Oral Surgery Coding & Reimbursement Alert

Compliance: Understand What You Need to Consider Prior to Opting out of Medicare

Know the difference between a covered service and a service that is reimbursable.

If you look through Medicare regulations, you will know how complicated it can be to comply with all of them. Owing to these strict regulations, you might possibly think of opting out. But, you should carefully weigh the pros and cons of opting out prior to thinking whether or not it is the right decision.

"I believe that most providers would like to opt out of Medicare due to all of the requirements. But keep in mind that many other payers follow Medicare guidelines and requirements; so opting out of Medicare alone may not really get providers anywhere," explains **Doreen Boivin, CPC, CCA,** with Chiro Practice Inc., in Saco, Maine.

You do not necessarily need to "opt out" of Medicare to avoid its hassles. Another option is to not see a Medicare beneficiary at all.

"Providers can simply say they are not taking Medicare patients at this time," Boivin adds. "They can regulate the percentage of patients from certain payer mixes so that they are not top-heavy in one payer versus the other."

If you do treat a Medicare eligible patient, then, according to the plentiful literature disseminated by Medicare, you do have to abide by the Medicare regulations. Here are some of those rules:

- Medicare requires physicians to submit claims for all covered services within one year from date of service.
- Acute, chronic, and maintenance adjustments are all covered services.
- Medicare requires you to obtain an Advance Beneficiary Notice (ABN) from a patient when rendering a covered service that you feel Medicare will deny, if you want to be able to bill the Medicare patient after the denial.
- Medicare requires claims submission when a Medicare eligible patient requests that the service be billed, even if you know Medicare does not cover or pay for the service or you expect Medicare to deny the claim.

Consider whether you can live with those rules before you decide to opt out of Medicare.

Follow ABN Do's and Don'ts

Another thing to consider is that you don't necessarily need to opt out of Medicare to get paid for services that Medicare does not cover. Many times, an ABN can allow you to collect from a Medicare patient for a service that Medicare does not cover under the given circumstances.

Of course, ABNs do not provide a complete blanket of protection in this regard. CMS addresses this point in one of the FAQ sections on ABNs. The question asks whether you must submit a claim to Medicare even if you know the service will be denied and the beneficiary has agreed to pay. Medicare's response is, "This is one of the purposes of the Advance Beneficiary Notice (ABN). If you have a covered service you feel will be denied, you would present an ABN to the beneficiary. If they choose Option #1, yes, you would still be required to submit a claim. If the beneficiary chooses Option #2, then you would not be able to submit a claim."

"The ABN is very confusing for staff and providers alike," Boivin admits. The instructions for this form have gone back-and-forth over the many years that I have been in this field."

Explore the Exceptions to Mandatory Claim Filing

Finally, one of the reasons some physicians consider opting out of Medicare is the promise of not having to file any more Medicare claims. While it is true that physicians who do not opt out of Medicare generally have to file claims for the Medicare patients that they treat, there are circumstances in which physicians do not have to file a claim, even if they have not opted out of Medicare.

CMS's Medicare Enrollment and Claim Submission Guidelines emphasize the requirement to bill for the services rendered. A claim is defined as a request for payment for benefits or services received by a beneficiary. When you furnish covered services to Medicare beneficiaries, you are required to submit claims for your services and should not charge beneficiaries for completing or filing Medicare claims. Medicare administrative contractors (MACs) monitor compliance with these requirements. Offenders may be subject to a Civil Monetary Penalty of up to $10,000 for each violation.

Exceptions to mandatory claim filing: According to the Medicare Enrollment and Claims Submission Guidelines, you are not required to file claims on behalf of Medicare beneficiaries when:

- The claim is for services for which Medicare is the secondary payer;
- The primary insurer's payment is made directly to the beneficiary and the beneficiary has not furnished the primary payment information needed to submit the Medicare secondary claim;
- The claim is for services furnished outside the United States (U.S.);
- The claim is for services initially paid by a third-party insurer who then files a Medicare claim to recoup what Medicare pays as the primary insurer (for example, indirect payment provisions);
- The claim is for other unusual services, which are evaluated by MACs on a case-by-case basis;
- The claim is for non-covered services, unless the beneficiary requests submission of a claim to Medicare (a supplemental insurer who pays for these services may require a Medicare claim denial notice prior to making payment);
- The beneficiary signed a Beneficiary Notice of Non-coverage, indicating that no claim should be filed for a specific item or service;
- You have been excluded or debarred from the Medicare Program (when you have been excluded or debarred from the Medicare Program, you cannot submit a claim for your services).