

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



News Flash –

NEW products from the Medicare Learning Network® (MLN)

- [“Providing the Annual Wellness Visit \(AWV\),”](#) Booklet, ICN 907786, Downloadable only.

MLN Matters® Number: MM8009

Related Change Request (CR) #: CR 8009

Related CR Release Date: November 1, 2012

Effective Date: April 1, 2013

Related CR Transmittal #: R11330TN

Implementation Date: April 1, 2013

## **New Informational Unsolicited Response (IUR) Process to Identify Previously Paid Claims for Services Furnished to Medicare Beneficiaries Classified as "Unlawfully Present" in the United States**

### **Provider Types Affected**

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

### **What you Need to Know**

This article is based on Change Request (CR) 8009, 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 that contain dates of service (DOS) that partially or fully overlap a period when the beneficiary was unlawfully present in the United States. The IUR process shall be initiated:

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- When there is an automatic update to the beneficiary's record in CWF via an EDB transaction which indicates a change to the beneficiary's "unlawfully present" start date or end date, or
- When there is a manual update to the beneficiary's record in CWF which indicates a change to the beneficiary's "unlawfully present" 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.

## Background

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Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) prohibited aliens who are not "qualified aliens" from receiving Federal benefits, including Medicare benefits. Consistent with this legislation, Section 10.1.4.8 of Chapter 1 of the "Medicare Claims Processing Manual" (<http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/clm104c01.pdf>) states that: "Medicare payment may not be made for items and services furnished to an alien beneficiary who was not lawfully present in the United States on the date of service."

Federal benefit entitlement information is provided to the Centers for Medicare & Medicaid Services (CMS) by the Social Security Administration (SSA) on a daily basis. Such information is used in the adjudication of claims for healthcare services provided to Medicare beneficiaries. When the SSA learns of a beneficiary's status as "unlawfully present" in the United States, the beneficiary's record in Medicare's files is updated to reflect that fact and the effective date of that status.

CMS Transmittal AB-03-115, Change Request (CR) 2825, issued on August 1, 2003, implemented an edit in Medicare systems to reject services billed to Medicare when information in its files indicates that, on the date of service, the beneficiary was not lawfully present in the United States. Upon receipt of this rejection, Medicare contractors are instructed to deny the claim or claims.

### *OIG Finding of Vulnerability*

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

### *Creation of IUR to Remedy Vulnerability*

CMS has identified a process 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 CR 8009 is to create a new process to identify and perform retroactive adjustments on any previously paid claims which may have been paid erroneously during periods when the beneficiary data in Medicare's files did not reflect the fact that the beneficiary was unlawfully present in the United States.

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## Additional Information

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You can find the official instruction, CR8009, issued to your Medicare Carrier, FI, DME MAC, RHHI, or A/B MAC by visiting <http://www.cms.hhs.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R11330TN.pdf> on the CMS website.

If you have any questions, please contact your Medicare Carrier, FI, DME MAC, RHHI, 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.

**News Flash - Diabetes and the Seasonal Flu** - November is National Diabetes Awareness Month. Diabetes can weaken the immune system, which can put seniors and others with diabetes at greater risk for flu-related complications like pneumonia. Medicare provides coverage for one seasonal influenza virus vaccine per influenza season for all Medicare beneficiaries. Medicare generally provides coverage of pneumococcal vaccination and its administration once in a lifetime for all Medicare beneficiaries. Medicare may provide coverage of additional pneumococcal vaccinations based on risk or uncertainty of beneficiary pneumococcal vaccination status. Medicare provides coverage for the seasonal flu and pneumococcal vaccines and their administration for seniors and others with Medicare with no co-pay or deductible. And remember, seasonal flu vaccine is particularly important for health care workers, who may spread the flu to their patients. Don't forget to immunize yourself and your staff. Protect your patients. Protect your family. Protect yourself. *Know what to do about the flu.*

Remember – The influenza vaccine plus its administration and the pneumococcal vaccine plus its administration are covered Part B benefits. The influenza vaccine and pneumococcal vaccine are NOT Part D-covered drugs. CMS has posted the 2012-2013 [Seasonal Influenza Vaccines Pricing](#). You may also refer to the [MLN Matters® Article #MM8047](#), "Influenza Vaccine Payment Allowances - Annual Update for 2012-2013 Season."

For more information on coverage and billing of the flu vaccine and its administration, please visit the [CMS Medicare Learning Network® Preventive Services Educational Products](#) and [CMS Immunizations](#) web pages. And, while some providers may offer the flu vaccine, others can help their patients locate a vaccine provider within their local community. [HealthMap Vaccine Finder](#) is a free, online service where users can search for locations offering flu vaccines.

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