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Update to Chapter 15 of Publication (Pub.) 100-08

MLN Matters Number: MM10954 | Related Change Request (CR) Number: 10954

Related CR Release Date: February 8, 2019 | Effective Date: March 12, 2019

Related CR Transmittal Number: R862PI | Implementation Date: March 12, 2019

PROVIDER TYPES AFFECTED

This MLN Matters Article is for physicians, providers, and suppliers billing Medicare Administrative Contractors (MACs) for services provided to Medicare beneficiaries.

PROVIDER ACTION NEEDED

CR10954 adds information about Medicare's Parts C and D Preclusion List to the Medicare Program Integrity Manual, Chapter 15. Make sure your billing staffs are aware. The CR does not reflect any legislative or regulatory impact.

BACKGROUND

Part C and D Preclusion List

CMS published CMS-4182-F on April 16, 2018, which rescinds the enrollment requirement for providers who prescribe drugs to patients enrolled in Medicare Part D and for network providers and suppliers that furnish health care items or services to a Medicare beneficiary who receives his or her Medicare benefit through a Medicare Advantage (MA) plan.

As an alternative, the regulation creates a Preclusion List that consists of individuals and entities that fall within either of the following categories:

1. Are currently revoked from Medicare, are under an active reenrollment bar, and CMS determines that the underlying conduct that led to the revocation is detrimental to the best interests of the Medicare program
2. Have engaged in behavior for which CMS could have revoked the individual or entity to the extent applicable if they had been enrolled in Medicare, and CMS determines that the underlying conduct that would have led to the revocation is detrimental to the best interests of the Medicare program.

CMS will make the Preclusion List available to Part D sponsors and the MA plans. Effective

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January 1, 2019, Part D sponsors must reject a pharmacy claim (or deny a beneficiary request for reimbursement) for a Part D drug that is prescribed by an individual on the Preclusion List. MA plans must deny payment for a health care item or service furnished by an individual or entity on the Preclusion List.

CMS will notify providers of their inclusion on the Preclusion List and appeal rights. Providers will only appear on the Preclusion List if they are revoked nationally.

Providers Right to Appeal

If you believe that a preclusion is not correct, you may request a reconsideration before a hearing officer. The reconsideration is an independent review, conducted by a person who was not involved in the initial determination. You must request the reconsideration in writing to the office listed below. CMS must receive your request within 60 calendar days of the postmark date of preclusion letter that CMS sends to you.

Your request for reconsideration must state the issues, or the findings of fact with which you disagree and the reasons for disagreement. You may submit additional information with the reconsideration request that you believe may have a bearing on the decision. However, if you have additional information that you would like a hearing officer to consider during the reconsideration or, if necessary, an administrative law judge to consider during a hearing, you must submit that information with your request for reconsideration.

This is your only opportunity to submit information during the administrative appeals process. You will not have another opportunity to do so unless an administrative law judge specifically allows you to do so under 42 CFR Section 498.56(e). You, or an authorized or delegated official or a legal representative must sign and date the reconsideration request. If you fail to request a reconsideration on time, CMS will deem that as a waiver of all rights to further administrative review and your addition to the preclusion list will become effective 90 calendar days following the expiration of the 60-day timeframe specified above.

You may not appeal, through this process, the merits of any past Medicare revocation or any exclusion by another Federal agency that caused you to be included on the preclusion list. You must file any further permissible administrative appeal involving the merits of such revocation or exclusion with the Federal agency that took the action.

Send your request for reconsideration to:

Centers for Medicare & Medicaid Services
Provider Enrollment & Oversight Group
7500 Security Blvd.
Mailstop: AR-18-50
Baltimore, MD 21244-1850

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ADDITIONAL INFORMATION

The official instruction, CR10954, issued to your MAC regarding this change is available at https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2019Downloads/R862PI.pdf.

If you have questions, your MACs may have more information. Find their website at http://go.cms.gov/MAC-website-list.

DOCUMENT HISTORY

Date of Change	Description
February 8, 2019	Initial article released.

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