

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services



News Flash – In 2009, The Centers for Medicare & Medicaid Services (CMS) implemented the Electronic Prescribing (eRx) Incentive Program, which is a program that uses incentive payments and payment adjustments to encourage the use of qualified electronic prescribing systems. From Calendar Year (CY) 2012 through 2014, a payment adjustment that increases each calendar year will be applied to an eligible professional's Medicare Part B Physician Fee Schedule (PFS) covered professional services for not becoming a successful electronic prescriber. The payment adjustment of 1.0 percent in 2012, 1.5 percent in 2013, and 2.0 percent in 2014 will result in an eligible professional or group practice participating in the eRx Group Practice Reporting Option (eRx GPRO) receiving 99.0 percent, 98.5 percent, and 98.0 percent respectively of their Medicare Part B Physician Fee Schedule (PFS) amount for covered professional services. CMS may exempt individual eligible professionals and group practices participating in eRx GPRO from the 2013 eRx payment adjustment if it is determined that compliance with the requirements for becoming a successful electronic prescriber would result in a significant hardship. To request a significant hardship, individual eligible professionals and group practices participating in eRx GPRO must submit their significant hardship exemption requests through the [Quality Reporting Communication Support Page](#) (Communications Support Page) on or between March 1 and June 30, 2012.

MLN Matters® Number: SE1223

Related Change Request (CR) #: N/A

Related CR Release Date: N/A

Effective Date: N/A

Related CR Transmittal #: N/A

Implementation Date: N/A

Appeals for Denied Claims Submitted by an Ordering and Referring Opt-out Physician/Non-physician Practitioners Who Are Excluded by the Office of Inspector General (OIG)

Provider Types Affected

This MLN Matters® Special Edition Article is intended for opt-out physicians/non-physician practitioners who elect to order and refer and are excluded by the Office of Inspector General (OIG) and who are listed as an eligible professional on a provider submitted claim to Medicare contractors (Carriers, Fiscal Intermediaries (who maintain an HHA workload, RHHIs, and/or A/B Medicare Administrative Contractors (A/B MACs)) for services provided to Medicare beneficiaries which meet exceptions described at 42 CFR 1001.1901(c).

Disclaimer

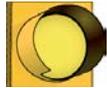
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Provider Action Needed



STOP – Impact to You

The Centers for Medicare & Medicaid Services (CMS) is issuing this article to inform opt-out physicians/non-physician practitioners who elect to order and refer and have been excluded by the Office of Inspector General (OIG) that Medicare will soon begin denying Part B, DME, and Part A HHA claims that fail the Ordering/Referring Provider edits. Opt-out physicians/non-physician practitioners who elect to order and refer and have been excluded by the OIG should file an appeal for any claim denials to their carriers and A/B MACs that they believe meets one of the exceptions described at 42 CFR 1001.1901(c).



CAUTION – What You Need to Know

The claims appeal should follow guidelines contained in the “Medicare Claims Processing Manual”, Chapter 29, Section 290. The appeal should include documentation that proves one of the exceptions described at 42 CFR 1001.1901(c) has been met.



GO – What You Need to Do

See the Background and Additional Information sections of this article for more details.

Background

Medicare requirements for opting out can be found in the “Medicare Benefit Policy Manual”, Chapter 15, Section 40, which is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c15.pdf> on the CMS website. Opt-out affidavit requirements can be found in the “Medicare Benefit Policy Manual”, Chapter 15, Section 40.9, which is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/bp102c15.pdf> on the CMS website.

The OIG exclusion does not prohibit a physician/non-physician practitioner from opting out of the Medicare Program. This includes exclusions under the following sections of the Social Security Act:

- Section 1128, Exclusion of Certain Individuals and Entities from Participation in Medicare and State Health Care Programs, which is available at http://www.ssa.gov/OP_Home/ssact/title11/1128.htm on the Internet;
- Section 1156, Obligations of Health Care Practitioners and Providers of Health Care Services, Sanctions, and Penalties, Hearings and Review, which is available at http://www.ssa.gov/OP_Home/ssact/title11/1156.htm on the Internet; or
- Section 1892, Offset of Payments to Individuals to Collect Past Due Obligations Arising from Breach of Scholarship and Loan Contract, which is available at http://www.ssa.gov/OP_Home/ssact/title18/1892.htm on the Internet.

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However, if the opt out physician/non-physician practitioner elects to order and refer services, then 42 CFR 405.425(j) would be applicable. It states that:

*"The physician or practitioner who is excluded under sections 1128, 1156, or 1892 of the Social Security Act may not order, prescribe, or certify the need for Medicare-covered items and services **except as provided in §1001.1901 of this title, and must otherwise comply with the terms of the exclusion in accordance with §1001.1901 effective with the date of the exclusion.**"*

This article informs opt-out physicians/non-physician practitioners who elect to order and refer and have been excluded by the OIG that they should file an appeal for any claim denials to their carriers and/or A/B MACs. That is, if they believe it meets one of the exceptions described at 42 CFR 1001.1901(c).

- 42 CFR 1001.1901(c) is available at http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&tpl=ecfrbrowse/Title42/42cfr1001_main_02.tpl on the Internet.
- The claims appeal should follow the guidelines found in the "Medicare Claims Processing Manual", Chapter 29, Section 290. It should also include documentation that proves one of the exceptions described at 42 CFR 1001.1901(c) has been met. The "Medicare Claims Processing Manual", Chapter 29, Section 290, is available at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c29.pdf> on the CMS website.

Additional Information

If you have any questions, please contact your carrier or A/B MAC at their toll-free number, which may be found at <http://www.cms.hhs.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

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