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Medicare Claims Processing Manual, Chapter 30 Revisions

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Related CR Transmittal Number: R4197CP | Implementation Date: April 15, 2019

PROVIDER TYPES AFFECTED

This MLN Matters Article is for physicians, providers, and suppliers billing Medicare Administrative Contractors (MACs) for services provided to Medicare beneficiaries.

WHAT YOU NEED TO KNOW

CR10848 revises the Medicare Claims Processing Manual, Chapter 30. The current policy in Chapter 30 is not changing. The Centers for Medicare & Medicaid Services (CMS) is revising the chapter to provide improved formatting and readability. CMS also added a glossary to assist you with common terminology within the chapter. The revised chapter is attached to CR10848. Make sure your billing staffs are aware of these changes.

BACKGROUND

As a reminder, the Financial Liability Protections (FLP) provisions of the Social Security Act (the Act) protect beneficiaries, healthcare providers, and suppliers under certain circumstances from unexpected liability for charges associated with claims that Medicare does not pay. The FLP provisions apply after Medicare makes a coverage determination for an item or service. CMS outlines the following FLP provisions in CR10848:

- Limitation on Liability (LOL) under Section 1879(a)-(g) of the Social Security Act (the Act)
- Refund Requirements (RR) for Non-assigned Claims for Physicians Services under Section 1842(l) of the Act
- RR for Assigned and Non-assigned Claims for Medical Equipment and Supplies under Sections 1834(a)(18), 1834(j)(4), and 1879(h) of the Act.

In most cases, the FLP provisions apply only to beneficiaries enrolled in the Original Medicare Fee-For-Service (FFS) program Parts A and B. The FLP provisions apply only when both of the following conditions are met:

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- Medicare denies payment for Items and/or services on the basis of specific statutory provisions

- Provider likely had knowledge that Medicare was likely to deny payment for the items and/or services

The LOL provisions, Section 1879(a)-(g) of the Act, fall under the FLP provisions and provide financial relief and protection to beneficiaries, health care providers, and suppliers by permitting Medicare payment to be made, or requiring refunds, for certain items and/or services for which Medicare payment would otherwise be denied. When it is determined that a review falls under the LOL provisions, evidence must show that either a healthcare provider, supplier or the beneficiary knew or should have known that Medicare was going to deny payment on the item or service.

42 Code of Federal Regulations (CFR) 411.404 provides criteria for beneficiary knowledge based on written notice. However, Section 1879(a)(2) of the Act specifies only that knowledge must not exist in order to apply the LOL provision. Beneficiary knowledge is established when the health care provider/supplier gives a valid written notice (such as issuing an Advance Beneficiary Notice of Non-coverage (ABN), Form CMS-R-131). Beneficiary knowledge may be established when the beneficiary receives notice of a recent claim denial for the same item or service.

If the health care provider/supplier had actual knowledge of the non-coverage of item and/or service in a particular case, could reasonably have been expected to have such knowledge or the beneficiary was shown not to have knowledge (found not liable), the Medicare program will not make a payment to the healthcare provider/supplier.

Generally, Medicare provides forms (for example, the ABN, Form CMS-R-131, Skilled Nursing Facility ABN, Form CMS-10055) for health care providers and suppliers to use as a way to provide written notice to beneficiaries. The health care provider/supplier should issue the applicable written notice each time, and as soon as it makes the assessment that Medicare payment certainly or probably will not be made in order to transfer potential financial liability to the beneficiary. The written notice allows the beneficiary to:

- Make an informed decision whether or not to receive the item and/or service

- Better participate in his/her own health care treatment decisions

A health care provider/supplier should follow specific written notice standards when issuing the written notice as evidence of the beneficiary's knowledge for the purposes of the FLP provisions.

ADDITIONAL INFORMATION

The official instruction, CR10848, issued to your MAC regarding this change is available at

https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2019Downloads/R4197CP.pdf. The revised Medicare Claims Processing Manual, Chapter 30 is part of the CR.

If you have questions, your MACs may have more information. Find their website at http://go.cms.gov/MAC-website-list

DOCUMENT HISTORY

Date of Change	Description
January 11, 2019	Initial article released.