



## DEPARTMENT OF HEALTH & HUMAN SERVICES

Centers for Medicare & Medicaid Services

7500 Security Boulevard  
Baltimore, MD 21244-1850

**Ref: S&C-01-08**

**DATE:** March 9, 2001

**FROM:** Director  
Survey and Certification Group  
Center for Medicaid and State Operations

**SUBJECT:** Instructions Regarding the Implementation of Section 506(a)(1) of the Medicare, Medicaid, and State Children's Health Insurance Program Benefits Improvement and Protection Act of 2000 (BIPA): Treatment of Home Health Agency (HHA) Branch Offices

**TO:** Associate Regional Administrators, DMSO  
State Survey Agency Directors

The purpose of this memorandum is to inform you of changes to the Social Security Act (the Act), as a result of the passage of BIPA, with respect to the treatment of HHA branch offices. Specifically, section 506(a)(1) of BIPA (attached) states:

"Notwithstanding any other provision of law, in determining for purposes of title XVIII of the Social Security Act whether an office of a home health agency constitutes a branch office or a separate home health agency, neither the time nor distance between a parent office of the home health agency and a branch office shall be the sole determinant of a home health agency's branch office status."

Our current policies governing approval of HHA branch offices are consistent with this provision of the Act.

We have previously outlined many factors for the regional offices (ROs) to consider in their decision to approve a branch on a case by case basis. These factors include but are not limited to:

- A review of the parent's ability to supervise the branch to assure the provision of quality care for the patients served by the branch;
- A review of the parent's past compliance history;
- A review of relevant State issues and recommendations including a required reciprocal agreement between the States to assure that at least one of the State agencies assumes responsibility for any necessary surveys of the branch in situations in which an HHA provides services across State lines;

- A review of the ability of the branch office to meet the regulatory definition of a branch as defined in 42 CFR 484.2. The regulations, in fact, require the branch to be within the parent=s geographical service area and close enough to the parent to share supervision, administration and services on a daily basis. While mileage and travel times are significant factors to consider because they are implicitly referenced in the regulations, each alone would not be the single issue in determining approval or denial of the branch. Please continue to implement our policy on the treatment of HHA branches as stated above.

**Effective Date:** This policy memorandum is effective immediately.

**Training:** This policy should be shared with all of the regional office survey and certification staff and States in your region.

Please inform the State agencies under your jurisdiction of these BIPA provisions and the contents of this memorandum. If you would like to discuss this issue further, please call Mavis Connolly at (410) 786-6707.

/s/

Steven A. Pelovitz