CMS Manual System

Pub. 100-02 Medicare Benefit Policy

Department of Health & Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

Transmittal 45 **Date: FEBRUARY 10, 2006**

CHANGE REQUEST 4218

SUBJECT: Revisions to Instructions for Contractors Other Than the Religious Nonmedical Health Care Institution (RNHCI) Specialty Contractor Regarding Claims for Beneficiaries with RNHCI Elections

I. SUMMARY OF CHANGES: This transmittal revised existing sections and creates new sections outlining benefit policy for religious nonmedical health care institution (RNHCI) services. The sections include information previously found in Pub. 100-01, Medicare General Information, Eligibility and Entitlement Manual, chapter 5 and Pub.100-04, Medicare Claims Processing Manual, chapter 2.

NEW/REVISED MATERIAL - EFFECTIVE DATE: May 11, 2006
***IMPLEMENTATION DATE: May 11, 2006**

Disclaimer for manual changes only: The revision date and transmittal number apply to the red italicized material only. 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:
(R = REVISED, N = NEW, D = DELETED)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	1/Table of Contents
R	1/130/Religious Nonmedical Health Care Institution (RNHCI) Services
R	1/130.1/Beneficiary Eligibility for RNHCI Services
R	1/130.2/Election of RNHCI Benefits
N	1/130.2.1/Revocation of RNHCI Election
N	1/130.2.2/RNHCI Election After Prior Revocation
N	1/130.3/Medicare Payment for RNHCI Services and Beneficiary Liability
N	1/130.4/Coverage of RNHCI Items Furnished in the Home
N	1/130.4.1/Coverage and Payment of Durable Medical Equipment Under the RNHCI Home Benefit
N	1/130.4.2/Coverage and Payment of Home Visits Under the RNHCI Home Benefit

***III. FUNDING:**

No additional funding will be provided by CMS; Contractor activities are to be carried out within their FY 2006 operating budgets.

IV. ATTACHMENTS:

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

***Medicare contractors only**

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

Medicare Benefit Policy Manual

Chapter 1 - Inpatient Hospital Services Covered Under Part A

Table of Contents

(Rev. 45, 02-10-06)

130 - *Religious Nonmedical Health Care Institution (RNHCI) Services*

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

Section 1821 of the Social Security Act provides for coverage of services furnished in a Medicare qualified religious nonmedical health care institution (RNHCI), when the beneficiary meets specific coverage conditions. The beneficiary must have a valid election for RNHCI services and would otherwise qualify for care in a conventional hospital or post hospital extended care facility that was not a religious nonmedical health care institution.

The RNHCI benefit provides only for Part A inpatient services. The Medicare program will only pay for nonmedical health care services furnished in RNHCIs, as defined in Section 1861(ss)(1) of the Act and 42 CFR 403 Subpart G. The program does not pay for supporting religious services or payment for the religious practitioner. The cost of religious items/services and the cost of using a religious practitioner is a personal financial responsibility and not covered by Medicare.

130.1 - *Beneficiary Eligibility for RNHCI Services*

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

A beneficiary may elect to receive care in an RNHCI based on his or her own religious convictions or to revoke that election at any time if for any reason he or she decides to pursue medical care. Section 1821(a) of the Act requires that as a condition for Part A Medicare coverage, the beneficiary must have a condition that would qualify under Medicare Part A for inpatient hospital services or extended care services furnished in a hospital or skilled nursing facility that is not an RNHCI if it were not for their religious convictions.

When a beneficiary has an effective election on file with CMS but does not have a condition that would qualify for Medicare Part A inpatient hospital or posthospital extended care services if the beneficiary were an inpatient of a hospital or a resident of a SNF that is not an RNHCI, then services furnished in an RNHCI are not covered by Medicare. A Medicare claim for services that were furnished to that beneficiary would be treated as a claim for noncovered services. If the beneficiary only needs assistance with activities of daily living, then the beneficiary's condition could not be considered as meeting the Medicare Part A requirements. Prior to submitting a claim to Medicare it is the responsibility of the RNHCI's utilization review committee to determine that the beneficiary meets the Medicare Part A requirements.

If no valid election is filed or the election has been revoked and no new election is in effect, the beneficiary does not have Medicare coverage for services furnished in an RNHCI. Consequently, a Medicare claim for services furnished to such a beneficiary would also be treated as a claim for noncovered services.

