



## Provider Inquiry Assistance

### Revised Form CMS-R-131 Advance Beneficiary Notice of Noncoverage – JA6136

Related CR Release Date : September 5, 2008

Date Job Aid Revised: September 19, 2008

Effective Date: March 3, 2008

Implementation Date: March 1, 2008

**Key Words**

MM6136, CR6136, R1587CP, CMS-R-131

**Contractors Affected**

- Fiscal Intermediaries (FIs)
- Medicare Carriers
- Medicare Administrative Contractors (A/B MAC)
- Durable Medical Equipment Medicare Administrative Contractors (DME MAC)

**Provider Types Affected**

Physicians, providers and suppliers who bill Medicare Carriers, FIs, A/B MACs, or DME MACs for services provided to Medicare beneficiaries



Effective March 3, 2008, the Centers for Medicare & Medicaid Services (CMS) implemented use of the revised Advance Beneficiary Notice of Noncoverage (ABN), which combines the general ABN (ABN-G) and laboratory ABN (ABN-L) into a single form with form number (CMS R-131).

**Provider Needs to Know...**

- **Beginning March 3, 2008, and prior to March 1, 2009**, Medicare contractors will accept either the current ABN-G and ABN-L or the revised ABN as valid notification.
- **Beginning March 1, 2009**, Medicare contractors will accept only a properly executed revised ABN (CMS R-131) as valid notification.

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- Prior to March 3, 2008, physicians, providers, practitioners, and suppliers paid under Part B, and hospice providers and religious non-medical health care institutions paid under Part A were instructed to use the general ABN-G or ABN-L to inform beneficiaries of their potential liability in accordance with the limitation on liability provisions set forth in Section 1879 of the Social Security Act.
  - Beginning on March 3, 2008, CMS implemented use of the revised ABN.
  - The *Medicare Claims Processing Manual*, Chapter 30 (Financial Liability Protections), Section 50 (Form CMS-R-131 Advance Beneficiary Notice of Noncoverage (ABN)) has been substantially updated to reflect these changes.
  - Chapter 30 contains specific information about ABN preparation requirements such as the number of pages, fonts and form reproduction, completion and retention of the form, delivery requirements, and what to do in particular situations such as emergencies, or if a beneficiary changes his/her mind or refuses to complete or sign the notice.
  - Chapter 30 also discusses potential beneficiary and provider liability; requirements for advance coverage determinations; the collection of funds and refunds; and issues specific to durable medical equipment, prosthetics, orthotics, and supplies, hospice, and Comprehensive Outpatient Rehabilitation Facility.

#### Some Key Points from the Updated Chapter 30

#### Background

- The revised ABN is the new CMS-approved written notice that physicians, providers, practitioners, suppliers, and laboratories issue to beneficiaries enrolled in the Medicare Fee- For-Service (FFS) program for items and services that they provide under Medicare Part A (hospice and religious non-medical healthcare institutions only) and Part B. It may not be used for items or services provided under the Medicare Advantage Program, or for prescription drugs provided under the Medicare Prescription Drug Program (Part D).
- The revised ABN (which replaces the ABN-G (CMS-R-131-G), ABN-L (CMS-R-131-L), and Notice of Exclusion from Medicare Benefits (NEMB) (CMS-20007)) will now be used to fulfill both mandatory and voluntary notice functions.

**Note:** Once the revised Skilled Nursing Facility (SNF) ABN is implemented, SNFs must use the revised SNF ABN for all items and services billed to Part A and Part B.

- The following situations require by statute that an ABN be issued:
  - Care is not reasonable and necessary;
  - There was a violation of the prohibition on unsolicited telephone contacts;
  - Medical equipment and supplies supplier number requirements not met;
  - Medical equipment and/or supplies denied in advance;
  - Custodial care; and
  - A hospice patient who is not terminally ill.

- In the following situations ABN use is voluntary:
  - Care that fails to meet the definition of a Medicare benefit as defined in Section 1861 of the Social Security Act;
  - Care that is explicitly excluded from coverage under Section 1862 of the Social Security Act. Examples include:
    - Services for which there is no legal obligation to pay;
    - Services paid for by a government entity other than Medicare (this exclusion does not include services paid for by Medicaid on behalf of dual-eligibles);
    - Services required as a result of war;
    - Personal comfort items;
    - Routine physicals (except the initial preventive physical or “Welcome to Medicare” physical examination) and most screening tests;
    - Routine eye care;
    - Dental care; and
    - Routine foot care.
- ABN issuers (who may be physicians, practitioners, providers (including laboratories), suppliers, Medicare contractors, or utilization review committees for the care provider) are collectively known as “notifiers”.
  - Notifiers may direct an employee or a subcontractor to actually deliver an ABN, however, the notifier remains ultimately responsible for its effective delivery.
  - Notifiers are required to issue ABNs whenever limitation on liability applies. This typically occurs at three “**triggering events**” during a course of treatment (initiation, reduction, and termination).
  - Notifiers must give an ABN to “**recipients**” (FFS Medicare beneficiaries or their representatives), including beneficiaries who have Medicaid coverage in addition to Medicare (i.e., dual-eligible). Providers should note that notifiers’ inability to give notice to a beneficiary or his/her representative does not allow them to shift financial liability to the beneficiary, unless they have exhausted all attempts to issue the notice, and such attempts are clearly documented in the patient’s record and undisputed by the beneficiary.

Operational Impact	N/A
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Reference  
Materials

The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6136.pdf> on the CMS website.

More information about the revised ABN Form (CMS-R-131) may be found by going to CR6136, located at <http://www.cms.hhs.gov/Transmittals/downloads/R1587CP.pdf> on the CMS website.

The updated *Medicare Claims Processing Manual* Chapter 30 (Financial Liability Protections), Section 50 (Form CMS-R-131 Advance Beneficiary Notice of Noncoverage (ABN)) may be found as an attachment to that CR6136.

Additional information on the revised ABN and other limitation of liability notices can be found on the Beneficiary Notice Initiatives website at <http://www.cms.hhs.gov/bni> on the CMS website. Questions regarding the revised ABN can be emailed to [RevisedABN\\_ODF@cms.hhs.gov](mailto:RevisedABN_ODF@cms.hhs.gov).

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