CMS Manual System	Department of Health & Human Services (DHHS)
Pub. 100-01 Medicare General Information, Eligibility, and Entitlement	Centers for Medicare & Medicaid Services (CMS)
Transmittal 13	Date: OCTOBER 29, 2004
	CHANGE REQUEST 2923

SUBJECT: Medicare Termination of Beneficiaries With End Stage Renal Disease (ESRD)

I. SUMMARY OF CHANGES: This change request does not revise Medicare policies. These instructions relate to a subset of Medicare beneficiaries. We are notifying the contractors not to assess overpayments for service dates prior to the official notice of termination in November 2003, even if under Part A there was a retroactive period of termination. The Centers for Medicare & Medicaid Services (CMS) made this no fault determination decision. As described below, ESRD beneficiaries should have been terminated from Part A coverage prior to December 1999 but it did not happen.

The Center for Beneficiary Choices (CBC) and the Office of Clinical Standards and Quality (OCSQ) have identified beneficiaries whose Medicare coverage under the ESRD provisions should have ended prior to December 1999, but did not.

However, prior to 1999, CMS and SSA used various methods to track and control ESRD records for Medicare termination, but subsequently discovered that beneficiaries were not being terminated from the Medicare rolls in a timely manner.

We have terminated in November 2003 Medicare coverage retroactively for approximately 8,000 individuals for Part A services, but will not hold the beneficiaries nor the providers financially liable for items and services received prior to the formal notice of Medicare termination to the extent that another third party payer has not voluntarily made or does not voluntarily make a primary payment for any items and services.

NEW/REVISED MATERIAL - EFFECTIVE DATE*: April 1, 2005
**   IMPLEMENTATION DATE: April 4, 2005**

II. SCHEDULE OF CHANGES (R = REVISED, N = NEW, D = DELETED)

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

III. FUNDING: Medicare contractors shall implement these instructions within their current operating budgets.

These instructions should be implemented within your current operating budget.

IV. ATTACHMENTS:

	Business Requirements
	Manual Instruction
	Confidential Requirements
X	One-Time Notification
	Recurring Update Notification

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

Attachment - Business Requirements

Pub. 100-01	Transmittal: 13	Date: October 29, 2004	Change Request 2923

SUBJECT: Medicare Termination of Beneficiaries With End Stage Renal Disease (ESRD)

I.   GENERAL INFORMATION - This change request does not implement new overpayment policies. These instructions relate to a subset of Medicare beneficiaries. We are notifying the contractors not to assess overpayments for service dates prior to the official notice of Part A termination in November 2003. The Centers for Medicare & Medicaid Services (CMS) made this no fault determination decision.

A.   Background: Under section 226A(b)(2) of the Social Security Act (the Act), Medicare Part A benefits based on ESRD shall end 36 months after the month the individual receives a kidney transplant or 12 months after the month in which the individual who has not received a kidney transplant no longer requires a regular course of dialysis.

We have terminated Medicare coverage retroactively for approximately 8,000 individuals for Part A services, but will not hold the beneficiaries or the providers financially liable for items and services received prior to the formal notice of Medicare termination to the extent that another third party payer has not voluntarily made or does not voluntarily make a primary payment for any items and services.

Entitlement for individuals with ESRD is governed under section 226A of the Act. The contractor will not seek to recover any payments that Medicare previously made for Part A covered items and services. In instances where another third party payer has voluntarily made or voluntarily makes a primary payment for the items and services to the individual or other entity that Medicare paid, the contractor will recover the Medicare payments, if the third party payer voluntarily repays Medicare its primary payment. Rather than paying the individual or other entity that Medicare paid, the contractor shall accept the payment.

The first group of individuals that have been identified for termination are those individuals who were entitled to Medicare on the basis of ESRD only, underwent one kidney transplant or one period of dialysis, and had one Medicare coverage period.

B.   Policy: Termination process

The Social Security Administration (SSA) in November 2003 terminated Medicare coverage and issued a notice to each beneficiary. The notice provides the date(s) that Medicare coverage ends and gives the beneficiary the right to file an appeal.

C.   Provider Education:

A Medlearn Matters provider education article related to this instruction will be available at www.cms.hhs.gov/medlearn/matters shortly after the CR is released. You will receive notification of the article release via the established "medlearn 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 1 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 Medlearn

Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.

