

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-08 Medicare Program Integrity</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 817_</b>	<b>Date: August 17, 2018</b>
	<b>Change Request 10789</b>

**SUBJECT: New Instructions for Home Health Agency Misuse of Requests for Anticipated Payments (RAPs)**

**I. SUMMARY OF CHANGES:** The purpose of this change request (CR) is to convey instructions to the Medicare Administrative Contractors (MACs) who pay home health claims, on the responsibilities to monitor home health agencies misuse of RAPs. The instructions provide steps regarding education, corrective action plans, as well as suppression of RAPs.

**EFFECTIVE DATE: September 17, 2018**

*\*Unless otherwise specified, the effective date is the date of service.*

**IMPLEMENTATION DATE: September 17, 2018**

*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.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
R	4/Table of Contents
R	4/4.5/Home Health Agency Misuse of Requests for Anticipated Payments

**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

Pub. 100-08	Transmittal: 817	Date: August 17, 2018	Change Request: 10789
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**SUBJECT: New Instructions for Home Health Agency Misuse of Requests for Anticipated Payments (RAPs)**

**EFFECTIVE DATE: September 17, 2018**

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**IMPLEMENTATION DATE: September 17, 2018**

## I. GENERAL INFORMATION

**A. Background:** Under the Prospective Payment System (PPS) Medicare makes a split percentage payment for most Home Health PPS episode periods. The first payment is for a RAP, and the last is for a claim. See Publication (Pub.) 100-04, Medicare Claims Processing Manual, chapter 10, Home Health Agency Billing, for more detailed information regarding the processing of RAPs and final claims, including exceptions.

RAP payments were implemented in October 2000 when CMS moved home health services to the PPS payment model as directed in the Balanced budget Act of 1997 and are designed to ensure home health agencies have sufficient cash flow. 42 Code of Federal Regulation (CFR) § 409.43(c)(2) gives CMS the authority to cancel and recover RAPs unless the claim is submitted within the greater of 60 days from the end of the episode or 60 days from the issuance of the request for anticipated payment. In addition, 42 CFR § 409.43(c)(2) and Pub. 100-02, Medicare Benefit Policy Manual, chapter 7, section 10.6, convey CMS's authority to reduce or disapprove RAPs in situations when protecting Medicare program integrity warrants the action.

MACs may identify instances where a Home Health Agency's (HHA) use of RAPs indicates potential fraud, waste or abuse. Such instances should be rare and includes, but is not limited to situations where an HHA exhibits a high rate of final claims not being filed. Upon identifying misuse of RAPs, the MAC shall initiate corrective action. Corrective action includes, but is not limited to, education, warnings, Corrective Action Plans (CAPs), RAP suppression, and referrals to the Unified Program Integrity Contractor (UPIC).

**B. Policy:** There are no regulatory, legislative, or statutory requirements related to this CR.

## II. BUSINESS REQUIREMENTS TABLE

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

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
10789.1	Upon identifying misuse of RAPs, the MAC shall initiate corrective action.			X						
10789.2	MACs shall conduct routine (i.e., at least monthly) monitoring activities to account for potential misuse of RAPs.			X						

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
10789.3	MACs shall analyze an HHA's behavior in comparison to individual metrics as well as holistically.			X						
10789.3.1	<p>In general, the MAC shall ensure that its monitoring activities account for various situations where an HHA's behavior indicates potential fraud, waste, or abuse, including but not limited to--</p> <ul style="list-style-type: none"> <li>• The number of final claims submitted is less than the number of RAPs submitted generally;</li> <li>• The number of final claims submitted late resulting in RAPs being "auto-canceled";</li> <li>• Variation in the number of RAPs submitted on key markers, including but not limited to-- <ul style="list-style-type: none"> <li>• Comparable intervals, e.g., weekly, monthly, quarterly, yearly; and/or</li> <li>• Beneficiaries, e.g., beneficiaries already receiving care, newly entering beneficiaries, beneficiaries with 2 or more admit dates during the same 60 day episode;</li> </ul> </li> </ul>			X						