In those cases where a beneficiary is admitted to an RNHCI with a valid election, the submission of prior claim for medical services to the Common Working File will revoke the election during the course of the RNHCI stay. If this is the first revocation, the beneficiary may make a new election without any disruption to the benefit. If this, however, is the second or subsequent revocation, the applicable waiting period applies and the remainder of the stay is not covered by Medicare (see 130.2.2).

130.2 - *Election of RNHCI Benefits*

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

For an RNHCI to receive payment under the Medicare program, the beneficiary must make a written election to receive benefits under §1821 of the Act. To elect religious nonmedical health care services, the beneficiary or the beneficiary's legal representative must attest that the individual is conscientiously opposed to acceptance of nonexcepted medical treatment, and the individual's acceptance of such treatment would be inconsistent with the individual's sincere religious beliefs.

Religious non-medical care or religious method of healing means health care furnished under established religious tenets that prohibit conventional or unconventional medical care for the treatment of a beneficiary, and the sole reliance on these religious tenets to fulfill a beneficiary's total health care needs.

Medical care or treatment means health care furnished by or under the direction of a licensed physician that can involve diagnosing, treating, or preventing disease and other damage to the mind and body. It may involve the use of pharmaceuticals, diet, exercise, surgical intervention, and technical procedures.

The signed and notarized election must include a statement that the receipt of nonexcepted medical services would constitute a revocation of the election and may limit further receipt of payment of religious nonmedical health care services. The election is effective on the date it is signed, and it remains in effect until revoked in writing or by the receipt and filing of a claim for nonexcepted medical treatment.

The completed election form must be filed with the specialty contractor, a copy retained by the RNHCI provider and a copy provided to the beneficiary. See Pub. 100-04, Medicare Claims Processing Manual, Chapter 3, Section 170 for instructions on submission of elections to the specialty contractor.

Section 1821 defines "excepted" medical treatment as medical care or treatment that is received involuntarily or is required under Federal, State or local law. The term is intended to identify the kinds of medical services that can be provided to a beneficiary with an election for RNHCI services without revoking the election.

Examples of excepted medical care include, but are not limited to the following:

- *A beneficiary that receives vaccinations required by a State or local jurisdiction. This is compliant behavior to meet government requirements and not considered as voluntarily seeking medical care or services; or*

- *A beneficiary who is involved in an accident and receives medical attention at the accident scene, or in transport to the hospital, or at the hospital before being able to make their beliefs and wishes known; or*

- *A beneficiary who is unconscious and receives emergency care and is hospitalized before regaining consciousness or being able to locate his or her legal representative.*

"Nonexcepted" medical treatment is defined as medical care or treatment other than excepted medical treatment. The term is intended to define the kinds of medical services that, if received by a beneficiary who has previously elected RNHCI services, would revoke the individual's election of services.

Examples of nonexcepted medical care could include but are not limited to the following:

- *A beneficiary receiving medical diagnosis and/or treatment for persistent headaches and/or chest pains.*

- *A beneficiary in an RNHCI who is transferring to a community hospital to have radiological studies and the reduction of a fracture.*

- *A beneficiary with intractable back pain receiving medical, surgical, or chiropractic services.*

- *A beneficiary who has requested a physician to prescribe a wheelchair or other durable medical equipment item.*

Note that the terms 'excepted' and 'nonexcepted' care represent mutually exclusive conditions under §1821 of the Social Security Act. Medicare contractors may use the examples above in making determinations of excepted and nonexcepted care.

130.2.1 - Revocation of RNHCI Election

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

Revocation is the cancellation of the RNHCI election and can be achieved in two ways: either by submitting a written statement to the intermediary indicating the desire to cancel the election or by seeking nonexcepted medical care for which Medicare payment is sought.

See Pub. 100-04, Medicare Claims Processing Manual, Chapter 3, Section 170 for instructions on submission of revocations to the specialty contractor. See section 180 of that manual for a description of how Medicare non-specialty contractors revoke elections upon billing for nonexcepted services.

