Medicare Program Integrity Manual

Department of Health and Human Services (DHHS)
CENTERS FOR MEDICARE & MEDICAID SERVICES (CMS)

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CHANGE REQUEST 1879

CHAPTERS	REVISED SECTIONS	NEW SECTIONS	DELETED SECTIONS
3		2.2	

NEW/REVISED MATERIAL--EFFECTIVE DATE: September 26, 2001
IMPLEMENTATION DATE: September 26, 2001

Chapter 3, §2.2, Administrative Relief from Medical Review and Benefit Integrity in Disaster Situations - This section adds language allowing contractors flexibility in applying review requirements to providers who are impacted by natural and man-made disasters and whose medical record documentation may be impaired, destroyed, or affected by delays in the U.S. mail delivery system.

These instructions should be implemented within your current operating budget.

Medicare Program Integrity Manual

Chapter 3 - Verifying Potential Errors and Taking Corrective Actions

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(Rev. 13, 09-26-01)

2.2 - Administrative Relief from Medical Review and Benefit Integrity in the Presence of a Disaster (Rev. 13, 09-26-01)

When a disaster occurs, whether natural or man-made, contractors should anticipate both an increased demand for emergency and other health care services, and a corresponding disruption to normal health care service delivery systems and networks. In disaster situations, contractors should do whatever they can to assure that all Medicare beneficiaries have access to the emergency or urgent care they need. Contractors should let providers know (via website, responses to provider calls, etc.) that the provider's first responsibility, as in any emergency, is to provide the needed emergency or urgent service or treatment. Contractors should assure providers that they will work with providers to ensure that they receive payment for all covered services. The administrative flexibility available to contractors is discussed below. These actions will prevent most inappropriate denials and subsequent appeals.

A -- Definition of Disaster

"Disaster" is defined as any natural or man-made catastrophe (such as hurricane, tornado, earthquake, volcanic eruption, mudslide, snowstorm, tsunami, terrorist attack, bombing, fire, flood, or explosion) which causes damage of sufficient severity and magnitude to:

1) *partially or completely destroy medical records and associated documentation that may be requested by the contractor in the course of a Medicare medical review audit,*

2) *interrupt normal mail service (including US Postal delivery, overnight parcel delivery services etc.), or*

3) *otherwise significantly limit the provider's daily operations.*

A disaster may be widespread and impact multiple structures (e.g., a regional flood) or isolated and impact a single site only (e.g., water main failure). The fact that a provider is located in an area designated as a disaster by the Federal Emergency Management Act (FEMA) is not sufficient in itself to justify administrative relief, as not all structures in the disaster area may have been subject to the same amount of damage. Damage must be of sufficient severity and extent to compromise retrieval of medical documentation.

B -- Basis for Providing Administrative Relief

In the event of a disaster, contractors may grant temporary administrative relief to any affected providers for up to 6 months or more with good cause. Administrative relief is to be granted to these providers on a case-by-case basis in accord with the following guidelines:

- *Contractors must make every effort to be responsive to providers who are victims of the disaster and whose medical record documentation may be partially or completely destroyed.*

- *Providers must maintain and, upon contractor request, submit verification that (1) a disaster has occurred and (2) medical record loss resulted from this disaster to the point where administrative relief from medical review requirements is necessary to allow the provider sufficient time to obtain duplicate, lost record, or reconstruct partially destroyed records.*

Verification of the disaster and the resultant damage may include but is not limited to: (1) copies of claims filed by the provider with his/her insurance and liability company, (2) copies of police reports filed to report the damage, (3) copies of claims submitted to FEMA for financial assistance, (4) copies of tax reports filed to report the losses, or (5) photographs of damage. Contractors should not routinely request providers to submit verification of damage or loss of medical record documentation.

C -- Types of Relief

Providers Directly Impacted By Disaster

When a provider who has been selected for complex pre or postpay review (whether MR initiated or BI initiated) is directly affected by a disaster, the contractor should consider shifting the time period of the claims being reviewed to a later time period (e.g. 6 months later). ADRs should be suspended for providers who have been directly affected for at least 30 days. These claims should not be denied as noncovered and may be tagged for later postpay review. Contractors should consult with their regional office prior to shifting the time period of review or suspend ADRs for certain providers.

Whether MR initiatied or BI initiated, contractors should allow up to an additional 6 months beyond the original due date for the submission of requested records. Requests for extensions beyond this date may be granted with good cause at the discretion of the contractor.

In the case of complete destruction of medical records where backup records exist, contractors must accept reproduced medical record copies from microfiched, microfilmed, or optical disk systems that may be available in larger facilities, in lieu of the original document. In the case of complete destruction of medical records where no backup records exist, contractors must accept an attestation that no medical records exist and consider the services covered and correctly coded.. In the case of partial destruction, contractors should instruct providers to reconstruct the records as best they can with whatever original records can be salvaged. Providers should note on the face sheet of the completely or partially reconstructed medical record: "This record was reconstructed because of disaster."

Providers Indirectly Impacted By Disaster

For providers that are indirectly affected by a disaster (e.g., an interruption of mail service caused by a grounding of US commercial air flights), contractors must take the following actions:

- *For prepay or postpay documentation requests, (whether MR initiated or BI initiated) extend the parameter that triggers denial for non-receipt of medical records from 45 days to 90 days. ADR letters must reflect that the response is due in 90 days rather than 45 days. This action will prevent most inappropriate denialsand unnecessary increases in appeals workload.*

- *If a contractor receives the requested documentation after a denial has been issued but within a reasonable number of days beyond the denial date, the contractor should REOPEN the claim and make a medical review determination. Many contractors believe that 15 days is a reasonable number of days although contractors should make these decisions on a case-by-case basis. The workload, costs and savings associated with this activity should be allocated to the appropriate MR activity code (e.g., prepay complex or postpay complex review). Contractors should conduct these reopenings retroactively back to the date of the disaster.*

D -- Impact on Benefit Integrity Unit

During a disaster, whether man-made or natural, the contractor shall continue every effort to identify cases of potential fraud. Therefore, if the benefit integrity unit suspects fraud of a provider who cannot furnish medical records in a timely manner due to a disaster, the benefit integrity unit shall ensure that the provider is not attempting to harm the Medicare Trust Fund by taking 6 months or more to furnish medical records. As such, the contractor shall request and review verification documentation in all instances where fraud is suspected.

E -- Impact on Data Analysis

Contractors' data analysis should take into consideration the expected increase in certain services in disaster areas.

F -- Impact on CPE

During CPE reviews, CMS will consider a waiver to all contractor MR requirements, as necessary, to allow contractors the flexibility where required to handle issues that arise in the presence of disaster. Examples of such requirements include "anti-bunching" rules, workload targets, and any other MR administrative rules. Contractors must retain documentation of how their MR operations were affected during the disaster and make it available to CPE review teams, CCMO staff, and local regional office staff, upon request.