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
	<ul style="list-style-type: none"> <li>• HHAs, e.g., the intensity of relationships between HHAs where at least one is already on RAP suppression; and</li> <li>• Other behavior indicative of misuse.</li> </ul>									
10789.4	The MAC shall educate the HHA on the appropriate use of RAPs and monitor the HHA's use of RAPs for a reasonable period of time. Appropriate steps include calling the HHA to discuss the concerns identified, distributing educational materials to the HHA, and/or sending correspondence to the HHA.			X						
10789.4.1	<p>At a minimum, the MAC shall make clear to the HHA that--</p> <ul style="list-style-type: none"> <li>• The HHA's billing practices are inconsistent with Medicare policy guidelines;</li> <li>• The HHA's billing practices are being subjected to increased monitoring;</li> <li>• If improvement is not demonstrated upon completion of a reasonable monitoring period (e.g., 30 days), there is potential for additional future action, including CAPs, RAP Suppression and/or</li> </ul>			X						

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
	<p>referral to the UPIC; and</p> <ul style="list-style-type: none"> <li>The MAC will convey next steps, if any, upon completion of the monitoring period.</li> </ul>									
10789.5	Once the monitoring period has ended, the MAC shall inform the HHA of the outcome. This may include no additional action being taken, the monitoring period being extended or the implementation of additional corrective action, including but not limited to a CAP as detailed in Pub. 100-08, Chapter 4, Section 4.5.3.			X						
10789.6	A MAC shall notify the HHA in writing that a CAP is required based on non-compliant billing practices; detail the misuse the MAC identified; indicate the anticipated length of the CAP; and advise the HHA regarding whether the HHA is also being placed on RAP suppression as detailed in Pub. 100-08, Chapter 4, section 4.5.4 - RAP Suppression.			X						
10789.7	The MAC shall provide the UPICs a list of HHAs with pending or accepted CAPs on a regular basis, i.e., at least monthly.			X						
10789.8	The MAC shall notify the HHA once the CAP has been reviewed and accepted.			X						
10789.9	The MAC shall convey the length of time the CAP will be in place.			X						
10789.10	The MAC shall periodically monitor the HHA's progress toward the proposed solutions prior to the end of the implementation period.			X						

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
10789.11	If the HHA is unable to resolve the issues with the CAP, the MAC shall consider additional corrective action, including RAP Suppression and/or referral to the UPIC.			X						
10789.12	Once the monitoring period has ended, the MAC shall formally inform the HHA of the outcome. This may include no additional action being taken, the monitoring period being extended or the implementation of additional corrective action, including but not limited to a CAP, as detailed in Pub. 100-08, Chapter 4, Section 4.5.3, based on other misuse identified.			X						
10789.13	Upon request by a UPIC, the MAC shall provide information regarding a CAP.			X						
10789.14	The MAC shall follow the CAP procedures detailed in Pub. 100-08, Chapter 4, section 4.5.3.3 - CAP Acceptance and Monitoring and Pub. 100-08, Chapter 4, section 4.5.3.4 - CAP Closeout.			X						
10789.15	At the conclusion of the original RAP Suppression Monitoring Period (typically 90 calendar days), the MAC shall inform the HHA of the outcome which may include either reinstatement of the HHA's RAP authorization or continuation of the RAP Suppression.			X						
10789.16	If an HHA fails to demonstrate adequate improvement regarding its billing practices and/or fails to submit an acceptable CAP, the MAC shall formally notify the HHA that the monitoring period and RAP Suppression will be extended			X						

Number	Requirement	Responsibility								
		A/B MAC			DME MAC	Shared-System Maintainers				Other
		A	B	HHH		FISS	MCS	VMS	CWF	
	for an additional period (typically 90 calendar days).									
10789.17	The MAC shall coordinate with the UPIC to determine if there is an open investigation concerning the HHA and appropriate next steps.			X						
10789.18	MACs and UPICs shall coordinate in accordance with Pub 100-08, Chapter 4 - Program Integrity and their Joint Operating Agreements.			X					UPICs	

