



Related MLN Matters Article #: MM5085

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Changes to the Process for Recovering Medicare Payments for Home Health Prospective Payment System (HH PPS) Claims Failing to Report Prior Hospitalization

Key Words

MM5085, CR5085, R1079CP, HH, PPS, Prospective, Hospital

Provider Types Affected

Home health agencies (HHAs) billing Medicare regional home health care intermediaries (RHHIs)

Key Points

- The effective date of the instruction is January 18, 2007.
- The implementation date is January 18, 2007.
- In 2003 and 2004, the Office of the Inspector General (OIG) issued reports to Medicare's four RHHIs demonstrating that the Medicare program is vulnerable to making excess payments on HH PPS claims when certain Outcomes and Assessment Information Set (OASIS) information is reported in error.
- When HHAs report in OASIS item M0175 that a beneficiary has not been discharged from a hospital within 14 days of the start of home health care, the claim for that beneficiary may in some cases be submitted using a Health Insurance Prospective Payment System (HIPPS) code for a higher paying payment group.
- The OIG found that Medicare has paid many claims with HIPPS codes representing no hospital discharge in cases where Medicare claims history shows that an inpatient stay did occur.
- The OIG recommended that the Centers for Medicare & Medicaid Services (CMS) and the RHHIs take action to recover these excessive payments.
- In July 2004, CMS issued Transmittal 95, Change Request (CR) 3400, which provided instructions to the RHHIs on how to make adjustments to HH PPS claims and make the recommended recoveries using files supplied by CMS.
- These files were known as the "M0175 downcode files" (which identify adjustments to recover excessive payments) and the "M0175 upcode files" (which identify claims that have been underpaid).

- The RHHIs were scheduled to make the adjustments associated with these two files in late 2005. In November 2005, the adjustment process was put on hold pending new instructions to ensure that the recoveries were compliant with section 1893 (f)(2) of the Social Security Act, which was added by section 935 of the Medicare Modernization Act (MMA).
- Section 1893 (f)(2), the limitation on recoupment provision, requires CMS to change the way Medicare recoups certain overpayments. Before the MMA was enacted, if a provider or supplier elected to appeal an overpayment determination, there was no effect on Medicare's ability to recover the debt.
- However, MMA section 935 requires that if a provider of services or a supplier seeks a reconsideration by a Qualified Independent Contractor (QIC) on an overpayment determination, CMS and its Medicare contractors may not recoup the overpayment until the date the decision on the reconsideration has been rendered.

Note: The QIC reconsideration is the second level of appeal in the Medicare claims appeal process; the RHHI redetermination is the first level of appeal.

- MLN Matters article MM5085 and related Change Request (CR) 5085 explains how these overpayments will be recovered.
- The following details how RHHIs proceed with the adjustments associated with the 2001 M0175 files:
 - RHHIs will process all adjustments associated with the 2001 M0175 upcode and downcode files, but prevent any monies from being paid or recovered.
 - This process will be completed within 75 days of the release of CR5085 and the RHHIs will bypass timely filing edits when processing these adjustments.
 - If the net payment effect of processing these adjustments is that a refund is due to the HHA, the RHHI will follow existing underpayment policies to refund or apply the amount payable to other debts.
 - By January 18, 2007, the RHHIs will issue demand letters for all net overpayments resulting from M0175 adjustments along with the report of claim adjustments that make up the overpayment.
 - The demand letters will be sent via first class mail, and the letters will include notice to the HHA about the effect of an appeal on the recoupment of money, will make it clear that the HHA can appeal the entire overpayment or just some of the claim adjustments, and will describe repayment options.
 - If payment in full is not received within 15 days of the date of the demand letter, RHHIs may set up withholdings on the 16th day against the HHA's current claims payments unless the HHA acts to repay the debt or a valid request for a redetermination is received by the RHHI.
 - If recoupment begins, it will stop following receipt of a valid and timely request for a redetermination. (The RHHI will determine what constitutes a timely and valid redetermination request in accordance with existing appeals regulations and instructions.)
 - If the redetermination fully reverses the overpayment determination, the RHHI will follow current procedures to adjust the overpayment including interest charges.

- If the redetermination results in a full or partial affirmation of the overpayment, the RHHI will start or resume recoupment no earlier than the 30th calendar day and no later than the 45th calendar day after notice to the HHA. (For a full affirmation, this is the notice of redetermination; for a partial affirmation, it is the notice of the revised overpayment amount.)
- If an HHA requests a reconsideration from the QIC, the RHHI will stop recouping following notification from the QIC that a valid and timely request for a reconsideration has been received.
- As with redeterminations, the RHHI will adjust the overpayment and interest, if the QIC reverses the overpayment. However, if the QIC completes action without reversing the overpayment, the RHHI will initiate or resume recoupment within 10 days of that QIC final action. Final actions are:
 - Receipt by the QIC of a timely and valid request to withdraw the reconsideration request;
 - The QIC sends a written notice of the dismissal of the reconsideration request;
 - The QIC notifies the parties that the reconsideration is being escalated to an administrative law judge (ALJ); or
 - The QIC transmits written notice of its reconsideration decision.
- The RHHI will continue to recoup until the debt is satisfied in full or the overpayment is reversed, whether or not the HHA subsequently appeals to the ALJ or higher.
- If recoupment is stopped, interest continues to accrue but will not be collected until recoupment resumes.

Important Links

The related MLN Matters article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5085.pdf> on the CMS web site.

The official instructions, CR5085, issued to the Medicare RHHI regarding this change can be found at <http://www.cms.hhs.gov/Transmittals/downloads/R1079CP.pdf> on the CMS web site. The revised section 10.1.19.2 "Adjustments of Episode Payment - Hospitalization Within 14 Days of Start of Care" of the *Medicare Claims Processing Manual*, is attached to CR5085.

If providers have questions, they may contact their Medicare RHHI at their toll-free number, which may be found at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS web site.

Providers may view MLN Matters article MM3400 for information regarding CR3400. That article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM3400.pdf> on the CMS web site.