

# **CMS Manual System**

## **Pub 100-02 Medicare Benefit Policy**

**Transmittal 38**

**Department of Health &  
Human Services**

**Centers for Medicare &  
Medicaid Services**

**Date: AUGUST 19, 2005**

**CHANGE REQUEST 3781**

**SUBJECT: Services Not Provided Within United States**

**I. SUMMARY OF CHANGES:** Although the typical exceptions to Medicare's "foreign exclusion" involve services that are furnished in Canada and Mexico, it is possible for Medicare to make payment to foreign hospitals besides those located in Canada and Mexico. For example, if an emergency necessitated that inpatient hospital services be furnished to a Medicare beneficiary who is living in Guam and the nearest adequately equipped hospital to treat that beneficiary was located in the Philippines, Medicare payment would not be prohibited under Medicare's "foreign exclusion" because Medicare payment may be permitted for the services under section 1814(f) of the Social Security Act (the Act) (42 U.S.C. 1395f(f)). Section 1814(f)(2) of the Act permits payment to be made to a foreign hospital for emergency inpatient services provided to a beneficiary where the beneficiary was present in the United States at the time the emergency that necessitated the inpatient hospital services occurred and the hospital outside the U.S. was closer to, or substantially more accessible from, the place where the emergency arose than the nearest adequately equipped hospital within the U.S. For purposes of section 1814(f) of the Act, the United States includes the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, The Northern Mariana Islands, and for purposes of services rendered on board ship, the territorial waters adjoining the land areas of the U.S.

**NEW/REVISED MATERIAL :**

**EFFECTIVE DATE : November 17, 2005**

**IMPLEMENTATION DATE : November 17, 2005**

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)**

**R = REVISED, N = NEW, D = DELETED**

<b>R/N/D</b>	<b>CHAPTER/SECTION/SUBSECTION/TITLE</b>
<b>R</b>	16/60/Services Not Provided Within United States

**III. FUNDING:**

**No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2006 operating budgets.**

**IV. ATTACHMENTS:**

Business Requirements

Manual Instruction

*\*Unless otherwise specified, the effective date is the date of service.*

# Attachment - Business Requirements

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**SUBJECT: Services Not Provided Within United States**

## I. GENERAL INFORMATION

**A. Background:** Although the typical exceptions to Medicare’s “foreign exclusion” involve services that are furnished in Canada and Mexico, it is possible for Medicare to make payment to foreign hospitals besides those located in Canada and Mexico. For example, if an emergency necessitated that inpatient hospital services be furnished to a Medicare beneficiary who is living in Guam and the nearest adequately equipped hospital to treat that beneficiary was located in the Philippines, Medicare payment would not be prohibited under Medicare’s “foreign exclusion” because Medicare payment may be permitted for the services under section 1814(f) of the Social Security Act (the Act) (42 U.S.C. 1395f(f)).

**B. Policy:** Section 1814(f)(2) of the Act permits payment to be made to a foreign hospital for emergency inpatient services provided to a beneficiary where the beneficiary was present in the United States at the time the emergency that necessitated the inpatient hospital services occurred and the hospital outside the U.S. was closer to, or substantially more accessible from, the place where the emergency arose than the nearest adequately equipped hospital within the U.S. For purposes of section 1814(f) of the Act, the United States includes the 50 States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, The Northern Mariana Islands, and for purposes of services rendered on board ship, the territorial waters adjoining the land areas of the U.S.

## II. BUSINESS REQUIREMENTS

*“Shall” denotes a mandatory requirement*

*“Should” denotes an optional requirement*

Requirement Number	Requirements	Responsibility (“X” indicates the columns that apply)								
		F I	R H H I	C a r r i e r	D M E R C	Shared System Maintainers				Other
						F I S S	M C S	V M S	C W F	
3781.1	Medicare intermediaries and carriers shall permit payment to be made to a foreign hospital for emergency inpatient services provided to a beneficiary where the beneficiary was present in the United States at the time the emergency that necessitated the inpatient hospital services occurred and the hospital outside the U.S. was closer to, or substantially more accessible from,	X		X						

Requirement Number	Requirements	Responsibility (“X” indicates the columns that apply)							
		F I	R H I	C a r r i e r	D M E R C	Shared System Maintainers			
F I S S	M C S					V M S	C W F		
	the place where the emergency arose than the nearest adequately equipped hospital within the U.S.								