**III. PROVIDER EDUCATION TABLE**

Number	Requirement	Responsibility				
		A/B MAC			DME MAC	CEDI
		A	B	HHH		
	None					

**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):** Thomas Kessler, 410-786-1991 or Thomas.kessler2@cms.hhs.gov , Marissa Petto, 212-616-2354 or marissa.petto@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 4 - Program Integrity

Table of Contents

*(Rev.817)*

### Transmittals for Chapter 4

4.5 – *Home Health Agency Misuse of Requests for Advance Payments*

## **4.5 - Home Health Agency Misuse of Requests for Anticipated Payments** (Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)

*This section applies to MACs who process Home Health claims.*

*Under the Prospective Payment System (PPS) Medicare makes a split percentage payment for most Home Health PPS episode periods. The first payment is for a Request for Anticipated Payment (RAP), and the last is for a claim. See Pub 100-04, Medicare Claims Processing Manual, Chapter 10, Home Health Agency Billing, for more detailed information regarding the processing of RAPs and final claims, including exceptions.*

*RAP payments were implemented in October 2000 when CMS moved home health services to the PPS payment model as directed in the Balanced budget Act of 1997 and are designed to ensure home health agencies have sufficient cash flow. 42 CFR § 409.43(c)(2) gives CMS the authority to cancel and recover RAPs unless the claim is submitted within the greater of 60 days from the end of the episode or 60 days from the issuance of the request for anticipated payment. In addition, 42 CFR § 409.43(c)(2) and Pub 100-02, MBPM, Chapter 7, section 10.6, convey CMS's authority to reduce or disapprove RAPs in situations when protecting Medicare program integrity warrants the action.*

*MACs may identify instances where a Home Health Agency's (HHA) use of RAPs indicates potential fraud, waste or abuse. Such instances should be rare and includes, but is not limited to situations where an HHA exhibits a high rate of final claims not being filed. Upon identifying misuse of RAPs, the MAC shall initiate corrective action. Corrective action includes, but is not limited to, education, warnings, Corrective Action Plans, RAP suppression, and referrals to the UPIC.*

### **4.5.1 - RAP Monitoring**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*MACs shall conduct routine (at least monthly) monitoring activities to account for potential misuse of RAPs. The focus of the monitoring is to identify providers exhibiting misuse of RAPs at the earliest possible time so that the MAC can intervene with the lowest degree of corrective action (e.g., education, warnings, corrective action plans, RAP suppression, and referrals to UPICs) necessary to resolve the problem(s). MACs have discretion to implement RAP suppression immediately, if warranted.*

*The ratios, percentages, etc., indicating likely misuse may vary according to the specific attributes of the HHA activities and metrics considered. MACs shall analyze an HHA's behavior in comparison to individual metrics as well as holistically. In general, a MAC's monitoring activities shall account for various situations where an HHA's behavior indicates potential fraud, waste, or abuse, including but not limited to:*

- *the number of final claims submitted is less than the number of RAPs submitted generally;*
- *the number of final claims submitted late resulting in RAPs being "auto-canceled";*
- *Variation in the number of RAPs submitted on key markers, including but not limited to:*
  - *comparable intervals, e.g., weekly, monthly, quarterly, yearly; and/or*
  - *beneficiaries, e.g., beneficiaries already receiving care, newly entering beneficiaries, beneficiaries with 2 or more admit dates during the same 60 day episode;*
  - *HHAs, e.g., the intensity of relationships between HHAs where at least one is already on RAP suppression; and*
- *Other behavior indicative of misuse.*

### **4.5.2 - Education and Additional Monitoring**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*In monitoring the use of RAPs, a MAC may identify potential misuse that is not significant enough to warrant immediate implementation of a Corrective Action Plan, RAP Suppression, etc., but may indicate the*

