

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



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Implementation Date: August 15, 2016

Revisions to Private Contracting/Opt-out Manual Sections Due to the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)

Provider Types Affected

This MLN Matters® Article is intended for physicians and practitioners who are planning to opt-out of Medicare or who have already opted out of Medicare.

Provider Action Needed

Change Request (CR) 9616 alerts physicians and practitioners who signed a valid opt-out affidavit on or after June 16, 2015, that it will automatically renew every 2 years. CR9616 revises the “Medicare Benefit Policy Manual” to be consistent with the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) amendments. If physicians and practitioners who filed affidavits effective **on or after June 16, 2015**, do not want their opt-out to automatically renew at the end of a 2 year opt-out period, they may cancel the renewal by notifying all MACs with which they filed an affidavit in writing at least 30 days prior to the start of the next opt-out period.

Be aware that valid opt-out affidavits signed **before June 16, 2015**, will expire 2 years after the effective date of the opt out. If physicians and practitioners that filed affidavits effective before June 16, 2015, want to extend their opt out, they must submit a renewal affidavit within 30 days after the current opt-out period expires to all contractors with which they would have filed claims absent the opt-out.

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Background

MACRA amended the private contracting/opt out provisions at Section 1802(b) of the Social Security Act. Prior to the MACRA amendments, the law specified that physicians and practitioners may opt out for a 2-year period. Individuals that wished to renew their opt-out at the end of a 2-year opt-out period were required to file new affidavits with their MAC. Section 106(a) of the MACRA amended section 1802(b)(3) of the Social Security Act to require that opt-out affidavits entered into on or after June 16, 2015, automatically renew every 2 years.

Other Key Points

- Medicare will make payment for covered, medically necessary services that are ordered or certified by a physician/practitioner who has opted out of Medicare if the ordering or certifying physician/practitioner has acquired a National Provider Identifier (NPI), reports his/her Social Security Number, has a valid opt out affidavit on file with his or her MAC, is of a specialty that is eligible to order and certify and provided that the services are not furnished by another physician/practitioner who has also opted out. For example, if an opt-out physician/practitioner admits a beneficiary to a hospital, Medicare will reimburse the hospital for medically necessary care.
- In order for a private contract with a beneficiary to be effective, the physician/practitioner must be opted out of Medicare. The physician/practitioner's initial 2-year opt-out period begins the date the affidavit meeting Medicare requirements is signed, provided the affidavit is filed within 10 days after the physician/practitioner signs his or her first private contract with a Medicare beneficiary.
- When a 2-year opt-out period ends, the physician/practitioner must enter into new private contracts with each beneficiary for the new 2-year period. The new private contracts must state the expected or known effective date and the expected or known expiration date of the current 2-year opt-out period.
- These points and other information are identified in the revised Chapter 15, Section 40 of the "Medicare Benefit Policy Manual," which is attached to CR9616.

Additional Information

The official instruction, CR9616, issued to your MAC regarding this change is available at <https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R222BP.pdf>.

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> under - How Does It Work.

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