



Related MLN Matters Article # MM3648

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Related CR #: 3648

Revisions to the Medicare Benefit Policy Manual (Pub 100-02), Chapter 15, Sections 220 and 230 Regarding Therapy Services

Key Words

CR3648, MM3648, SE0533, 220, 230, Chapter, 15, Pub100-02, Therapy, Certification, Qualification

Provider Types Affected

Physicians and other providers who bill Fiscal Intermediaries (FIs) and Carriers for therapy services

Key Points

- The effective date of the instruction is immediately.
- The implementation date is immediately.
- MLN Matters article MM3648 was revised on July 25, 2005, to reflect that portions of CR3648 relating to the qualifications required for staff providing services billed as physical therapy and occupational therapy services incident to the services of a physician or nonphysician practitioner must be implemented immediately.
- The United States District Court for the Northern District of Texas has dismissed the lawsuit brought by the National Athletic Trainer's Association (NATA). That lawsuit had challenged the requirements for qualifications for staff providing services billed as physical and occupational therapy services incident to a physician or non-physician practitioner.
- The Centers for Medicare & Medicaid Services (CMS) had previously delayed implementation of these requirements as a result of an agreement made with NATA and contained in a June 3, 2005, order issued by the court.
- The agreement to delay implementation has expired and the court has dismissed the litigation, so CMS is implementing the challenged requirements immediately.
- MM3648 and related CR3648 revise sections 220 and 230 in Chapter 15 of the *Medicare Benefit Policy Manual* (Pub 100-02); this revision adds reference information and clarifies current policy concerning physician visits and certification.

- MM3648 replaces SE0533.
- Some key points in the modification include the following:
 - Medicare carriers and FIs will pay for services only when the services meet the conditions and standards described in the *Medicare Benefit Policy Manual* with the exception of the requirements that have been delayed.
 - Medicare carriers/FIs will not deny therapy claims based only on the absence of an order or referral for therapy services. Claims will be denied if there is no certification of the plan of care for each 30 day interval of treatment.
 - On prepay or post-pay review, if the carrier/FI finds there is no documentation indicating a physician or non-physician practitioner certification of a therapy plan of care for treatment for the first 30 days of treatment or finds there is no certified plan of care for treatment for each interval of 30 days from the last certified interval of treatment, the claim will be denied, unless there is a delayed certification.
 - Medicare carriers/FIs will accept delayed certification of services that would otherwise be covered unless the claim, the justification, or any accompanying documentation indicates the treatment was not clinically necessary, i.e., the service does not meet the patient's need.
 - Medicare does not require a physician visit prior to certification, but the physician or non-physician practitioner who certifies the plan may require a visit prior to certification.

Important Links

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM3648.pdf>

<http://www.cms.hhs.gov/Transmittals/downloads/R36BP.pdf>