



# Ground Ambulance & Patient Billing Advisory Committee

Ambulance/EMS Responsibilities for Disclosure



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# The Unique EMS Environment

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- Hectic, stressful situations
- Uncontrolled environments
- Requests for service often are not made by the patient, but by others
- Patients are often upset or in distress
- Limited time with the patient
- Limited resources to deal with “notices” – usually only one EMS clinician in back with patient
- Limited inventory of physical forms in the ambulance
- Need to get ambulance back in service quickly





# We Are Unlike Any Other Type of Healthcare Provider



# Types of Disclosures

- *Advance Notice* – prior to providing the ambulance service
  - At time of scheduling non-emergency transport or posted on web sites
  - Infeasible for 911/emergency calls
- *Point of Service Notice* – at the time the ambulance service is provided
  - *Difficult at best* during EMS care delivery
- *Retroactive Notice* – after the ambulance service is provided
  - Via mail, email or other delivery

# Disclosure Requirements are RARE

- Federal Requirements

- Very limited situations under Medicare where Advance Beneficiary Notice of Noncoverage (ABN) is required
- Most other Federal healthcare programs have no express requirement
- Under Medicare, ABN is Required only in very limited cases of NON-COVERED ambulance services
- Only allowed to provide ABN in NON-EMERGENT situations where patient is NOT under duress
- CMS recognizes that it is improper to expect a patient to adequately consider ambulance service cost at the time of an emergency



# Federal Requirements

- An ABN is required *only if all three of the following 3 criteria are met*:
  - The service being provided is a Medicare covered ambulance benefit;
  - The healthcare provider or supplier believes that the service may be denied, in part or in full, as “not reasonable and necessary;” and
  - The ambulance service is being provided in a non-emergency situation. (The patient is not under duress)
    - Medicare Claims Processing Manual Chapter 30 § 50.17

## Advance Beneficiary Notice of Non-coverage (ABN)

**NOTE:** If Medicare doesn't pay for D. \_\_\_\_\_ below, you may have to pay.

Medicare does not pay for everything, even some care that you or your health care provider have good reason to think you need. We expect Medicare may not pay for the D. \_\_\_\_\_ below.

D.	E. Reason Medicare May Not Pay:	F. Estimated Cost

### WHAT YOU NEED TO DO NOW:

- Read this notice, so you can make an informed decision about your care.
- Ask us any questions that you may have after you finish reading.
- Choose an option below about whether to receive the D. \_\_\_\_\_ listed above.

**Note:** If you choose Option 1 or 2, we may help you to use any other insurance that you might have, but Medicare cannot require us to do this.

### G. OPTIONS: Check only one box. We cannot choose a box for you.

- ☐ **OPTION 1.** I want the D. \_\_\_\_\_ listed above. You may ask to be paid now, but I also want Medicare billed for an official decision on payment, which is sent to me on a Medicare Summary Notice (MSN). I understand that if Medicare doesn't pay, I am responsible for payment, but I can appeal to Medicare by following the directions on the MSN. If Medicare does pay, you will refund any payments I made to you, less co-pays or deductibles.
- ☐ **OPTION 2.** I want the D. \_\_\_\_\_ listed above, but do not bill Medicare. You may ask to be paid now as I am responsible for payment. I cannot appeal if Medicare is not billed.
- ☐ **OPTION 3.** I don't want the D. \_\_\_\_\_ listed above. I understand with this choice I am **not** responsible for payment, and I cannot appeal to see if Medicare would pay.

### H. Additional Information:

This notice gives our opinion, not an official Medicare decision. If you have other questions on this notice or Medicare billing, call 1-800-MEDICARE (1-800-633-4227/TTY: 1-877-486-2048). Signing below means that you have received and understand this notice. You may ask to receive a copy.

I. Signature:

J. Date:

# Disclosure Requirements are RARE

- State Law Requirements – *even more limited* than federal requirements
  - State Medicaid programs
    - Some states require advance notice before a patient can be billed for a non-covered service
  - State Emergency Medical Services laws
    - Three states set ambulance rates [AZ, CT, and UT]
    - One state requires approval of ambulance rates [NM]
  - State laws prohibiting “balance billing”
    - Most of these laws exempt ambulance services from any disclosure requirements
    - Balance billing prohibitions are also very limited for ambulance services in states that do have balance billing prohibitions



# State Law Examples

- Pennsylvania requires advance notice before a Medicaid beneficiary can be billed for a non-covered service
- The requirements are like the requirements for use of an ABN
  - The provider determines that ambulance transportation is not covered by [Medical Assistance] under the existing circumstances; and
  - The [beneficiary] or responsible party is informed before the service is rendered that the beneficiary must pay for the service; and
  - The [beneficiary] or responsible party consents to receive the service and be responsible for the charges
    - 55 Pa. Code § 1245.55
- Can't provide adequate notice in emergent situations

# State Law Examples

- AZ, CT, NM, and UT either set ambulance rates or require agencies to obtain state approval for ambulance rates
  - Of these four states, only New Mexico requires rates to be posted
  - However, New Mexico does not require ambulance services to post the rates
  - The EMS Commission shall post on its internet web site electronic copies of all currently approved individual and statewide tariffs ... in a manner to facilitate public access, review and comparison of rates and terms of service. N.M. Stat. Ann. § 65-2A-20

# State Law Examples

- CO, DE, FL, IL, MD, ME, NY, OH, WV, and VT have state NSAs that apply to ground ambulance services
  - Colorado is the only state that requires disclosure related to balance billing for ground ambulance services



# Disclosure Requirements are RARE

- Municipal Law Requirements
  - In some areas, local ordinances regulate rates and require disclosures of fees
  - There is no central database or comprehensive repository of localities in which such requirements are present, but local rate and disclosure requirements are believed to be relatively rare

# Local Rate Regulation Mechanisms

- City or county ordinances, resolutions or local regulations
- Contractual provisions
  - Agreements for 911 service between local government and a contracted ambulance company may contain approved/contracted rate schedule
  - These provisions may or may not separately contain rate disclosure requirements (anecdotally, it is believed that most do not)
- Request for Proposals (RFP)/Competitive Procurements
  - Local government RFPs for ambulance operating areas may contain rate restrictions and/or disclosure rules
  - Often, the rates are based on those the provider included in its bid
  - California utilizes this model more than most other states

# Why Are Point of Service Notice Requirements So Rare?

- Possibility of deterring patients from agreeing to treatment/transport in emergent situations
- Limited contact time between EMS clinicians and patients
  - Time and focus in an **emergency** needs to be devoted to patient care and stabilization of the patient's condition



# Why Are Point of Service Notice Requirements So Rare?

- EMS personnel in the ambulance are clinicians
  - In other care settings (hospitals, physician offices, etc.) notices and disclosures are handled by administrative professionals – not clinicians
- Difficult to get notices to the patient in a non-emergency or interfacility transport
  - Often these transports are arranged by facility staff and others who are not under the control of the ambulance service – no prior patient contact
  - Minimal information given to the ambulance service

# Why Point of Service Disclosure of Rates Is a Challenge

- Most ambulance utilization is done on emergent basis via 911 systems
- Patients may be in distress and lack the capacity to make decisions
- Emergency Situations
  - Rate and non-coverage disclosures incongruent with emergency care
  - Use of ABNs in these situations by hospital-owned and operated ambulances would also constitute a likely EMTALA violation
- Non-Emergency Situations
  - Decision to request an ambulance is often not made by the patient, but by clinical staff at a facility

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