CMS Manual System	**Department of Health & Human Services (DHHS)**
Pub 100-20 One-Time Notification	**Centers for Medicare & Medicaid Services (CMS)**
Transmittal 1106	**Date: August 2, 2012**
	Change Request 7877

SUBJECT: Posting the Limiting Charge after Applying the e-Prescribing (eRx) Negative Adjustment

I. SUMMARY OF CHANGES: The purpose of this Change Request (CR) is to place the eRx Negative Adjustment Limiting charge amount on contractor web sites and hard copy disclosure reports.

EFFECTIVE DATE: January 1, 2013
IMPLEMENTATION DATE: January 7, 2013

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.*

R/N/D	CHAPTER / SECTION / SUBSECTION / TITLE
N/A	

III. FUNDING:
For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:
No additional funding will be provided by CMS; Contractors activities are to be carried out with their operating budgets

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 obliged 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:

One-Time Notification

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

Attachment – One Time Notification

Pub. 100-20	Transmittal: 1106	Date: August 2, 2012	Change Request: 7877

SUBJECT: Posting the Limiting Charge after Applying the e-Prescribing (eRx) Negative Adjustment

Effective Date: January 1, 2013

Implementation Date: January 7, 2013

I. GENERAL INFORMATION

A. Background: Beginning on January 1, 2012, eligible professionals (EPs) who are not successful electronic prescribers are subject to a negative payment adjustment. Section 132 of the Medicare Improvements for Patients and Providers Act of 2008 (P.L. 110-275) (MIPPA) requires CMS to apply this negative payment adjustment to any EP who is not a successful e-prescriber under the eRx Incentive Program.

Specifically, section 1848(a)(5)(A) of the Act states that:
"If the eligible professional is not a successful electronic prescriber for the reporting period for the year (as determined under subsection (m)(3)(B)), the fee schedule amount for such services furnished by such professional during the year (including the fee schedule amount for purposes of determining a payment based on such amount) shall be equal to the applicable percent of the fee schedule amount that would otherwise apply to such services under this subsection (determined after application of paragraph (3) but without regard to this paragraph)."

The negative payment adjustment applies to all EPs, regardless of whether the EP elects to be "participating" or "non-participating" for purposes of Medicare payments. The 2012 payment adjustment applies to all of the EP's Medicare Physician Fee Schedule (MPFS) services and will result in the EP receiving 99% of the MPFS amount that would otherwise apply to such services during 2012. In other words, an EP receiving the negative payment adjustment would be paid 1% less than the MPFS amount for that service. In 2013, the negative payment adjustment increases to 1.5%, or payment of 98.5% of MPFS amount for covered professional services furnished in 2013, and in 2014, the negative payment adjustment is 2%, or payment of 98% of MPFS amount for covered professional services furnished in 2014.

B. Policy: Non- participating EPs in the Medicare program may choose either to accept or not accept assignment on Medicare claims on a claim-by-claim basis. If EPs choose not to accept assignment, they may not charge the beneficiary more than the Medicare limiting charge for unassigned claims for Medicare services. The limiting charge is 115 percent of the MPFS amount. The beneficiary is not responsible for billed amounts in excess of the limiting charge for a covered service.

Non-participating, non-assigned EPs are paid 95% of the fee schedule amount. For example, if the MPFS amount is $100 and the beneficiary's Part B deductible has already been met, Medicare would pay the beneficiary $76 ($95 x 80%=$76) and the non-participating physician may collect $109.25 ($95 x 115%= $109.25) in total for the service. Therefore, the beneficiary would pay $33.25 ($109.25-$76=$33.25) out of his/her pocket for the service.

In cases where the EP is subject to the eRx Negative Adjustment the limiting charge is adjusted to reflect the adjustment. For example, if the MPFS amount is $100, the beneficiary's Part B deductible has already been met, and the EP is subject to the eRx Negative Adjustment, Medicare would pay the beneficiary $75.24 ($94.05 x 80%=$75.24) and the non-participating physician may collect $108.16 ($94.05 x 115%= $108.15.75) in total for the service. Therefore, the beneficiary would pay $32.92 ($108.16-$75.24=$32.92) out of his/her pocket for the service.

Non-participating, non-assigned EPs may choose to collect the entire amount up front from the beneficiary at the time of service

Examples
Non-Par Non-Assigned Claim No eRx Adjustment
Original Fee Schedule Amount: $100
5% non-PAR status: $5 (100 x .05)
Adjustment Total $5.00
MPFS Allowed Amount $100-$5.00= $95.00
Limiting Charge Allowed= $95.00 x 115%= $109.25

Non-Par Non-Assigned Claim with eRx Adjustment
Original Fee Schedule Amount: $100
5% non-PAR status: $5 (100 x .05)
1% ERx negative adjustment $.95 (95 x.01)
Adjustment Total $5.95
MPFS Allowed Amount $100-$5.95= $94.05
Limiting Charge Allowed= $94.05 x 115%= $108.1575

Submission of a non-par, non-assigned MPFS service with a charge in excess of the Medicare limiting charge amount constitutes a violation of the limiting charge. A provider who violates the limiting charge is subject to assessments of up to $10,000 per violation plus triple the amount of the charges in violation, and possible exclusion from the Medicare program. Therefore it is crucial that EPs are provided with the correct limiting charge they may bill for a MPFS service.

The purpose of this CR is to place the eRx Negative Adjustment Limiting charge amount on contractor web sites and hard copy disclosure reports.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
7877.1	In accordance with the MPFS update, contractors shall list and display the limiting charge amount after applying the eRx negative adjustment on their respective Web sites for EPs to access. **NOTE: As CMS implements additional payment adjustments, contractors should be prepared to list and display the correct limiting charge amounts for these adjustments as well.**	X			X						
7877.2	MCS shall update the hard copy disclosure report to list and display the limiting charge amount after applying the eRx negative adjustment.							X			
7877.2.1	MCS shall include the message below on the hard copy disclosure report to explain the eRx reduced limiting charge. "Limiting charge reduced based on status as an unsuccessful e-prescriber per the Electronic Prescribing (eRx) Incentive Program"							X			
7877.3	Contractors shall name the new display column "eRx limiting charge" in order to distinguish it from the current limiting charge display column.	X			X						
7877.4	Contractors shall list and display the eRx limiting charge amounts each time a new physician fee schedule is posted, except when the eRx negative adjustment is no longer in effect.	X			X						
7877.5	Contractors shall add "eRx limiting charge" to the format listed in CR 7573.2 to their Web site.	X			X						
7877.6	Contractors shall educate EPs via their Web site in addition to other provider outreach vehicles that the eRx limiting charges will be placed on the contractor Web site.	X			X						
7877.7	Contractors shall inform EPs via their listserv when the eRx limiting charges are posted to their Web site.	X			X						

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
7877.8	A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X			X						

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below:

Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:
7877.1	CR7387 CR 7573

Section B: For all other recommendations and supporting information, use this space: N/A

V. CONTACTS

Pre-Implementation Contact(s):
Cynthia Thomas at 410-786-8169 or cynthia.thomas@cms.hhs.gov;
Mark Baldwin at 410-786-8139 or mark.baldwin@cms.hhs.gov
E-Prescribing Policy: Christine Estella at 410-786-0485 or christine.estella@cms.hhs.gov

Post-Implementation Contact(s):

Contact your Contracting Officer's Representative (COR) or Contractor Manager, as applicable.

VI. FUNDING

Section A: For *Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs),* and/or *Carriers*:
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Section B: *For Medicare Administrative Contractors (MACs)*:

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