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*MMA - Medical Review (MR) of Rural Air Ambulance Services*

### Key Words

CR3571, MM3571, R102CP, MMA, R102CP, MR, Ambulance, EMS

### Provider Types Affected

Providers billing Medicare carriers or fiscal intermediaries (FIs) for rural air ambulance services

### Key Points

- The effective date of the instruction is January 1, 2005.
- The implementation date is February 14, 2005.
- Section 415 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) includes new instructions for rural air ambulance services.
- When performing a medical review of rural air ambulance claims, the provider's Medicare carrier/ fiscal intermediary must determine if a physician or other qualified medical personnel who reasonably determined or certified that the individual's condition required air transport due to time or geographical factors requested the transport.
- The following personnel are qualified to order air ambulance services:
  - Physician,
  - Registered nurse practitioner (from the transferring hospital),
  - Physician's Assistant (from the transferring hospital),
  - Paramedic or Emergency Medical Technician (EMT) (at the scene), and
  - Trained first responder (at the scene).

### Emergency Medical Services (EMS) Protocols

- The reasonable and necessary requirement for rural air transport can be "deemed" to be met when service is provided according to an established state or regional protocol that has been recognized or approved by the Secretary of the Department of Health and Human Services, which administers Medicare through its Centers for Medicare & Medicaid Services (CMS).

- Air ambulance providers anticipating transports will be made pursuant to such a state or regional protocol must submit the written protocol to their carrier/FI in advance for review and approval.
- The provider's Medicare carrier/intermediary must review the protocol to ensure the contents are consistent with the statutory requirements of 1862(1)(A) directing that all services paid for by Medicare must be reasonable and necessary for the diagnosis or treatment of an illness or injury.
- The Medicare carrier/intermediary will notify the provider of its protocol review determinations within 30 days of receipt of the protocol.
- Providers must adhere to all requirements in the Act at 1861 (s)(7) and regulatory requirements at 42CFR 424.10, which directs that all services paid by Medicare must be reasonable and necessary, including the requirement that payment can be made only to the closest facility capable of providing the care needed by the beneficiary.

### Prohibited Air Ambulance Relationships

- Medicare carriers/intermediaries will not apply the "deemed" reasonable and necessary determination in the following cases:
  - If there is a financial or employment relationship between the person requesting the air ambulance service and the entity furnishing the service;
  - If an entity is under common ownership with the entity furnishing the service; or
  - If there is a financial relationship between an immediate family member of the person requesting the service and the entity furnishing the service.
- The only exception to this provision occurs when the referring hospital and the entity furnishing the air ambulance service are under common ownership.
- Then the above limitation does not apply to remuneration by the hospital for provider based physician services furnished in a hospital reimbursed under Part A and the amount of the remuneration is unrelated directly or indirectly to the provision of rural air ambulance services.

### Reasonable and Necessary Services

- Medicare carriers/intermediaries may perform medical review of rural air ambulance claims with "deemed" medical necessity status when there are questions as to whether:
  - The decision to transport was reasonably made,
  - The transport was made pursuant to an approved protocol, or
  - The transport was inconsistent with an approved protocol.
- Medicare carriers/intermediaries may conduct a medical review in those instances where there is a financial or employment relationship between the person requesting the air ambulance transport and the person providing the transport.
- For purposes of these revised sections of the *Medicare Program Integrity Manual*, the term "rural air ambulance service" means fixed wing and rotary wing air ambulance services in which the point of pick up of the individual occurs in a rural area (as defined in Section 1886(d)(2)(D)) or in a rural census tract of a metropolitan statistical area (as determined under the most recent modification of the Goldsmith Modification published in the *Federal Register* on February 27, 1992 (57 Fed. Reg. 6725)).

## Important Links

The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM3571.pdf> on the CMS website.

The official instruction issued to carriers/intermediaries regarding this change, including the revised portion of Chapter 6 of the *Medicare Program Integrity Manual*, may be found at <http://www.cms.hhs.gov/transmittals/Downloads/R102CP.pdf> on the CMS website.

If affected providers have any questions, they should contact their carrier/intermediary at their toll-free number, which may be found at <http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.