II. BUSINESS REQUIREMENTS

"Shall" denotes a mandatory requirement
"Should" denotes an optional requirement

Requirement Number	Requirements	Responsibility ("X" indicates the columns that apply)								
		FI	RHHI	Carrier	DMERC	Shared System Maintainers				Other
						FISS	MCS	VMS	CWF	
2923.1	The intermediary shall not issue demand letters or recoup Part A payments made to fee-for service providers who have received payments on behalf of these individuals who have been terminated from the program retroactively for Part A. The period for not issuing demand letters or recouping Part A payments is the period on or after the date of Part A termination up to the final notice of termination of coverage from SSA which is November 2003.	X	X			X				
2923.2	In order for the contractors to identify the records of the terminated individuals to ensure that the overpayments are not created and payment is made for services received after the Part A termination date but which occurred prior to December 1, 2003, we will set up a process so that the Common Working File (CWF) will be able to identify the beneficiaries that were terminated from Part A retroactively. For example, when a contractor receives a claim it has a choice to either pay the claim or not pay the claim. If the contractor goes into CWF and sees the beneficiary is eligible for Medicare it should pay the claim. If it sees a Part A termination date ranging from January 1974 through December 1999 the claim should be run through this separate file. A separate file will be created using the file that was sent to the Social Security Administration (SSA) which shows the retroactive Part A termination dates. The	X	X			X			X	

Requirement Number	Requirements	FI	RHHI	Carrier	DMERC	Shared System Maintainers				Other
						FISS	MCS	VMS	CWF	
	separate file will be used to flag the beneficiaries and manually suspend claims and allow an override capability to occur, rather than automatically reject them from CWF.									
2923.3	The intermediary shall not at a later date reopen cost reports or claims paid for the purpose of recouping these payments for services made to fee-for service providers who have received payments on behalf of these individuals who will be terminated from the program retroactively for Part A. However, in cases where the Intermediary becomes aware of the fact that it has not paid these claims or has instituted payment recovery based on the Part A termination date, the claims should be paid and cost reports should reflect payment for these services.	X	X			X				
2923.4	In cases where the intermediary did recoup Part A payments from providers' payments, based on the retroactive termination date, prior to receiving these instructions, the intermediary shall stop recouping money in these cases and shall reapply the money that was recouped to the providers' payments.	X	X			X				
2923.5	The intermediary shall recover the Medicare payment if it learns that another third party payer has voluntarily made or voluntarily makes a primary payment to the individual or entity that Medicare paid for certain items or services made to fee-for service providers who have received payments on behalf of those individuals who were terminated from the program retroactively for Part A. The provider may not keep the two payments. The intermediary shall tell the provider that Medicare's payment was not appropriate under these circumstances.	X	X			X				

Requirement Number	Requirements	Responsibility ("X" indicates the columns that apply)								
		F I	R H H I	C a r r i e r	D M E R C	Shared System Maintainers				Other
						F I S S	M C S	V M S	C W F	
2923.6	The intermediary shall post a notice on either its contractor bulletin boards or in a contractor newsletter with the following language which will be made available to them through the provider education article that the contractors must use. "The Centers for Medicare & Medicaid Services (CMS) have identified beneficiaries whose Medicare coverage under the end stage renal disease (ESRD) provisions should have ended prior to December 1999, but did not.	X	X			X				
	Under section 226A(b)(2) of the Social Security Act (the Act), Medicare benefits based on ESRD shall end 36 months after the month the individual receives a kidney transplant or 12 months after the month in which the individual who has not received a kidney transplant and no longer requires a regular course of dialysis.									
	CMS has terminated Medicare coverage retroactively for approximately 8,000 individuals for Medicare Part A services, but will not hold the beneficiaries nor the providers financially liable for items and services received prior to the formal notice of Medicare termination to the extent that a another third party payer has not voluntarily made or does not voluntarily make a primary payment for any items and services.									
	Entitlement for individuals with ESRD is governed under section 226A of the Act. You will not seek to recover any payments that Medicare previously made for covered Part A items and services. In instances where another third party payer has voluntarily made or voluntarily makes a primary payment for the									

Requirement Number	Requirements	Responsibility ("X" indicates the columns that apply)								
		FI	RHHI	Carrier	DMERC	Shared System Maintainers				Other
						FISS	MCS	VMS	CWF	
	items and services to the individual or other entity that Medicare paid, you will recover the Medicare payments, if the third party payer voluntarily repays Medicare its primary payment. Rather than paying the individual or other entity that Medicare paid, the contractor shall accept the payment."									
2923.7	The intermediary shall recoup and send demand letters by way of the specified remittance advice remark code in cases where claims are paid for dates of service after November 2003, the final notice of termination of coverage effective date for Part A. In these cases, the normal recovery process including establishing accounts receivables will then be necessary	X	X		X					

III.   SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS

A.   Other Instructions: N/A

X-Ref Requirement #	Instructions

B.   Design Considerations: N/A

X-Ref Requirement #	Recommendation for Medicare System Requirements

C.   Interfaces: N/A

D.   Contractor Financial Reporting /Workload Impact: N/A

E.   Dependencies: N/A

F.   Testing Considerations: N/A

IV. SCHEDULE, CONTACTS, AND FUNDING

Effective Date*: April 1, 2005 **Implementation Date:** April 4, 2005 **Pre-Implementation Contact(s):** Jacqueline S. Gordon (410) 786-4517 **Post-Implementation Contact(s):** Jacqueline S. Gordon (410) 786-4517	**Medicare Contractors shall implement these instructions within their current operating budgets.**

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