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Face-to-face Physician Certs: Expect 'Probe & Educate' Claims Reviews for Face-to-Face Rules

CMS finally sheds light on audit program.

The other shoe is finally dropping on the new face-to-face documentation requirements that took effect back in January.

In early summer, CMS announced a "Probe & Educate" (P&E) medical review push focused on face-to-face physician encounter compliance, but provided few specifics. Now CMS is offering more details in a MLN Matters article it released on Nov. 9.

The P&E initiative aims "to assess and promote provider understanding and compliance with the Medicare home health eligibility requirements," CMS says in MLN Matters No. SE1524. Specifically, CMS highlights the requirement that took effect Jan. 1: "Documentation in the certifying physician's medical records and/or the acute/post-acute care facility's medical records (if the patient was directly admitted to home health) is to be used as the basis for certification of home health eligibility," the article notes.

However, "the certifying physician can incorporate information obtained from or generated by the HHA into his or her medical record, to support the patient's homebound status and need for skilled care, by including it in his or her documentation and signing and dating to demonstrate review and concurrence," CMS allows.

How P&E Reviews Will Work

MACs "will select a sample of five claims for pre-payment review from each HHA within their jurisdiction," CMS explains. Claims for episodes beginning Aug. 1 or later are fair game, and CMS expected MACs to begin sending the P&E ADRs Oct. 1.

If the MAC finds problems with none or one of the five claims reviewed, the agency will go into the "No or Minor Concerns" category. If the MAC finds problems with two or more claims, the agency goes into the "Moderate/Major Concerns" category.

Heads up: Reviewers will be examining claims for compliance with all eligibility requirements, not just F2F, CMS emphasizes to providers in the article.

In both categories, the MAC will deny any non-compliant claims; send detailed review results letters explaining any denials; and send a summary letter offering a one-to-one educational phone call. "During such calls, the MAC will discuss the reasons for denials, provide pertinent education and reference materials, and answer questions," CMS says.

Difference: In the "No or Minor Concern" category, the MACs won't conduct any more claims reviews under the P&E program. But in the "Moderate/ Major" category, the MAC will "repeat the Probe and Educate process" for five more claims with "dates of services occurring after education has been provided," CMS says.

Medical Review Merry-Go-Round

With a mere two claims denials putting agencies in the category subject to repeated probes and education, "some agencies may have a long road ahead," warns billing expert **M. Aaron Little** with BKD in Springfield, Mo.

Under the P&E initiative, "the numbers are so small that getting off this review merry-go-round can be very tough," cautions Chicago-based regulatory consultant **Rebecca Friedman Zuber**. "If the denominator for calculating the rate is

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low, it can be very difficult to get off review so if the denominator is five, two errors is already 40 percent."

"The question is, how long this will go on?" Friedman Zuber asks. "Given that we believe that the requirement is still not fair and that the medical reviews conducted previously resulted in an unfair and somewhat capricious application of the requirements, it is easy to conclude that a large number of agencies are likely to fall into the 2-5 denial category," Friedman Zuber worries. "Here we go again!"

Bottom line: The P&E review "would all be fine if the documentation being evaluated was under the control of the agencies," Friedman Zuber says. "But it isn't. It is still produced by the physician and even if everything else in your record makes it clear that the patient is homebound, in need of skilled care, etc., if the face-to-face documentation is poor, the agency is left holding the bag."

Silver lining: "Some potential good things could come from the MACs being required to have a conversation to explain and educate on any denials," Little points out. "I hope this will help providers gain a better understanding of CMS and MAC documentation expectations."

However, "with more than 10,000 Medicare certified agencies and all are going to be included in the probe ... the MACs are going to be making a lot of phone calls if the denial rates are anything like they were in 2014 and prior," Little observes.

Note: The MLN Matters article is at www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/Downloads/SE1524.pdf.

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