*need for additional education and monitoring. The MAC shall educate the HHA on the appropriate use of RAPs and monitor the HHA's use of RAPs for a reasonable period of time. Appropriate steps include calling the HHA to discuss the concerns identified, distributing educational materials to the HHA, and/or sending correspondence to the HHA. At a minimum, the MAC shall make clear to the HHA that:*

- the HHA's billing practices are inconsistent with Medicare policy guidelines;*
- the HHA's billing practices are being subjected to increased monitoring;*
- if improvement is not demonstrated upon completion of a reasonable monitoring period (e.g., 30 days), there is potential for additional future action, including Corrective Action Plans, RAP Suppression and/or referral to the UPIC; and*
- the MAC will convey next steps, if any, upon completion of the monitoring period.*

*Once the monitoring period has ended, the MAC shall inform the HHA of the outcome. This may include no additional action being taken, the monitoring period being extended or the implementation of additional corrective action, including but not limited to a Corrective Action Plan as detailed in Section 4.5.3.*

### **4.5.3 - Corrective Action Plans**

***(Rev. 817; Issued: 08-17-18; Effective: 9-17-18; Implementation: 09-17-18)***

*In monitoring an HHA's activities, a MAC may identify misuse of RAPs that warrants immediate implementation of a Corrective Action Plan (CAP). The purpose of the CAP is to ensure adherence to CMS regulations and that an HHA is implementing processes/internal controls to improve billing practices.*

#### **4.5.3.1 - Notification to the HHA**

***(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)***

*A MAC shall notify the HHA in writing that a CAP is required based on non-compliant billing practices; detail the misuse the MAC identified; indicate the anticipated length of the CAP; and advise the HHA regarding whether the HHA is also being placed on RAP suppression as detailed in section 4.5.4. RAP Suppression.*

#### **4.5.3.2 - CAP Submission**

***(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)***

*The HHA must submit the CAP within 14 calendar days from the date of the MAC's letter. In the CAP, the HHA must address the following:*

- A statement of the problem(s) or weakness(es) that caused the misuse of RAPs identified by the MAC.*
- The proposed solution(s) along with other pertinent information including time frames for resolving the problem(s).*
- The individual responsible for monitoring the CAP who will coordinate with the MAC.*
- Other relevant information.*

*If an HHA fails or refuses to submit a CAP, the MAC shall take immediate action to implement a RAP suppression in accordance with Section 4.5.4. and/or refer the HHA to the UPIC in accordance with Section 4.5.5.*

*The MAC shall provide the UPICs a list of HHAs with pending or accepted CAPs on a regular basis, i.e., at least monthly. The submission or acceptance of a CAP does not preclude UPIC from opening an investigation for potential fraud.*

#### **4.5.3.3 - CAP Acceptance and Monitoring**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*The MAC shall notify the HHA once the CAP has been reviewed and accepted. The MAC shall convey the length of time the CAP will be in place. Normally, CAPs will be implemented for a minimum of 30 calendar days, but the MAC may require a longer implementation period based on the specific problems/weaknesses. When CAPs are implemented with RAP Suppression the minimum implementation period is 90 calendar days. The MAC shall periodically monitor the HHA's progress toward the proposed solutions prior to the end of the implementation period.*

*When a HHA is placed on RAP suppression and a CAP, the MAC's acceptance of the CAP does not automatically reinstate RAP payments. Once the CAP has been submitted, the MAC will determine whether reinstatement of the RAP is appropriate.*

*If the MAC is unable to accept the CAP, the MAC has discretion to allow the HHA an additional period not to exceed 14 calendar days to resubmit. If the HHA is unable to resolve the issues with the CAP, the MAC shall consider additional corrective action, including RAP Suppression and/or referral to the UPIC.*

#### **4.5.3.4 - CAP Closeout**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*Once the monitoring period has ended, the MAC shall formally inform the HHA of the outcome. This includes no additional action being taken, the monitoring period being extended or the implementation of additional corrective action, including but not limited to a Corrective Action Plan as detailed in Section 4.5.3, based on other misuse identified.*

