MLN Matters
Information for Medicare Fee-for-Service Health Care Professionals

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Skilled Nursing Facility Consolidated Billing: Services Furnished Under an "Arrangement" with an Outside Entity

Provider Types Affected

Skilled nursing facilities (SNFs), physicians, non-physician practitioners, suppliers, and providers

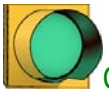
Provider Action Needed

STOP – Impact to You

Affected providers should note that this instruction is being issued as a reminder of the applicable consolidated billing requirements that pertain to Skilled nursing facilities (SNFs) and to the outside suppliers that serve SNF residents.

CAUTION – What You Need to Know

Whenever a SNF resident receives a service that is subject to SNF consolidated billing from an outside supplier, the Social Security Act requires the SNF and the supplier to enter into an "arrangement." Under an "arrangement," Medicare's payment to the SNF represents payment in full for arranged-for services and suppliers must look to the SNF (rather than to Medicare Part B) for their payment.



GO – What You Need to Do

Be aware of the requirements explained below and how they can impact your Medicare payments.

Background

The SNF consolidated billing provisions of the Social Security Act[1] place the Medicare billing responsibility for most of the SNF's residents' services with the SNF itself.

In addition, Part A consolidated billing requires that an SNF must include on its Part A bill:

- Almost all of the services that a resident receives during the course of a *Medicare-covered* stay;
- Except for those services that are specifically *excluded* from the SNF's global prospective payment system (PPS) per diem payment for the covered stay. (These "excluded" services remain separately billable to Part B directly by the outside entity that actually furnishes them.)

Also, Part B consolidated billing makes the SNF itself responsible for submitting the Part B bills for any *physical, occupational, or speech-language therapy services* that a resident receives during a *noncovered* stay.

Further, for any Part A or Part B service that is subject to SNF consolidated billing, the SNF must either:

- Furnish the service directly with its own resources, or
- Obtain the service from an outside entity (such as a supplier) under an "arrangement," as described in the Social Security Act. [2]

This "arrangement" must constitute a written agreement to reimburse the outside entity for Medicare-covered services subject to consolidated billing, i.e., services that are reimbursable only to the SNF as part of its global PPS per diem or those Part B services that must be billed by the SNF.

Problematic Situations

There are various *problematic situations* in which an SNF resident receives a service from an outside supplier (or practitioner) that is subject to consolidated billing, in the absence of a valid arrangement between that entity and the SNF.

In some instances, the supplier may have been unaware that the beneficiary was in a Part A stay until its separate Part B claim was denied. In the absence of a written agreement, the supplier may have difficulty in obtaining payment from the SNF, even though the service at issue is a type of service that is Medicare-covered and included in the SNF's global PPS per diem.

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[1] Social Security Act, Sections 1862(a)(18), 1866(a)(1)(H)(ii), and 1888(e)(2)(A).

[2] Social Security Act, Section 1861(w).

As discussed in greater detail below, such situations most commonly arise in one of the following scenarios:

- A SNF does not accurately identify services as being subject to consolidated billing when ordering such services from a supplier; or
- A supplier fails to ascertain a beneficiary's status as an SNF resident when the beneficiary (or another individual acting on the beneficiary's behalf) seeks to obtain such services directly from the supplier without the SNF's knowledge.

Whenever a supplier furnishes services that are subject to consolidated billing in the absence of a written agreement with the SNF, the supplier risks not being paid for the services. In addition, the supplier in this situation might improperly attempt to bill Part B directly for the services. The inappropriate submission of a Part B bill for such services could result not only in Medicare's noncoverage of the services themselves, but also in the imposition of civil money penalties, as explained below.

Along with all of the other potentially adverse consequences of such practices, the SNF risks violating the terms of the Medicare provider agreement (which requires a SNF to have a valid arrangement in place whenever a resident receives services that are subject to consolidated billing from any entity other than the SNF itself).

In order to help prevent these types of problems from arising, ***this instruction is being issued as a reminder of the applicable consolidated billing requirements that pertain to SNFs and to the outside suppliers that serve SNF residents.***

Billing Arrangements

Under an arrangement as defined in the Social Security Act[3]:

- Medicare's payment to the SNF represents payment in full for arranged-for services; and
- Suppliers must look to the SNF (rather than to Part B) for their payment.

Further, in entering into such arrangements, the SNF cannot function as a mere billing conduit, and must exercise professional responsibility and control over the arranged-for service.[4] The long-term care (LTC) facility requirements for program participation further provide that under such an arrangement, the SNF must ***specify in writing*** that it assumes responsibility for the quality and timeliness of the arranged-for service.[5]

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[3] Social Security Act, Section 1861(w).

[4] Medicare General Information, Eligibility, and Entitlement Manual, Pub. 100-1, Chapter 5 (Definitions), Section 10.3 (Under Arrangements).

[5] Code of Federal Regulations, 42 CFR 483.75(h)(2).

Medicare does not prescribe the actual terms of the SNF's written agreement with its supplier (such as the specific amount or timing of the supplier's payment by the SNF). These are arrived at through direct negotiation between the parties to the agreement. However, in order for a valid "arrangement" to exist for those services that are subject to consolidated billing, ***the SNF must have a written agreement in place with its supplier***, which specifies how the supplier is to be paid for its services. The existence of such an agreement also provides both parties with a means of resolution in the event that a dispute arises over a particular service.