130.2.2 - RNHCI Election After Prior Revocation

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

After an initial revocation, the individual may again file a written election to receive the religious nonmedical health care benefit. This second election takes effect immediately upon its execution. If an individual revokes a second election, the next (third) election cannot become effective until 1 year after the date of the most recent revocation. Subsequent elections are not effective until 5 years after the most recent revocation. Once an election is revoked, Medicare payment cannot be made to an RNHCI unless a valid election is filed. The RNHCI revocation does not interfere with the beneficiary's ability to seek other Medicare services within the limits of his/her Medicare coverage.

130.3 - Medicare Payment for RNHCI Services and Beneficiary Liability

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

Medicare pays for RNHCI services under TEFRA payment rules (see Pub. 15-2, Provider Reimbursement Manual, chapter 30). RNHCI services are subject to the inpatient hospital cash deductible, when applicable. If services are for the 61st through 90th day of a benefit period or are for lifetime reserve days, RNHCI services are subject to coinsurance (see Pub. 100-01, Medicare General Information, Eligibility and Entitlement Manual, Chapter 3, Sections 10.1 and 10.2).

Under normal Medicare rules, a provider of services may only bill a beneficiary deductible and coinsurance amounts. However, total Medicare payments to RNHCIs are subject to limits established in sections 1821(c)(2) (A) or (B) of the Act. In the event that the Medicare program reduces payments to RNHCIs based on these limits, RNHCIs may also bill beneficiaries an amount equal to any such reduction.

130.4 - Coverage of RNHCI Items Furnished in the Home

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

Prior to the passage of the Medicare Prescription Drug, Improvement and Modernization Act (MMA) of 2003, the Medicare program's RNHCI benefit was limited to inpatient services provided in an RNHCI facility. The MMA revised sections 1821(a) and 1861 of the Social Security Act to extend coverage to RNHCI items and services that are provided in a beneficiary's home and that are comparable to items and services provided by a home health agency that is not an RNHCI.

Beneficiaries elect the RNHCI benefit if they are conscientiously opposed to accepting most medical treatment, since accepting such services would be inconsistent with their sincere religious beliefs. The Medicare home health benefit provides skilled nursing, physical therapy, occupational therapy, speech language pathology and home health aide services to eligible beneficiaries under a physician's plan of care. The home health

benefit also provides medical supplies, a covered osteoporosis drug and durable medical equipment (DME) while under a plan of care (see chapter 7).

Medicare covers specified durable medical equipment and intermittent RNHCI nursing visits provided in the home to RNHCI beneficiaries. These services comprise the RNHCI home benefit. The remainder of the services covered under the Medicare home health benefit are medical in nature and must be provided under the order of a physician. As such, these services conflict with RNHCI beneficiaries' conscientious opposition to medical care.

The RNHCI home benefit must exclude the same services that are excluded from the home health benefit, which include: drugs and biologicals; transportation; services that would not be covered as inpatient services; housekeeping services; services covered under the End Stage Renal Disease program; prosthetic devices; and medical social services provided to family members. These exclusions are defined at 42 CFR 409.49. Additionally, the RNHCI home benefit excludes the items or services provided by any HHA that is not an RNHCI; or any supplier, independent RNHCI nurse or aide that is working directly for a beneficiary rather than under arrangements with the RNHCI.

Medicare requires a brief letter of intent from the provider in order to determine the number of RNHCIs that will be implementing the home service benefit.

In the case where an RNHCI chooses to provide home services then only care on an intermittent basis which is provided to an eligible beneficiary who is confined to their home for health reasons will be covered under the home benefit. The home benefit is not to be confused with hospice care, which may involve more frequent visits and can involve institutional services. If for some reason the home serviced patient requires more than intermittent service, then institutional services may be required. However, the patient would need to meet the criteria for admission to a RNHCI, or the patient would require another institutional setting not necessarily covered by Medicare.

Similar to the inpatient RNHCI benefit, the physician role in certifying and ordering the home benefit is replaced with the use of the RNHCI utilization review committee to review the need for care and plan for initial and continued care in the home setting. The home benefit will also require a prompt review of admission to the home service, since the patient must be fully eligible (have a health condition that keeps them confined to the home (42CFR409.42(a), have health needs that can be met with intermittent care, and have a valid election) before billable services can be rendered and Medicare payment requested. Additionally the utilization review committee is responsible for review and approval of care plans and orders for DME items, and review of the need for the continuation of services

As in the original RNHCI benefit, Medicare will only pay for nonmedical services in the home, but not for those religious items or services provided by the RNHCI.

