DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

MLN Matters® Number: MM9590

Related Change Request (CR) #: CR 9590

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Effective Date: For claims received on or after January 1, 2017

Related CR Transmittal #: R3577CP

Implementation Date: January 3, 2017

New Condition Code To Use When Hospice Recertification Is Untimely and Correction to Hospice Processing Problems

Provider Types Affected

This MLN Matters® Article is intended for hospices submitting claims to Medicare Administrative Contractors (MACs) for services to Medicare beneficiaries.

Provider Action Needed

Change Request (CR) 9590 creates a new condition code for hospices to use to identify when an occurrence span code 77 period is caused by a late recertification of the terminal illness. The CR also corrects certain hospice processing problems and makes some maintenance revisions to the hospice portions of the "Medicare Claims Processing Manual." The revisions to the manual include reformatting the presentation of remittance advice codes and ensuring code pairs are compliant with industry standards. Note that CR9590 creates no new policy. Make sure your billing staffs are aware of these changes.

Background

Original Medicare regulations require that, following the initial benefit period, for subsequent periods of hospice care, a hospice must obtain (no later than 2 calendar days after the first day of each period) a written certification statement from the medical director of the hospice, or the physician member of the hospice's interdisciplinary group. If the hospice cannot obtain written certification within two calendar days, it must obtain oral certification within two calendar days. A written certification must be on file in the hospice patient's record prior to submission of a claim.

Hospices use occurrence span code (OSC) 77 to report provider liable non-covered days when the recertification was not received within the required time. Medicare systems ensure that occurrence code 27 (the hospice certification date) may not be reported within the OSC 77 dates.

Additionally, since October 2014, Medicare regulations also require that hospice Notices of Election (NOEs) must be filed within 5 calendar days after the hospice admission date. If the NOE is not filed timely, Medicare does not cover the days of hospice care from the hospice admission date to the date the NOE is submitted to (and accepted by) the MAC. These days are a provider liability, and the provider may not bill the beneficiary for them.

Hospices also use OSC 77 to report the provider liable non-covered days when the NOE was not submitted within 5 days. Medicare systems compare incoming hospice claims to the NOE receipt date and enforce the presence of OSC 77 for the appropriate dates. An occurrence code 27 date within the OSC span dates in the case of an untimely NOE is perfectly appropriate.

Medicare systems cannot differentiate the two uses of OSC 77 during processing. Currently, claims are rejected in error when the occurrence code 27 falls within the OSC 77 dates and also when the OSC 77 was used to report an untimely NOE. To correct this, Medicare requested the National Uniform Billing Committee to create a new code to serve as indicator of which circumstance is leading the hospice to use OSC 77. A new condition code 85 is effective for claims received on or after January 1, 2017, and is defined "Delayed recertification of hospice terminal illness." When hospices report this code, Medicare systems will ensure the occurrence code 27 date does not fall within the OSC 77 dates.

Additionally, CMS has discovered errors in the implementation of previous hospice payment policies. CR9289 created a process in which Medicare systems checked whether prior benefit period days should be applied to the count of 60 days of service used to determine high routine home care (RHC) payments. This process only checked a single prior benefit period, when the policy requires that all benefit periods not separated by 60 days with no hospice services should apply. CR9590 corrects this.

CR 9289 also established automatic adjustments to the prior month's claim when a patient dies within the first 7 days of a billing period. Service intensity adjustment (SIA) payments may be due during the prior month. In situations where the patient dies within the first 7 days of a month, but no SIA payment applied on that claim since no RHC was provided on that claim, SIA payments may still be due on RHC days in the prior month. Automatic adjustments are not occurring in these cases. There are also situations in which an automatic adjustment to a claim applies SIA payments, but those payments are recouped in error if the provider subsequently adjusts that claim again. CR9590 corrects these situations.

There are also currently situations in which hospice claims in transfer situations are being returned in error due to an NOE that was not filed timely. In these situations, the discharging provider in the transfer failed to file the NOE timely, but the receiving hospice's claim is being returned. The action of the discharging hospice should not impact the receiving

hospice's payment. CR9590 corrects this. Until this correction is implemented, MACs will override the edit that occurs in error.

Additional Information

The official instruction, CR9590 issued to your MAC regarding this change is available at **https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R3577CP.pdf**.

You will find the updated "Medicare Claims Processing Manual," Chapter 11 (Processing Hospice Claims), Sections 10.1 (Hospice Pre-Election Evaluation and Counseling Services), 30.3 (Data Required on the Institutional Claim to Medicare Contractor), and 110 (Medicare Summary Notice (MSN) Messages/ASC X12 Remittance Advice Adjustment Reason and Remark Codes) as an attachment to CR9590.

If you have any questions, please contact your MAC at their toll-free number. That number is available at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html**.