*Upon request by a UPIC, the MAC shall provide information regarding a CAP.*

#### **4.5.4 - RAP Suppression**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*In certain situations, a MAC may identify misuse of RAPs that warrants immediate RAP Suppression in accordance with 42 CFR § 409.43(c)(2). RAP Suppression entails all RAP payments submitted by an HHA being set to process with zero payment. The purpose of RAP Suppression is to ensure that an HHA initiates immediate changes to processes/internal controls to improve billing practices and adhere to CMS regulations. When a RAP Suppression is in place, payments will only be made when the final claim is received and processed. Note that in some situations, a UPIC may request that a MAC place an HHA on RAP Suppression.*

##### **4.5.4.1 - Notice of RAP Suppression**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*A MAC must notify the HHA in writing that RAP Suppression is being instituted as soon as practicable after the MAC determines with reasonable certainty that the HHA is engaging in unacceptable billing practices; detail the misuse the MAC identified; and indicate the anticipated length of the RAP Suppression. Note that RAP Suppression can be implemented in conjunction with a CAP under Section 4.5.3. Correction Action Plans.*

##### **4.5.4.2 - Monitoring During RAP Suppression**

**(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)**

*Once a RAP Suppression is instituted, the MAC will monitor the HHA's progress on a regular basis (e.g., weekly). The HHA must submit a CAP in accordance with Section 4.5.4.2. The MAC shall follow the CAP procedures detailed in sections 4.5.3.3. CAP Acceptance and Monitoring and 4.5.3.4. CAP Closeout.*

*At a minimum, a RAP Suppression will be in place for 90 calendar days. If warranted, a MAC may extend the RAP Suppression before the 90 day period ends.*

#### ***4.5.4.3 - Result of Initial RAP Suppression Monitoring Period***

***(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)***

*At the conclusion of the original RAP Suppression Monitoring Period (typically 90 calendar days), the MAC shall inform the HHA of the outcome which may include either reinstatement of the HHA's RAP authorization or continuation of the RAP Suppression.*

##### ***4.5.4.3.1 - Reinstatement of RAP Authorization***

***(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)***

*Once an HHA has demonstrated adequate improvement regarding its billing practices and maintains the improvement, the MAC has discretion to reinstate an HHA's ability to submit RAPs except when the RAP Suppression was initiated at the request of a UPIC.*

##### ***4.5.4.3.2 - Continuation of RAP Suppression***

***(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)***

*If an HHA fails to demonstrate adequate improvement regarding its billing practices and/or fails to submit an acceptable CAP, the MAC shall formally notify the HHA that the monitoring period and RAP Suppression will be extended for an additional period (typically 90 calendar days).*

*Once an HHA has demonstrated improvement regarding its billing practices and maintains the improvement, the MAC has discretion to reinstate a HHA's ability to submit RAPs.*

#### ***4.5.5 - Coordination and Referral to the UPIC***

***(Rev. 817; Issued: 08-17-18; Effective: 09-17-18; Implementation: 09-17-18)***

*Throughout the RAP monitoring and suppression process (prior to contacting an HHA for education or other corrective actions, e.g., CAPs, RAP Suppression; or prior to the continuation or removal of a RAP suppression, the MAC shall coordinate with the UPIC to determine if there is an open investigation concerning the HHA and appropriate next steps. If there is an open investigation on the HHA, the MAC shall immediately refer their findings to the UPIC and take no further action unless otherwise agreed upon.*

*A MAC may determine that an HHA's misuse of RAPs and/or other conduct, such as an HHA's failure to respond to requests/queries during periods of increased monitoring, CAPs, etc., warrants immediate referral to the appropriate UPIC. MACs and UPICs shall coordinate in accordance with Pub 100-08, Medicare Program Integrity Manual, Chapter 4, Program Integrity and their Joint Operating Agreements.*