

## **Incarcerated Beneficiary Claim Denial Frequently Asked Questions**

### **BACKGROUND**

Medicare will generally not pay for medical items and services furnished to a beneficiary who was incarcerated or in custody under a penal statute or rule at the time items and services were furnished. For additional information about this policy, please refer to the Medicare Learning Network's recent "[Medicare Coverage of Items and Services Furnished to Beneficiaries in Custody Under a Penal Authority](#)" Fact Sheet (ICD 908084).

Recently, CMS initiated recoveries from providers and suppliers based on data that indicated a beneficiary was incarcerated or in custody on the date of service. For these recoveries, CMS identified previously paid claims that contained a date of service that partially or fully overlaps a period when a beneficiary was apparently incarcerated based on information from the Social Security Administration (SSA). As a result, a number of overpayments were identified. In some cases demand letters were released with appeals instructions, and, in many cases, automatic collections of overpayments were made. However, CMS has since learned that the information was, in some cases, incomplete for purposes of collection.

CMS understands that this issue has been challenging for providers and beneficiaries, and we are actively addressing it. We have restored the original data on the Medicare Enrollment Data Base. Any new claims that are denied on or after October 28, 2013, because the beneficiary was incarcerated on the date of service, are based upon that information. We are also identifying all of the claims that were incorrectly demanded or collected, making changes to claims processing system, and refunding amounts collected. This process will identify the claims that were denied in error and reprocessing will be completed by the Medicare Administrative Contractors.

*Last updated 11-20-13*

### **RESOLUTION TIMEFRAME AND PROCESS**

**Q1:** How is CMS resolving the claims denial issues associated with the June, July, and August 2013 incarcerated beneficiaries' data?

**A1:** The resolution of this situation requires a series of complex actions including the restoration of the original data on the Medicare Enrollment Data Base (EDB), the identification of claims that were incorrectly denied or cancelled, the determination of amounts that will need to be refunded, and making changes to our claims processing systems to update Medicare history and notify the other users of our data, such as secondary insurers. The EDB data has been updated and CMS has reduced related non-supplier open accounts receivable to zero in the majority of instances. We anticipate that most suppliers will receive refunds by the first week in December. We are still working on making the non-supplier provider claim refunds and

will keep you updated on our progress. Note that accounts receivable related to claims that have been appealed are not impacted by this action; appealed claims will be handled separately and, where appropriate, refunds will be generated at a later date.

*Last updated 11-20-13*

Q2: As part of the reprocessing work to correct the erroneous claim denials, is Medicare reviewing the claims that were denied on a daily basis between CWF updates during June, July, and August 2013?

A2: Yes. Now that the up-to-date incarcerated beneficiary data from the Social Security Administration has been loaded into its systems, CMS has instructed its Medicare Administrative Contractors (MACs) to reprocess any claims that may have been denied on or after May 1, 2013 through October 28, 2013, to ensure that the denial was correct. If the original denial was in error, the MAC will adjust the claim to pay. All of the reprocessing should be completed no later than the end of December 2013.

*Last updated 11-20-13*

### **Supplier Claims (Durable Medical Equipment, Prosthetics, Orthotics, and Supplies billers)**

Q1: When will the supplier claims be reprocessed?

A1: The supplier claims that were incorrectly denied will be adjusted and paid by the DME MACs, using normal procedures, including closing out the relevant accounts receivable. Suppliers should receive payments for most of the adjusted claims by the first week in December 2013.

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Q2: How will a supplier be able to identify affected claims that have been reprocessed?

A2: For supplier claims, the remittance advice will have information in the Claim Payment Information (CLP) segment. For the reprocessed claims, the two fields in this segment will include the following information:

- CLP01 – Patient Control # – The value in this field will be identical to any value received on the original submitted claim (CLM01 on the X12 837). Suppliers can use this information to assist in matching the reprocessed claim with the original claim.
- CLP02 – Qualifier 22 – Reversal of previous payment. This qualifier will be used because the current payment is reversing the previous payment of \$0.00 in case of previous denial.

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Q3: When will a supplier be notified which claims are going to be reprocessed?

A3: The supplier will not be notified in advance of the reprocessing as to which claims will be paid. Suppliers will be receiving a remittance advice which will identify the affected claims and which can be used to reconcile their books.

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Q4: When will a supplier receive payment for the reprocessed claims?

A4: The majority of the supplier claims will be reprocessed and the payments issued no later than the first week in December 2013.

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Q5: What does it mean if I do not receive a refund?

A5: There are several explanations for not receiving the refund you were expecting. The refund might have been applied to an outstanding overpayment or accelerated/advanced payment. If this is the case, the remittance advice should provide the necessary information. If the original collection was appealed, refunds are being handled through a separate process. If you filed an appeal, you can expect to receive a refund (where appropriate) by the beginning of February. The DME Medicare Administrative Contractors are also still working to identify further refunds for some claims which have had one or more previous adjustment actions, and recoupments on which interest was assessed and collected. If none of these situations is applicable, it indicates the overpayment was correctly assessed.

*Last updated 11-20-13*

Q6: After reprocessing occurs, will the payments made to the affected suppliers match the amounts recouped for the inappropriately denied claims?

