DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

The "September 2013 ICD-10-CM/PCS Billing and Payment Frequently Asked Questions" Fact Sheet (ICN 908974) was released and is now available in downloadable format. This fact sheet is designed to provide education on the International Classification of Diseases, 10th Edition, Clinical Modification/Procedure Coding System (ICD-10-CM/PCS). It includes the following information: ICD-10-CM/PCS compliance date and billing and payment Frequently Asked Questions.

MLN Matters® Number: MM8394	Related Change Request (CR) #: CR 8394
Related CR Release Date: December 13, 2013	Effective Date: January 15, 2014 - This process is currently in effect and this is a clarification through a manual update.
Related CR Transmittal #: R495PI	Implementation Date: January 15, 2014

Recalcitrant Provider Procedures

Provider Types Affected

This MLN Matters® Article is intended for physicians, other providers, and suppliers submitting claims to Medicare Administrative Contractors (MACs), including Durable Medical Equipment Medicare Administrative Contractors (DME MACs), for services or items to Medicare beneficiaries.

What You Need To Know

The CR that this article refers to how MACs will address recalcitrant providers and suppliers. The Centers for Medicare & Medicaid Services (CMS) has learned from contractors that some providers are abusing the Medicare program and not changing inappropriate behavior even after contractors provide them extensive education to address these behaviors. These noncompliant providers who refuse to comply with CMS rules, result in contractors' placing these providers on prepay medical review and causing an administrative burden.

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Background

Over the years, CMS has heard from Medicare contractors that some providers are abusing the Medicare program; and, even after extensive educational efforts, do not change their inappropriate behavior.

Notes: In this context:

1. Providers are defined as both providers and suppliers, under their current definitions found in the Code of Federal Regulations (CFR) at 42 CFR, Section 400.202); and

2. Recalcitrant providers are defined as those who abuse the Medicare program and do not change their inappropriate behavior even after their Medicare contractors have given them extensive provider education addressing these behaviors.

The behavior of these recalcitrant providers who refuse to comply with CMS requirements has resulted in their being placed on prepay medical review for long periods of time, requiring the extensive use of contractor resources; that (while, indeed, protecting Trust Fund dollars) would be better utilized for other types of more productive oversight activity.

Accordingly, CMS is encouraging contractors to take advantage of current sanctions to address this problem of recalcitrant providers. The two authorities that may be appropriate to impose such a sanction are 1128A (a)(1)(E) of the Social Security Act (the Act), or 1128(b)(6)of the Act; which you can find at http://www.ssa.gov/OP_Home/ssact/title11/1128.htm on the internet. Both of these sanctions are delegated to the Office of the Inspector General (OIG), who will work with CMS to pursue these cases.

CR 8394, from which this article is taken, updates chapter 4 Section 4.27 of the "Medicare Program Integrity Manual" by adding a section formalizing the process for addressing recalcitrant providers and suppliers.

NOTE: Any provider referred as a potential recalcitrant provider case should be an “outlier,” meaning a provider who has been the least receptive to changing and has a significant history of non-compliance. For any case submitted, it is important to remember that different mitigating or aggravating circumstances may need to be applied.

Additional Information

The official instruction, CR 8394, issued to your MAC regarding this change is available at http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R495PI.pdf on the CMS website. You will find the updated "Medicare Program Integrity Manual," Chapter 4 (Benefit Integrity), Section 27 (Recalcitrant Providers) as an attachment to that CR.

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If you have any questions, please contact your MAC at their toll-free number, which is available at http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html on the CMS website.

News Flash - Generally, Medicare Part B covers one flu vaccination and its administration per flu season for beneficiaries without co-pay or deductible. Now is the perfect time to vaccinate beneficiaries. Health care providers are encouraged to get a flu vaccine to help protect themselves from the flu and to keep from spreading it to their family, co-workers, and patients. Note: The flu vaccine is not a Part D-covered drug. For more information, visit:

- MLN Matters® Article #MM8433, "Influenza Vaccine Payment Allowances - Annual Update for 2013-2014 Season"
- MLN Matters® Article #SE1336, "2013-2014 Influenza (Flu) Resources for Health Care Professionals"
- HealthMap Vaccine Finder - a free, online service where users can search for locations offering flu and other adult vaccines. While some providers may offer flu vaccines, those that don't can help their patients locate flu vaccines within their local community.
- The CDC website for Free Resources, including prescription-style tear-pads that allow you to give a customized flu shot reminder to patients at high-risk for complications from the flu.

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