### III. PROVIDER EDUCATION

Requirement Number	Requirements	Responsibility (“X” indicates the columns that apply)							
		F I	R H I	C a r r i e r	D M E R C	Shared System Maintainers			
F I S S	M C S					V M S	C W F		
3781.2	<p>A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/medlearn/matters">www.cms.hhs.gov/medlearn/matters</a> shortly after the CR is released. You will receive notification of the article release via the established "medlearn matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin and incorporated into any educational events on this topic. Contractors are free to supplement Medlearn Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.</p>	X		X					

#### IV. SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS

**A. Other Instructions: N/A**

<b>X-Ref Requirement #</b>	<b>Instructions</b>

**B. Design Considerations: N/A**

<b>X-Ref Requirement #</b>	<b>Recommendation for Medicare System Requirements</b>

**C. Interfaces: N/A**

**D. Contractor Financial Reporting /Workload Impact: N/A**

**E. Dependencies: N/A**

**F. Testing Considerations: N/A**

#### V. SCHEDULE, CONTACTS, AND FUNDING

<b>Effective Date*:</b> November 17, 2005 <b>Implementation Date:</b> November 17, 2005 <b>Pre-Implementation Contact(s):</b> Fred Grabau (410-786-0206) <b>Post-Implementation Contact(s):</b> Fred Grabau (410-786-0206)	<b>No additional funding will be provided by CMS; contractor activities are to be carried out within their FY 2006 operating budgets.</b>
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## 60 - Services Not Provided Within United States

*(Rev. 38, Issued: 08-19-05; Effective: 11-17-05; Implementation: 11-17-05)*

Items and services furnished outside the United States are excluded from coverage except for the following services, and certain services rendered on board a ship:

- Emergency inpatient hospital services where the emergency occurred:
  - While the beneficiary was physically present in the United States; or
  - In Canada while the beneficiary was traveling without reasonable delay and by the most direct route between Alaska and another State.

See Medicare Claims Processing Manual Chapter 3, Inpatient Claims Processing, section 110 for a description of claims processing procedures.

- Emergency or nonemergency inpatient hospital services furnished *by a hospital located outside the United States, if the hospital was* closer to, or substantially more accessible from, the beneficiary's United States residence than the nearest participating United States hospital which was adequately equipped to deal with and available to provide treatment of the illness or injury (see Medicare Claims Processing Manual Chapter 3, Inpatient Claims Processing, section 110 for a description of claims processing procedures);

- Physician and ambulance services furnished in connection with, and during a period of, covered foreign hospitalization. Program payment may not be made for any other Part B medical and other health services, including outpatient services furnished outside the United States (see Medicare Claims Processing Manual Chapter 1, General, section 10.1.4.1 for a description of claims processing procedures);

- Services rendered on board a ship in a United States port, or within 6 hours of when the ship arrived at, or departed from, a United States port, are considered to have been furnished in United States territorial waters. Services not furnished in a United States port, or within 6 hours of when the ship arrived at, or departed from, a United States port, are considered to have been furnished outside United States territorial waters, even if the ship is of United States registry (see Medicare Claims Processing Manual Chapter 1, General, section 10.1.4.7 for a description of claims processing procedures); and

The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa and, for purposes of services rendered on a ship, includes the territorial waters adjoining the land areas of the United States.

A hospital that is not physically situated in one of the above jurisdictions is considered to be outside the United States, even if it is owned or operated by the United States Government.

Payment may not be made for any item provided or delivered to the beneficiary outside the United States, even though the beneficiary may have contracted to purchase the item while they were within the United States or purchased the item from an American firm.

Under the Railroad Retirement Act, payment is made to Qualified Railroad Retirement beneficiaries (QRRBs) by the RRB for covered hospital services furnished in Canadian hospitals as well as in the U.S. Physician and ambulance services are not covered by the Railroad Retirement Act; however, under an agreement between CMS and RRB, if the QRRB claims payment for Part B services in connection with Canadian hospitalization, RRB processes the Part B claim. In such cases the RRB determines:

- Whether the requirements in are met for the inpatient services; and
- Whether the physician and/or ambulance services were furnished in connection with the services.

Services for an individual who has elected religious nonmedical health care status may be covered if the above requirements are met but this revokes the religious nonmedical health care institution election.