Medicare covers these items and services for dates of service from January 1, 2005 through December 30, 2006. Total Medicare payments under this benefit for each calendar year during this period are limited to $700,000.

130.4.1 - Coverage and Payment of Durable Medical Equipment Under the RNHCI Home Benefit

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

Medicare covers a defined list of nonmedical DME items for RNHCI home services that are comparable to items used in the inpatient RNHCI setting and could be provided by an HHA. The DME items include canes, crutches, walkers, commodes, a standard wheelchair, hospital beds, bedpans, and urinals. Those RNHCIs offering home services may order these items without a physician order and without compromising the beneficiary election for RNHCI care. The need for each item of DME ordered must be supported by the RNHCI patient's plan of care for the home setting and the RNHCI nurses' notes for home services. It must be noted that the benefit is applicable only to what we shall refer to as "nonmedical DME items" and does not include any of the related services provided by RNHCI staff members.

The RNHCI shall establish a payment arrangement with one or more DME suppliers to obtain any of the items on the DME list (below) they may require for a beneficiary. The supplier will provide the items and related instructions on use to the beneficiary/family/care giver. The RNHCI will submit claims for these DME items to the RNHCI specialty FI.

The RNHCI must stress to suppliers that DME claims are not to be submitted to the DMERC because this will cause the beneficiary's election for RNHCI care to be revoked.

DME Items and HCPCS Codes for use by RNHCI Home Service Units Canes

E0100 Cane, includes canes of all materials, adjustable or fixed, with tip

E0105 Cane, quad or three prong, includes canes of all materials, adjustable or fixed with tip

Crutches

E0112 Crutches, underarm, wood, adjustable or fixed, pair, with pads, tips and handgrips

E0113 Crutch underarm, wood, adjustable or fixed, pair, with pad, tip and handgrip

E0114 Crutches, underarm, other than wood, adjustable or fixed, pair, with pads, tips and handgrips

E0116 Crutch underarm, other than wood, adjustable or fixed, with pad, tip and handgrip

Walkers

E0130 Walker, rigid (pickup), adjustable or fixed height

E0135 Walker, folding (pickup), adjustable or fixed height

E0141 Walker, rigid, wheeled, adjustable or fixed height

E0143 Walker, folding, wheeled, adjustable or fixed height

Commodes

E0163 Commode chair, stationary, with fixed arms

E0167 Pail or pan for use with commode chair

Wheelchairs

K0001 Standard wheelchair

Hospital Beds & Accessories

E0250 Hospital bed, fixed height, with any type side rails, with mattress

E0255 Hospital bed, variable height, hi-lo, with any type side rails, with mattress

E0260 Hospital bed, semi-electric (head and foot adjustment), with any type side rails, with mattress

E0275 Bed pan, standard, metal or plastic

E0276 Bed pan, fracture, metal or plastic

E0290 Hospital bed, fixed height, without side rails, with mattress

E0292 Hospital bed, variable height, hi-lo, without side rails, with mattress

E0325 Urinal; male, jug-type, any material

E0326 Urinal; female, jug-type, any material

Payment to RNHCIs for these specified DME items will be made based on the DME fee schedule. Coinsurance applies to these items. Deductible does not apply to these items.

130.4.2 - Coverage and Payment of Home Visits Under the RNHCI Home Benefit

(Rev. 45, Issued: 02-10-06; Effective: 05-11-06;Implementation: 05-11-06)

Medicare covers intermittent RNHCI nursing visits provided in the home to RNHCI beneficiaries. The RNHCI nursing personnel may be skilled in ministering to a beneficiary's religious needs (not covered by Medicare), but do not have the training or nursing skill sets required of credentialed/licensed health care professionals (e.g., registered nurse). While RNHCI nurses may provide tender loving care, they are focused primarily on religious healing and meeting basic beneficiary needs for assistance with activities of daily living (e.g., bathing, toileting, dressing, ambulation), as part of creating a milieu for religious healing. The care provided by an RNHCI nurse is not at the level of either a registered nurse or a licensed practical nurse. The physical care provided by an RNHCI nurse is at a level that could be considered as supportive, but decidedly not "skilled" as defined by the Medicare program.