A6: The repayment may not exactly match the original payment that was made for the claims. The claim repayment amount or refund is subject to normal CMS business processes. In other words, the refund when processed by CMS may be used to offset or recoup against any outstanding overpayment that may currently exist. If this occurs, it will be reflected on the remittance advice for those claims where the offset was applied. Since the claims were originally processed, changes in the beneficiary's paid deductible amounts, other changes in editing, and other outstanding overpayments being collected may affect the final amount paid to the provider.

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## **SECONDARY PAYERS**

Q1: Will information about the reprocessed claims be sent to secondary payers, including State Medicaid Agencies?

A1: Yes. Once the claims are reprocessed, information will be shared with the secondary payers, including the State Medicaid Agencies, in many instances. Whether we share such information will depend on whether the secondary payer accepts mass adjustment claims through our Medicare claims crossover process. Not all secondary payers accept mass adjustment claims via the Medicare claims crossover process.

*Last updated 11-20-13*

Q2: How do I know if the secondary payer handles mass adjustments using this process?

A2: The best way is to ask the secondary payer whether it accepts mass adjustment claims via the Medicare crossover process. Another suggested approach is to review the way the secondary payers that you bill have handled past Medicare mass adjustments situations. That might be a good predictor of whether the claims will be crossed over.

*Last updated 11-20-13*

## **APPEALS**

Q1: Can I appeal the denied claim? Who is liable for the denied claim?

A1: Yes, providers, suppliers, and beneficiaries can appeal the denied claims. Liability for the denied claims will be determined for each claim on a case by case basis.

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Q2: Once CMS reprocesses the inappropriate claim denials/cancellations, will there be a way for providers to appeal denied claims that were deemed appropriate even if the time limits for filing appeals expired?

A2: The Medicare Administrative Contractors have been instructed to process any appeals for claim denials or overpayments related to incarcerated beneficiaries that were pended by the MAC, and any appeal requests received without regard to the time limits for filing appeals.

*Last updated 11-20-13*

## **RECOUPMENTS**

Q1: Do suppliers and providers need to take any steps to be repaid for incorrect recoupments resulting from this issue?

A1: For this issue, CMS has developed an automated process to identify and reprocess the claims that may have been denied in error. Providers will not have to resubmit claims. Supplier claims will be reprocessed and refunds issued by the end of the first week of December 2013.

The timeframe for the non-supplier claim refunds is not yet available. Once it is available, CMS will share this information.

*Last updated 11-20-13*

Q2: Will Medicare repay the recoupments with interest?

A2: CMS is working to determine when it would be appropriate to pay interest on recoupments taken related to this issue.

*Last updated 7-31-13*

Q3: What happens to corrections of recoupments that occur after a new MAC has taken over a jurisdiction?

A3: All claims and accounts receivables have been transferred to the incoming MAC.

*Last updated 11-20-13*

Q4: If a provider or supplier paid interest on one of the collected overpayments, will the repayment of that claim include the amount of interest the provider or supplier paid?

A4: Yes, the provider or supplier will receive a refund for the amount paid including any interest paid.

*Last updated 11-20-13*

Q5: I continue to receive demand letters and the MAC continues to recoup money for an incarcerated beneficiary related overpayment. What should I do?

A5: While CMS previously zeroed out the most of the incarcerated beneficiary overpayments, due to changes in our records over the years, we are still working to identify, zero out, and process refunds for some of the erroneous overpayments. If you are aware of an incarcerated beneficiary overpayment that is still being collected, you should bring it to the attention of your MAC as soon as possible.

*Last updated 11-20-13*

## **AVAILABLE AUTOMATED INFORMATION**

Q1: How can providers access automated information about a beneficiary's period of incarceration?

A1: The CMS automated systems do not provide specific information about a beneficiary's incarceration status. When a provider makes a 270/271 eligibility query in the HIPAA Eligibility Transaction System (HETS), if the response indicates that the beneficiary is in an inactive status,

it is an indication that the beneficiary may be incarcerated. The response does provide the dates for the period of inactivity. The HETS response does not provide information specifying the reason for the period of ineligibility.

This same information is available through the MAC interactive voice response units and provider internet portals.

If a provider calls the MAC's provider contact center, the agents will tell the provider if the Social Security records indicate that this patient was in custody when the service was rendered and that Medicare does not cover items and services furnished to an individual while they are in state or local custody under a penal authority.

*Last updated 7-31-13*

## **BENEFICIARY INFORMATION**

Q1: How are beneficiaries being notified about the recent incarceration data issues?

A1: CMS mailed a letter to all affected beneficiaries in November that explains the policy and the periods of time during which claims were impacted.

*Last updated 11-20-13*

Q2: Will beneficiaries receive refunds for beneficiary-submitted claims that were erroneously denied?

A2: Yes. If the claim was denied incorrectly and the beneficiary paid the demand, CMS will send the refund directly to the beneficiary.

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## **OTHER**

Q1: When Medicare doesn't pay for the medical services of beneficiaries who are in custody under a penal statute or rule, is the beneficiary responsible for payment?

A1: In most cases, the penal authority will be responsible for payment. Therefore, the provider should bill the penal authority for the care. In the rare cases that the penal authority is not required to pay for the care, providers can bill Medicare appending a -QJ modifier to the claim (for information, refer to Medicare Learning Network's recent "[Medicare Coverage of Items and Services Furnished to Beneficiaries in Custody Under a Penal Authority](#)" Fact Sheet (ICD 908084).

*Last updated 11-20-13*

Q2: How frequently is CWF updated with the incarceration data?

A2: Monthly, usually toward the end of the month or the very beginning of a month.

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