

DEPARTMENT OF HEALTH & HUMAN SERVICES  
Centers for Medicare & Medicaid Services  
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Baltimore, Maryland 21244



## **Health Plan Policy Group/CBC**

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Date: May 20, 2003

To: Medicare Cost Plans

From: Robert Donnelly  
Director, Health Plan Policy Group

Subject: Issuance of Noncoverage Notices by Cost Plans for Inpatient Hospital Discharges

### **Purpose**

The purpose of this letter is to clarify that, effective immediately, Medicare cost plans are required to issue notices of noncoverage to a hospital inpatient only when the enrollee disagrees with the hospital discharge decision (or when the enrollee is remaining in the facility, but the plan no longer intends to continue coverage of the inpatient stay).

### **Background**

On April 4, 2003 CMS published a final rule (65 FR 16652, "Improvements to the Medicare+Choice Appeal and Grievance Procedures") that established new notice and appeal procedures for Medicare+Choice (M+C) enrollees in provider settings. In general, these changes do not affect Medicare cost plans, which continue to be subject to the regulations set forth in 42 CFR Part 417.

One element of the final rule involved a change in the requirement (under 42 CFR 422.620) as to when an M+C organization is responsible for issuing a written notice of noncoverage to M+C enrollees in hospitals. Previously, the regulations required that all M+C enrollees discharged from hospitals receive a notice of noncoverage regardless of their agreement or disagreement with the discharge decision. Under revised §422.620, an M+C organization must provide a written notice of noncoverage only when the enrollee disagrees with the discharge decision (or when the enrollee is not being discharged from the facility but the M+C organization no longer intends to continue coverage of the inpatient stay). This change took effect on May 5, 2003.

### **Discussion**

Under §417.440(f), an enrollee of a Medicare cost plan who is receiving inpatient hospital services is entitled to continued hospital care until he or she receives a notice of

noncoverage. Operational Policy Letter #071, issued on May 19, 1998, provided further guidance on how this requirement was to be interpreted. According to that OPL, a Medicare cost plan (or a hospital, on a delegated basis) was to issue a notice of noncoverage for all enrollee discharges, even if the enrollee agreed with the discharge decision.

Although this policy largely paralleled the notice requirement for M+C enrollees, neither the statute nor the regulations established a similar requirement that original Medicare enrollees receive a notice of noncoverage before each inpatient hospital discharge. (See sections 1154(e) and 1866(a)(1)(M) of the Social Security Act, and 42 CFR 412.42(c).) Instead, hospitals are required to distribute the Important Message from Medicare to all Medicare beneficiaries upon admission to an inpatient hospital, with a subsequent notice of noncoverage furnished only when the beneficiary's entitlement to continued hospital care is at issue. As discussed in detail in our April 4, 2003 final rule, we believe that this is the more appropriate policy, and that a notice of noncoverage should be issued only in situations where the beneficiary expresses dissatisfaction with the decision to end the inpatient hospital services. We intend to apply this same policy across all Medicare settings, including original fee-for-service Medicare, the M+C program, and Medicare cost plans. Thus, while an enrollee in a Medicare cost plan remains "entitled" to care consistent with §417.440(f) until he or she receives a notice of noncoverage, a cost plan is not required to furnish the notice in most situations, where the issue of whether an enrollee should receive further inpatient care is not in dispute.

Other existing guidance associated with this notice remains unchanged, such as the need for physician concurrence and the content of the required notice. We are in the process of developing a revised notice of noncoverage for Medicare managed care purposes and will request public comment on that notice through the Office of Management and Budget's (OMB) Paperwork Reduction Act process. Until that notice is approved by OMB, cost plans should continue to use the existing model discharge notices, such as the Notice of Discharge and Medicare Appeal Rights (NODMAR) or the Hospital Issued Notice of Noncoverage (HINN).

**Contact: CMS Regional Office Managed Care Staff**