

CLIENT ALERTS

CMS Continues to Freeze Out Home Health Agencies and Ambulance Suppliers in HEAT Locations with another 6-month Extension of Moratorium on New Enrollment

2.9.2015

The deep freeze that has been sweeping across the nation is not the only chill in the air. On January 29, 2015, the U.S. Department of Health & Human Services, Centers for Medicare and Medicaid Services ("CMS"), extended for another 6-months the moratorium freezing enrollment of Home Health Agencies ("HHA") and Ambulance Suppliers in federal healthcare programs, including Medicare, Medicaid, and CHIP. The Initial moratorium was effective January 30, 2014 and extended an additional 6 months in July 2014. A similar restriction has been in force in areas surrounding Chicago and Miami since July 2013.

This action was taken pursuant to authority granted in the Affordable Care Act and its enabling regulations. Under the moratoria, new enrollment in federal healthcare programs for HHAs and Ambulance Suppliers are temporarily frozen in certain geographic areas that CMS, in consultation with federal law enforcement agencies (including the Department of Justice and the Office of Inspector General), has determined pose a significant potential for fraud, waste and abuse and that the circumstances warranting the imposition of the moratorium still exist to continue its enforcement. Southeast Michigan continues to be included in the action affecting HHAs.

With the extension of the Moratorium, enrollment in federal healthcare programs for HHAs is on hold in the following geographic areas: Detroit, Michigan; Ft. Lauderdale, Florida; Dallas, Texas; Houston, Texas; Chicago, Illinois and Miami, Florida. Similarly, the extension of the moratorium to ground ambulance suppliers continues in Philadelphia, PA, and six surrounding counties in Pennsylvania and New Jersey, as well as ambulance suppliers in eight counties surrounding Houston, Texas.

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With limited exceptions that were detailed in an earlier Client Alert, once imposed, affected providers cannot challenge the imposition of the moratorium judicially. Only administrative challenges are available and only on the limited issue of whether the moratorium applies to the applicant.

Butzel Long attorneys have experience with HEAT Strike Force enforcement efforts in the Detroit area. Our attorneys have represented healthcare practitioners and providers who have been charged with Medicare and Medicaid fraud related to the provision of HHA services. We understand how disruptive such charges can be on medical practices and HHA operations, and we have worked not only in defending criminal charges, but also in vigorously assisting our clients in regulatory and civil litigation that often flows from allegations of fraud and abuse.

If you have questions regarding this moratorium, other matters involved HHAs or Ambulance providers, or other health care law matters generally, please contact your regular Butzel Long attorney, the authors of this alert, or any member of Butzel Long's Health Care Industry Group.