owner of the enrolling entity was currently or previously an owner of a provider or supplier that has an existing, unpaid Medicare debt. The retraction of the policy was based on "industry concerns."

Following some significant changes to the policy guidance, CMS published Transmittal 479, which will be effective on October 1, 2013. A key change under the revised policy is that each MAC is instructed only to review its own enrollment data to determine if an owner has an existing Medicare debt. Although that may provide some comfort to owners, CMS included the caveat "unless otherwise instructed by CMS," holding open the ability for CMS to direct the MAC to contact MACs in other jurisdictions to determine if a denial is warranted.

Other guidance of significance is the analysis to be used for individual practitioners who have enrolled either as an individual enrollee, a sole proprietor, or as the 100% owner of an entity that operates the business. Since the CMS 855I is used for these enrollments, and the CMS 855I does not have any section to report ownership interests, a subsequent application in which the individual practitioner is a reported owner would not be denied even if there was an outstanding Medicare debt in the practitioner's own practice.

Ober|Kaler's Comments

It will be important to track any new policy developments and monitor how MACs are implementing the policy.