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A MEDICARE LEARNING NETWORK® (MLN) EVENT

Inpatient Rehabilitation Facility Appeals Settlement Process

August 13, 2019

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CMS CENTERS FOR MEDICARE & MEDICAID SERVICES

Medicare Learning Network®

Agenda

- Introduction
- Settlement Background
- Settlement Status
- Eligibility for Settlement
- Settlement Process Walk-through
- Question and Answer Session

Inpatient Rehabilitation Facility (IRF) Settlement Details

CMS is establishing the IRF Appeals Settlement process as part of the broader Department of Health & Human Services commitment to improving the Medicare appeals process and reducing the appeals backlog. This settlement option will be geared toward certain IRF appeals pending at the Medicare Administrative Contractor (MAC), the Qualified Independent Contractor (QIC), the Office of Medicare Hearings and Appeals (OMHA), or Medicare Appeals Council (*Council*) levels of review.

IRF Settlement Details (Continued)

Appellants that filed IRF appeals at the redetermination level no later than August 31, 2018 now have the option to settle their eligible pending appeals, as follows:

- CMS will pay 69% of the net payable amount for all claims associated with pending IRF appeals that do not otherwise meet the criteria for “Intensity of Therapy Appeals” referenced below.

- Intensity of Therapy Appeals: CMS will pay 100% of the net payable amount for all IRF appeals in which the claim was denied based *solely* on a threshold of therapy time not being met where the claim did not undergo further review for medical necessity of the intensive rehabilitation therapy program based on the individual facts of the case.

- Additionally, CMS will pay 100% of the net payable amount for all IRF appeals in which the claim was denied *solely* because justification for group therapy was not documented in the medical record.

Eligible Appeals

An IRF Appeal is eligible if:

- It is either currently pending or within the timely filing period to appeal at the MAC, QIC, OMHA, or Council level of appeal, as of the date of CMS's signature on the Settlement agreement.
- It was correctly and timely filed at its most recent level of appeal.
- It was filed with the MAC for redetermination no later than August 31, 2018.
- It includes only claims that were fully denied by a Medicare contractor and remain in a fully denied status.
- It does not include claims that were part of an extrapolation.
- It was not beneficiary initiated.
- The beneficiary was not found liable for the amount in controversy after the initial determination or participated in the reconsideration.
- It does not involve items, services, drugs, or biologicals billed under unlisted, unspecified, unclassified, or miscellaneous healthcare codes (e.g., CPT Code 38999 Unlisted procedure, hemic or lymphatic system; K0108 Wheelchair component or accessory, not otherwise specified).
- It does not arise from a MAC, QIC, ALJ, or Council dismissal order.
- It includes Part A IRF claims only.

Ineligible Appellants

- Medicare beneficiaries, Medicare Advantage plan enrollees, their family members, or estates.
- State Medicaid Agencies.
- Medicare Advantage Organizations (Medicare Part C).
- IRFs that filed for bankruptcy or expect to file for bankruptcy.
- Certain appellants that are or were involved in False Claims Act litigation or investigations, or those that have other program integrity concerns, including pending civil, criminal, or administrative investigations.

Initiating Settlement

- The settlement can be initiated by submitting an Expression of Interest (EOI) to CMS at CMSMedicareAppealsSettlement@cms.hhs.gov.

- The EOI document can be found at https://go.cms.gov/IRF.

- EOIs will be accepted through September 17, 2019

Settlement Process

- Once CMS receives the EOI, we will take the following steps:
  - Verify you meet appellant eligibility criteria, and have eligible appeals.
    - If you don't meet eligibility criteria, we will notify you within 30 days of submitting your EOI, along with instructions on how to dispute the eligibility decision via the Eligibility Determination Request process.
  - If you pass the eligibility review, you will receive an Administrative Settlement Agreement (Agreement) and Spreadsheet of potentially eligible appeals (Spreadsheet) within 30 days of submitting your EOI.

Settlement Process Continued

- Once you receive the Agreement and Spreadsheet and agree with the Spreadsheet, sign and return the associated Agreement to CMS within 15 days of receipt of the Spreadsheet and Agreement.

- If you are not in agreement with the Spreadsheet, submit an Eligibility Determination Request (EDR) to request that appeals are added or removed from the spreadsheet within 15 days of receipt of the Spreadsheet and Agreement. Please also use the EDR process to identify appeals that meet the criteria for 100% of net payable amount.

Settlement Process-Eligibility Determination Request (EDR)

The EDR can be used to add potentially eligible appeals, remove potentially ineligible appeals, and identify appeals that meet the criteria for 100% of net payable amount.

- The EDR template with instructions is available at https://go.cms.gov/IRF.
- The completed EDR should be submitted to CMS within 15 days of receiving your Agreement and Spreadsheet.
- CMS, the appellant, and the appellant's MAC will work together to come to a consensus on appeal eligibility within 30 days after EDR receipt.
- **CMS retains the right to make final eligibility decision.**
- **Only one (1) EDR may be submitted per NPI.**

Settlement Process Continued

- You must settle all eligible appeals.
- You may not choose to settle some eligible appeals and continue to appeal others.
- Failure to provide a signed Agreement or EDR to CMS within 15 days of receipt of the Agreement and Spreadsheet will result in CMS removing you from the settlement process.

Settlement Process Continued

- CMS will countersign the Agreement.
  - A copy of the fully executed Agreement will be sent to you once signed by CMS.
  - At this point, your appeals included in the Spreadsheet are removed from the appeals process.
- A copy of the fully executed Agreement is sent to your associated MAC for final eligibility verification, and pricing.
  - There is a possibility that during the final validation, appeals and associated claims may be removed from settlement for not meeting eligibility criteria; you will be notified if this occurs.
- Payment will be made within 180 days of CMS' signature on the Agreement.
- The appeals associated with settled claims are dismissed, and appeals associated with un-settled claims, if any, are returned to their position in the appeals queue to continue in appeals process.

Question and Answer Session

Acronyms in this Presentation

- **ALJ:** Administrative Law Judge
- **CMS:** Centers for Medicare & Medicaid Services
- **Council**: Medicare Appeals Council at the Departmental Appeals Board
- **CPT**: Current Procedural Terminology
- **EDR**: Eligibility Determination Request
- **EOI**: Expression of Interest
- **IRF**: Inpatient Rehabilitation Facility Settlement
- **MAC**: Medicare Administrative Contractor
- **NPI**: National Provider Identifiers
- **OMHA**: Office of Medicare Hearing and Appeals
- **QIC**: Qualified Independent Contractor

Resources

- IRF Website: https://go.cms.gov/IRF.
- Email address for submissions: MedicareAppealsSettlement@cms.hhs.gov
- Email address for questions: MedicareSettlementFAQs@cms.hhs.gov
- OMHA's Settlement Facilitation Conference: https://www.hhs.gov/about/agencies/omha/about/special-initiatives/settlement-conference-facilitation/medicare-part-a-alj-appeals/index.html

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