

Part B Insider (Multispecialty) Coding Alert

CMS COVERAGE DECISIONS: MACs Can Make Exceptions to LCDs, CMS Says

RACs can only make exceptions to approve claims.

Local coverage decisions are known by coders as the "final say" from Medicare -- if the LCD makes a statement, you can count on your MAC to never veer from that rule. But CMS has opened the door to giving MACs some wiggle room in adhering to LCDs. Transmittal 302, issued on Sept. 11, notes that MACs "have the authority to apply an exception to the clinical reasonable and necessary requirements described in a LCD."

The exceptions must be rare, and the MAC can make them only after thoroughly reviewing a patient's medical record and analyzing the information.

"Most likely the exceptions to the LCDs would have to be made during the appeal phase," says **Barbara J. Cobuzzi, MBA, CPC, CENTC, CPC-H, CPC-P, CPC-I, CHCC**, president of CRN Healthcare Solutions. "Thorough review of the patient's medical record is not available in the initial payment phase."

Interesting aside: The transmittal indicates that MACs will create an exceptions report each year, and "if exceptions to LCDs are not rare, the contractor shall reevaluate the LCD clinical criteria." In the past, the only way to get an LCD changed was to go to the Carrier Advisory Committee and state your case, Cobuzzi notes. "This new language in the transmittal means that if the LCD is overturned more often than 'rarely,' the MAC should, as a matter of course, do the reevaluation themselves and perhaps change it."

RACs: If you're nervous about RACs using this new exceptions process to deny your claims at will, take heart: The transmittal notes that "RACs can only use the exceptions process to not deny a claim."

What this means: "Although the transmittal states that certain Medicare contractors (such as affiliated contractors, MACs, and CERT) may use the exceptions process either to approve or to deny a claim, unless directed otherwise by CMS, RACs are only permitted to use the exceptions process 'to not deny,' or, put more simply, to approve a claim," says **Jessica L. Gustafson,**

Esq., with The Health Law Partners, PC in Southfield, Mich. Therefore, unlike other Medicare contractors, RACs may not use the exceptions process to deny claims. "As a practical matter, this means that even if a claim does not fully satisfy all elements set forth in an LCD, the RAC is permitted to apply the exceptions process and approve a claim if the claim appears to be reasonable and necessary after a thorough review of the patient's medical record and a consideration of other available evidence in medical literature," Gustafson says.

To read the transmittal, visit www.cms.hhs.gov/transmittals/downloads/R302PI.pdf.