For purposes of payment for RNHCI nursing services in the home, the following services are comparable to the services of HHAs that are not RNHCIs (e.g., the RNHCI nurse and the home health aide share the following basic tasks):

- Assist with activities of daily living which include: ambulation, bed to chair transfer, and assist with range of motion exercises; bathing, shampoo, nail care and dressing; feeding and nutrition; and toileting;
- Light housekeeping, incident to visit
- Documenting visit

By comparison the home health aide will routinely perform additional medically oriented services (e.g., observation and reporting of existing medical conditions, taking and reporting vital signs, and using basic infection control procedures).

Due to the uniqueness of RNHCI nursing in the Medicare program, Medicare pays for RNHCI nursing visits at a percentage of the HHAs "low utilization payment adjustment" (LUPA) rate for home health aides. Only a visit by an RNHCI nurse to a home will be considered as billable to Medicare. A visit is defined as an episode in which an RNHCI nurse will render physical care to an RHNCI beneficiary in the home setting. The visit is a single billable unit that is not influenced by the number of involved caregivers or the duration of the episode. The difference in skill levels and the incorporation of RNHCI religious activity (noncovered by Medicare) into a visit, resulted in a payment rate that is 80% of the home health aide rate adjusted by metropolitan service area (MSA) wage index rate for the involved RNHCI.

RNHCI nursing visits are paid using the LUPA system even in situations where the involved patient would not be classified as low utilization. The HHAs have moved to PPS, which is constructed on the medical model and therefore inappropriate for RNHCI use. The same "labor"/"non-labor" portions applied in the HHA PPS will be used for calculating the RNHCI nursing visit payments.

Example of LUPA Payment: An RNHCI in Baltimore, MD, provides twelve RNHCI nursing visits over the course of a 30 day period.

1. Home Health Aide Visit (National standardized rate for 2005)	$44.76
2. RNHCI Nurse Visit ……(.80 * $ 44.76)	35.81
3. Calculate the labor portion of the Standardized Budget Neutral Per-Visit Payment Amount for 1 RNHCI nurse visit……...…….(.76775 * $.35.81)	27.49
4. Apply wage index factor for Baltimore, MD..…(.9907 * $ 27.49)	27.23
5. Calculate the non-labor portion of the Standardized Budget Neutral Per-Visit Payment Amount for 1 RNHCI nurse visit…….(.23225 * $ 35.81)	8.32
6. Subtotal—Low Utilization Payment Adjustment (LUPA) wage for 1 RNHCI nurse visit……..($ 27.49 + $ 8.32)	$35.55
7. Total - Calculate total Low Utilization Payment Adjustment (LUPA) for 12 RNHCI nurse visits provided during the 30-day episode … ……(12 * $ 35.55)	$426.60

Step 1. Take the HHA aide visit base rate ($ 44. 76) for the involved year (2005), from the HHA update published annually each November in the **Federal Register**.

Step 2. To calculate the RNHCI nurse visit base rate, multiply the HHA base rate ($ 44.76) by the allowed percentage for an RNHCI nurse visit (.80%) to allow for religious activity and reduced physical care skill level = ($ 35.81)

Step 3. To calculate the labor portion of the Standardized Budget Neutral Per-Visit Payment Amount for 1 RNHCI nurse visit, multiply the fixed allowance .76775 by the RNHCI nurse visit rate ($ 35.81) = ($ 27.49)

Step 4. Apply the wage index for the involved MSA from the HHA update published annually each November in the **Federal Register** (Baltimore, MD = .9907) multiplied by the labor portion of the RNHCI nurse visit ($ 27.49) = ($27.23).

Step 5. To calculate the non-labor portion of the Standardized Budget Neutral Per-Visit Payment Amount for 1 RNHCI nurse visit, multiply the fixed allowance .23225 by the RNHCI nurse visit rate ($ 35.81) = ($ 8.32)

Step 6. To calculate the LUPA rate for 1 RNHCI nurse visit add the products from Step 4 ($27.49) and Step 5 ($ 8.32) = ($ 35.55)

Step 7. To calculate the LUPA payment for RNHCI nurse visits to one beneficiary in a 30 day period, multiply the product of Step 6 ($ 35.55) by the number of visits (12) = ($ 426.60)