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Use of the KX Modifier on Claims Submitted to the Fiscal Intermediary When Some Services Exceed the Therapy Caps

Key Words

SE0637, KX, Therapy, Caps

Provider Types Affected

All providers billing Medicare Fiscal Intermediaries (FIs) and Regional Home Health Intermediaries (RHHIs) for physical therapy, speech-language pathology, and occupational therapy services

Key Points

- The effective date of the instruction is April 1, 2006.
- The implementation date is April 3, 2006.
- Some claims processed by FIs are being improperly denied. These improper denials occur when some services on the claim are below the therapy cap and not billed with the KX modifier, and other services on the same claim are above the therapy cap, and billed with the KX modifier.
- Special Edition (SE) article SE0637 outlines the proper use of the KX modifier only for claims submitted to and processed by FIs, and are temporary until system changes are completed.
 - Providers should add the KX modifier to each claim line for an outpatient therapy service procedure when the beneficiary is qualified for exception to the therapy caps through either the automatic process or the manual process of exception.
 - When the KX modifier is appropriate for at least one of the outpatient therapy service line items on an intermediary claim, providers should bill the KX modifier on all outpatient therapy service line items on the same claim for those services representing the same therapy cap (that is, either the combined physical therapy and speech-language pathology cap, or the separate occupational therapy cap).
 - Providers should not add the KX modifier to line items that would not be eligible for exception if the service was provided after the cap is reached. That is, if the services would require a manual

exception if the cap is exceeded and that exception has not yet been approved, providers should not bill for that service using the KX modifier.

- For services for billing periods after the cap has been exceeded, which are not eligible for exceptions, providers may bill for a denial notice using condition code 21.
- Providers should not submit claims that have the KX modifier on some, but not all, lines that apply to the same cap for outpatient therapy services.
- The Medicare system will recognize the services that fall below the therapy cap and those that fall above the therapy cap and process for payment accurately.
- Providers will not be penalized for using the KX modifier on medically necessary services that would be eligible for an exception above the cap when those services are below the therapy cap and billed on the same claim as services that appropriately use the KX modifier to signify services from the same therapy cap that appropriately exceeds that therapy cap.
- Providers should continue to avoid using the KX modifier on claims where none of the therapy services on that claim that count toward the same therapy cap is appropriate for the use of the KX modifier.
- The following examples are applicable only when the provider has researched Medicare policies and has identified that the beneficiary is reaching the therapy cap threshold and the billed services are medically necessary:
 - When providers submit claims with multiple line items for physical therapy and/or speech-language pathology services; **and**
 - Some of the lines represent services that are appropriate for use of the KX modifier; **but**
 - None of the lines represent services that would not be eligible for use of a KX modifier if the cap was exceeded; **then**
 - Providers should apply the KX modifier to all of the physical therapy and speech-language pathology line items on that same claim.
 - Services may be eligible for use of the KX modifier either by qualifying for use of the automatic exception process, or with approval of the contractor for manual exceptions.
 - When providers submit claims with multiple line items for occupational therapy services, the presence or absence of the KX modifier on the physical therapy-speech-language pathology line items does not affect the use of the KX modifier for occupational therapy services.
 - Providers should apply the KX modifier to all of the occupational therapy line items if:
 - All of the line items would represent services that are appropriate for use of the KX modifier if the services exceeded the cap; **and**
 - Some of the lines represent services that are currently eligible for use of the KX modifier on this claim.
 - Or, providers may apply the KX modifier to none of the occupational therapy line items, if appropriate.

Note: These rules do not apply to suppliers billing to carriers. For carrier claims, continue to use the KX modifier only on the lines that exceed the therapy cap. Where the therapy cap is being approached, use the KX modifier for the services that might exceed the therapy cap.

Important Links

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0637.pdf>

If affected providers have questions, they should contact their Medicare FI or RHHI at their toll-free number which may be found at

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

The CMS Fact Sheet, "Outpatient Therapy Caps: Exceptions Process Required by the Deficit Reduction Act (DRA)," may be found at <http://www.cms.hhs.gov/apps/media/press/release.asp?Counter=1782> on the CMS website.

MLN Matters article MM4364 describes the Therapy Caps Exception Process and may be viewed at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4364.pdf> on the CMS website.

Publication 100-04, Chapter 5, Section 10.2, describing therapy caps and exceptions, may be found at <http://www.cms.hhs.gov/manuals/downloads/clm104c05.pdf> on the CMS website.