

DEPARTMENT OF HEALTH AND HUMAN SERVICES
Centers for Medicare & Medicaid Services



News Flash –

NEW products from the Medicare Learning Network® (MLN)

- [“Screening Pelvic Examinations,”](#) Booklet, ICN 907792, Downloadable only.

MLN Matters® Number: MM8007

Related Change Request (CR) #: CR 8007

Related CR Release Date: November 1, 2012

Effective Date: April 1, 2013

Related CR Transmittal #: R11340TN

Implementation Date: April 1, 2013

New Informational Unsolicited Response (IUR) Process to Identify Previously Paid Claims for Services Furnished to Incarcerated Medicare Beneficiaries

Provider Types Affected

This MLN Matters® Article is intended for physicians, providers, and suppliers submitting claims to Medicare contractors (Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs), carriers, Durable Medical Equipment Medicare Administrative Contractors (DME MACs) and A/B MACs) for services provided to incarcerated Medicare beneficiaries.

What You Need to Know

This article is based on Change Request (CR) 8007, which informs Medicare contractors about the creation of a new Informational Unsolicited Response (IUR) process to identify and perform retroactive adjustments on any previously paid claims which may have been processed and paid erroneously during periods when the beneficiary data in the Enrollment Database (EDB) did not reflect the fact that the beneficiary was incarcerated.

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Medicare will generally not pay for medical items and services furnished to a beneficiary who was incarcerated on the date of service that the items and services were furnished. Medicare is creating a new IUR process in its systems to identify previously paid claims that contain Dates of Service (DOS) that partially or fully overlap a period when the beneficiary was incarcerated (exceptions noted below). The IUR process will be initiated:

- When there is an automatic update to the beneficiary's record that indicates a change to the beneficiary's "incarcerated" start date or end date, or
- When there is a manual update to the beneficiary's record that indicates a change to the beneficiary's "incarcerated" start date or end date.

Upon receiving the IUR, Medicare contractors will initiate overpayment recovery procedures to recoup any Medicare Part A and Part B payments.

Make sure that your billing staffs are aware of this update.

Background

Under Sections 1862(a)(2) and (3) of the Social Security Act, the Medicare program will not pay for services if the beneficiary has no legal obligation to pay for the services and if the services are paid for directly or indirectly by a governmental entity. Accordingly, the Centers for Medicare & Medicaid Services (CMS) presumes that a State or local government entity that has custody of a Medicare beneficiary under a penal statute has a financial obligation to pay for the cost of medical services and Medicare will generally not reimburse claims for services rendered to a beneficiary while he/she is in such custody.

Regulations at 42 Code of Federal Regulations (CFR) Section 411.4(b) state that:

“Payment may be made for services furnished to individuals or groups of individuals who are in the custody of the police or other penal authorities or in the custody of a government agency under a penal statute only if the following conditions are met: (1) State or local law requires those individuals or groups of individuals to repay the cost of medical services they receive while in custody, and (2) The State or local government entity enforces the requirement to pay by billing all such individuals, whether or not covered by Medicare or any other health insurance, and by pursuing the collection of the amounts they owe in the same way and with the same vigor that it pursues the collection of other debts.”

Federal benefit entitlement information is provided to CMS by the Social Security Administration (SSA) on a daily basis. When the SSA learns of a beneficiary's incarceration, the beneficiary's record in the EDB is updated to reflect that fact and the effective date (or “Start date”) of the incarceration.

CMS Transmittal AB-02-164, CR2022, issued on November 8, 2002, implemented a Medicare systems edit to reject services billed to Medicare when information in the EDB indicates that, on the date of service, the beneficiary was incarcerated. Upon receipt of this rejection, Medicare contractors

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are instructed to deny the claims. CR4352, which manualized CR2022, may be viewed at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R883CP.pdf> on the CMS website.

OIG Finding of Vulnerability

The Office of Inspector General (OIG) has recently identified a vulnerability where there may be, in some instances, a period of time between when the beneficiary is incarcerated and when the SSA learns of this status and updates its records (and Medicare files are subsequently updated). During this time, it is possible that Medicare Fee-For-Service (FFS) claims for services would be paid erroneously because the beneficiary's entitlement data in the EDB is not up-to-date when the claims are adjudicated.

Creation of IUR to Remedy Vulnerability

CMS has identified the IUR process as a means to mitigate this vulnerability. An IUR identifies a claim that appears to need to be adjusted by a Medicare contractor. The contractor, when appropriate, initiates overpayment recovery procedures to retract Part A or Part B payment.

Therefore, the intent of CR8007 is to create a new IUR process to identify and perform retroactive adjustments on any previously paid claims that may have been processed and paid erroneously during periods when the beneficiary data in the EDB did not reflect the fact that the beneficiary was incarcerated.

Additional Information

The official instruction, CR8007, issued to your FI, RHHI, carrier, DME MAC, and A/B MAC regarding this change, may be viewed at <http://www.cms.hhs.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R11340TN.pdf> on the CMS website.

If you have any questions, please contact your FI, RHHI, carrier, DME MAC, or A/B MAC at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

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