If an SNF elects to obtain services that are subject to consolidated billing from an outside supplier, but fails to execute a written agreement with that supplier, then there is no valid arrangement for the services as contemplated under the Social Security Act. [6]

Not only would this potentially result in Medicare's noncoverage of the particular services at issue, but the SNF would also risk being found in violation of the terms of its provider agreement. Under the Social Security Act, the SNF's provider agreement includes a specific commitment to comply with the requirements of the consolidated billing provision.[7]

Further, the Social Security Act imposes a civil money penalty on any person who knowingly and willfully presents (or causes to be presented) a bill or request for payment inconsistent with an arrangement or in violation of the requirement for such an arrangement.[8]

Accordingly, whenever an SNF elects to utilize an outside supplier to furnish a service that is subject to consolidated billing, the SNF must have a written agreement in place with that supplier. Conversely, whenever an outside supplier furnishes such a service to an SNF resident, it must do so under a written agreement with the SNF.

Problems with Arrangements

Problems involving the absence of a valid arrangement between an SNF and its supplier typically tend to arise in one of the following two situations:

- The first problem scenario occurs when an SNF elects to utilize an outside supplier to furnish a type of service that would be subject to Part A consolidated billing, but then fails to inform the supplier that the resident receiving the service is in a covered Part A stay.

[6] Social Security Act, Section 1862(a)(18).

[7] Social Security Act, Section 1866(a)(1)(H)(ii), and the Code of Federal Regulations, 42 CFR 489.20(s).

[8] Social Security Act, Section 1866(g).

- This causes the supplier to conclude mistakenly that the service it furnishes to that resident is not subject to consolidated billing. Based on the inaccurate impression that the resident's SNF stay is noncovered, the supplier inappropriately submits a separate Part B claim for the service, and only learns of the actual status of the resident's Medicare-covered SNF stay when that Part B claim is denied. In this scenario, even though the supplier made reasonable efforts to ascertain from the SNF both the beneficiary's status as an SNF resident and the specific nature of the beneficiary's SNF stay, the information from the SNF (on which the supplier relied) proved to be inaccurate.

While it is recognized that inadvertent errors may occasionally occur in the course of furnishing such information, an SNF should not only make a good faith effort to furnish accurate information to its supplier, but should have a written agreement in place that provides for direct reimbursement of the supplier once such an error is called to its attention.

By contrast, in the scenario at issue, the SNF refuses to pay the supplier for the service even ***after*** being apprised of the inaccuracy of its initial information. As discussed previously, having a valid arrangement in place for the disputed service would not only ensure compliance with the consolidated billing requirements, but also would provide a vehicle for resolving the dispute itself.

The second problem scenario involves a resident who temporarily departs from the SNF on a brief leave of absence, typically accompanied by a relative or friend. While briefly offsite, the resident (or the relative or friend, acting on the resident's behalf) obtains services that are subject to the consolidated billing requirement, but fails to notify the SNF.

As in the previous scenario, this results in the services being furnished to the resident by an outside entity in the absence of a valid arrangement with the SNF. In addition, such a practice impedes the SNF from meeting its responsibility to provide comprehensive oversight of the resident's care and treatment.

SNFs can act to prevent such problems from arising by ensuring that each resident (and, if applicable, his or her representative) is fully aware of the applicable requirements.

For example, the Medicare law[9] guarantees a beneficiary's free choice of any qualified entity that is willing to furnish services to the beneficiary. However, in selecting a particular SNF, the beneficiary has effectively exercised this right of free choice with respect to the *entire package* of services for which the SNF is responsible under the consolidated billing requirement, including the use of any outside suppliers from which the SNF chooses to obtain such services.

[9] Social Security Act, Section 1802.

In addition, the Long Term Care (LTC) facility participation requirements[10] direct the SNF to advise each resident, on or before admission and periodically during the stay, of any charges for services not covered by Medicare.

In providing such advice periodically throughout each resident's stay, the SNF should take particular care to include any resident who is about to leave the facility temporarily, in order to ensure that the resident (and, if applicable, the resident's representative) understands the need to consult the SNF before obtaining any services offsite.

Moreover, while the SNF itself should take reasonable steps to prevent such problems from arising, the supplier is also responsible for being aware of and complying with the consolidated billing requirements.

This means that prior to furnishing services to a Medicare beneficiary, **the supplier should routinely ascertain whether the beneficiary is currently receiving any comprehensive Medicare benefits (such as SNF or home health benefits) for which Medicare makes a bundled payment that could potentially include the supplier's services.** If the supplier ascertains that a particular beneficiary is, in fact, a resident of an SNF with which the supplier does not have a valid arrangement in place, then the supplier should contact the SNF before actually furnishing services to that beneficiary.

Implementation

The implementation date for this instruction is July 1, 2004.

Additional Information

- The *Medicare Claims Processing Manual,* Pub 100-04, Chapter 6 (SNF Inpatient Part A Billing), Section 10.3 (Types of Services Subject to the Consolidated Billing Requirement for SNFs) has been revised. The following new sections have also been added:
- Section 10.4 (Furnishing Services that are Subject to SNF Consolidated Billing Under an "Arrangement" with an Outside Entity);
- Subsection 10.4.1 (Written Agreement); and
- Subsection 10.4.2 (SNF and Supplier Responsibilities).

These revised/new portions of the manual are attached to the official instruction issued to your carrier regarding this change. That instruction (CR3248) may be found by going to

[10] Code of Federal Regulations, 42 CFR 483.10(b)(6).

http://www.cms.hhs.gov/Transmittals/downloads/R183CP.pdf on the CMS website.

From that web page, look for CR3248 in the CR NUM column on the right, and click on the file for that CR. If you have any questions, please contact your carrier/intermediary at their toll-free number, which may be found *http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip* on the CMS website.

The *Medicare General Information, Eligibility, and Entitlement Manual,* Pub. 100-1, Chapter 5 (Definitions), Section 10.3 (Under Arrangements) can be found at *http://www.cms.hhs.gov/Manuals/IOM/list.asp#TopOfPage* on the CMS website.