Billing for Services Related to Voluntary Uses of Advance Beneficiary Notices (ABNs) of Noncoverage – JA6563

Note: MLN Matters® article MM6563 was revised to reflect a revised Change Request (CR) 6563, which was issued on February 19, 2010. The article was revised to reflect a new CR release date, transmittal number, and Web address for accessing CR6563. All other information remains the same.

Related CR Release Date: February 19, 2010 Revised

Date Job Aid Revised: March 12, 2010

Effective Date: April 1, 2010

Implementation Date: April 5, 2010

Key Words	MM6563, CR6563, R1921CP, Billing, Voluntary, Noncoverage, ABN
Contractors Affected	• Fiscal Intermediaries (FIs) • Part A/B Medicare Administrative Contractors (A/B MACs)
Provider Types Affected	Provider types affected are physicians, hospitals, and other providers and suppliers who bill FIs or A/B MACs for services provided to Medicare beneficiaries.

- CR6563 announces recent instructions for the use of modifiers in association with ABNs.
- Effective April 1, 2010, two Healthcare Common Procedure Coding System (HCPCS) level 2 modifiers have been updated to distinguish between voluntary and required uses of liability notices.
- The modifiers that have been updated are as follows:
  - Modifier – GA has been redefined to mean "Waiver of Liability Statement Issued as Required by Payer Policy" and should be used to report when a **required** ABN was issued for a service.
  - Modifier (-GX) has been created with the definition "Notice of Liability Issued, Voluntary Under Payer Policy" and is to be used to report when a **voluntary** ABN was issued for a service.

Details In The Use of These Modifiers

GA Modifier

- Modifier –GA has been redefined to mean "Waiver of Liability Statement Issued as Required by Payer Policy."
- It should only be used to report when a required ABN was issued for a service and should not be reported in association with any other liability-related modifier. It should continue to be submitted with covered charges.
- Medicare systems will automatically deny institutional claims submitted with modifier –GA as a beneficiary liability (rather than subjecting them to possible medical review). The beneficiary will have the right to appeal this determination.
- Medicare processing of professional claims with this modifier is not changing.
- Medicare will use claim adjustment reason code 50 ("These are non-covered services because this is not deemed a 'medical necessity' by the payer.") when denying lines due to the presence of the –GA modifier.

GX Modifier

- A new modifier, -GX, has been created with the definition "Notice of Liability Issued, Voluntary Under Payer Policy" which should be used to report when a voluntary ABN was issued for a service.
- Providers may use the –GX modifier to provide beneficiaries with voluntary notice of liability, regarding services excluded from Medicare coverage by statute. In these cases, providers may report it on the same line as certain other liability-related modifiers.

Provider Needs to Know...

- The –GX modifier must be submitted with non-covered charges only. FIs or A/B MACs will deny the claim as a beneficiary liability.
- Medicare systems will recognize and allow the –GX modifier on claims, but will return the claim if the –GX modifier is used on any line reporting covered charges.
- Medicare systems will allow the –GX modifier to be reported on the same line as the following modifiers that indicate beneficiary liability:
  - -GY (Item or service statutorily excluded or does not meet the definition of any Medicare benefit), and
  - -TS (Follow-up service).
- Medicare systems will return the claim if the –GX modifier is reported on the same line as any of the following liability-related modifiers:
  - -EY (No doctor's order on file),
  - -GA,
  - -GL (Medically unnecessary upgrade provided instead of non-upgraded item, no charge, no ABN),
  - -GZ (Item or service expected to be denied as not reasonable and necessary),
  - -KB (Beneficiary requested upgrade for ABN, more than four modifiers identified on claim),
  - -QL (Patient pronounced dead after ambulance is called), and

- -TQ (Basic life support transport by a volunteer ambulance provider).

- Medicare systems will automatically deny lines (using claim adjustment reason code 50) submitted with the -GX modifier and non-covered charges and will assign beneficiary liability to claims automatically denied when the –GX modifier is present.

Note: Other than the policy and processing changes described in CR6563, all other policies and processes regarding non-covered charges and liability continue as stated in the *Medicare Claims Processing Manual*, Chapter 1 (General Billing Requirements), Section 60 (Provider Billing of Noncovered Charges) and in the requirements defined in previous CRs.

Background

- In CR6136 (*Revised Form CMS-R-131 Advance Beneficiary Notice of Noncoverage*), released September 5, 2008, the Centers for Medicare & Medicaid Services (CMS) revised instructions for providers in the use of ABNs.
- Prior to those instructions, providers who voluntarily issued patients notices announcing that particular services were either excluded from Medicare coverage by statute, or were services for which no Medicare benefit category existed, used the Notice of Exclusion from Medicare Benefits form (NEMB – now a retired form) or notices that they developed themselves.
- With these revised instructions, providers for the first time were allowed to use ABNs to voluntarily provide such notices.
- The MLN Matters® article associated with this CR can be found at *http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6136.pdf* on the CMS website.

Operational Impact

N/A

Reference Materials

The related MLN Matters® article can be found at *http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM6563.pdf* on the CMS website.

The official instruction (CR6563) issued regarding this change may be found at *http://www.cms.hhs.gov/Transmittals/downloads/R1921CP.pdf* on the CMS website. The updated *Medicare Claims Processing Manual,* Chapter 1 (General Billing Requirements), Section 60 (Provider Billing of Noncovered Charges) is an attachment to that CR.