Medicare
Carriers Manual
Part 3 - Claims Process

Department of Health & Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

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HEADER SECTION NUMBERS	PAGES TO INSERT	PAGES TO DELETE
7100 – 7102	7-58.1 - 7-58.4 (4 pp.)	7-58.1 - 7-58.4 (4 pp.)

NEW/REVISED MATERIAL--*EFFECTIVE DATE: February 1, 2002*
IMPLEMENTATION DATE: June 6, 2002

Section 7100, Overpayments - General, is revised because the Option B, date of death files now contain the Railroad Retirement beneficiaries who have died, and the need for a separate file is no longer required. As a result, we have deleted the note, at 7100B, which stated "If you service Railroad Retirement beneficiaries in your jurisdiction, please use the following CMS file which reflects a one digit increase in the beneficiary HIC number field: c@pig.dbpc.deceased.bene12.dodyyyy". Additionally, in the references to the examples in Options B and C, the number sign located within the file name was omitted in error, and has been inserted to reflect the proper computer file name.

DISCLAIMER: The revision date and transmittal number only apply to the redlined material. All other material was previous published in the manual and is only being reprinted.

These instructions should be implemented within your current operating budget.

Overpayments

7100. OVERPAYMENTS - GENERAL

"Overpayments" are Medicare funds a physician or beneficiary has received in excess of amounts due and payable under the Medicare statute and regulations. Once a determination of overpayment has been made, the amount so determined is a debt owed to the United States Government.

Under the Federal Claims Collection Act of 1966, each agency or agent of the Federal Government must attempt the collection of Federal claims for money arising out of the activities of the agency. While you are not liable for overpayments you make, in the absence of fraud or gross negligence on your part, you must, as an agent of CMS, attempt recovery of overpayments. Regulations require timely and aggressive efforts to collect overpayments. This includes efforts to locate the debtor, demands for repayment, offsets of benefits, and establishment of repayment schedules. Sections 7100.1 - 7160 set forth the rules for determining liability for overpayments and the necessary recovery action. In these sections, the term "beneficiary" refers to the patient. The term "physician," includes "supplier," to denote the person (or entity) who rendered services or furnished medical items. Instructions regarding referral to CMS also apply to the RRB if it has jurisdiction. (Palmetto Government Benefits Administrators handles all RRB cases with the exceptions noted in §3100.) Some examples of overpayments are:

- Payment based on a charge that exceeds the reasonable charge.
- Duplicate processing of charges/claims.
- Payment to a physician on a nonassigned claim or to a beneficiary on an assigned claim. (Payment made to wrong payee.)
- Payment for noncovered items and services, including medically unnecessary services.
- Incorrect application of the deductible or coinsurance.
- Payment for items or services rendered during a period of nonentitlement.
- Primary payment for items or services for which another entity is the primary payer.
- Payment for items or services rendered after the beneficiary's date of death.

Contractors must conduct post-payment reviews to identify and recover payments with a billed date of service that is after the beneficiary's date of death. The identification of improperly paid claims must be performed at a minimum on an annual fiscal year basis, starting fiscal year 2001 for beneficiaries who died the previous fiscal year. In addition, the associated overpayment recoupment must be performed as soon as administratively possible, but by no later that 1 year after identification.

EXAMPLE: Services rendered to beneficiaries who died during fiscal year 2001 - contractors must identify improperly paid services. Within one year of this identification, contractors must issue associated overpayment demand letters (on or before October 1, 2002).

Contractors are not required to perform medical review for paid claims with dates of service after a beneficiary's date of death. The "post-payment claims review" should simply be an identification of the service that has been rendered after the beneficiaries date of death, and the subsequent notification to the provider that an improper payment has been made, for which recovery is now being sought.

At a minimum, contractors may identify deceased beneficiaries and associated improperly paid claims by using one of the following three options:

A. Utilize Beneficiary Eligibility Records Maintained Locally by Contractors.--This step would involve performing a data extract against local contractor eligibility files for all beneficiaries within the contractor's claims processing jurisdiction and identifying those beneficiaries who have died during the applicable fiscal year. Next, once the list of deceased beneficiaries has been identified, contractors would then need to utilize local claims processing history files to identify any services/claims containing a paid date of service that is after the CWF posted date of death.

B. Utilize Beneficiary Eligibility Records Maintained at the CMS Data Center.--This step allows contractors to utilize a CMS created annual computer file of all deceased beneficiaries. On an annual calendar year basis, CMS will create a computer file of all Medicare beneficiaries who died in the preceding calendar year. This computer file should be available for contractors to download from the CMS Data Center by January 31 of each year.

EXAMPLE: On January 31, 2001, CMS created computer files containing information on all Medicare beneficiaries who died during calendar years 1999 and 2000. The annual computer files are located on CMS's mainframe computer and may be found using the following dataset naming convention "c@pig.#dbpc.deceased.benes.dodyyyy", where "yyyy" is equal to the calendar year in which the beneficiaries died. The format for this file is a text file and may also be found using "c@pig. #dbpc.deceased.benes.format".

EXAMPLE: Computer file c@pig.#dbpc.deceased.benes.dod1999" contains information on all Medicare beneficiaries who died during calendar year 1999. Computer file "c@pig.#dbpc.deceased.benes.dod.2000", contains information on all Medicare beneficiaries who died during calendar year 2000. Download the computer files and determine those beneficiaries who died during fiscal year 2000 (October 1, 1999 - September 30, 2000). Then utilize local claims processing history files to identify any services/claims containing a paid date of service that is after the posted date of death.

C. Utilize a CMS Created Computer File of all Deceased Beneficiaries and Associated Improperly Paid Services.--On an annual fiscal year basis, a data team within the CMS Program Integrity Group will create and identify an improperly paid claims file containing service dates after the beneficiary's date of death during the fiscal year. This computer file will identify the deceased beneficiary, the associated date of death, any paid services/claims containing a date of service that is after the beneficiary's date of death, and the Medicare contractor who paid the claim. The annual computer file should be available to contractors no later than July 31 of each year. The file will be located on the CMS's mainframe computer. Part B carriers must use the following dataset naming convention "c@pig.#dbpc.deceased.partB.fy(yyyy)" , where "(yyyy)" is equal to the fiscal year the beneficiaries died. DMERCS must use the following dataset naming convention "c@pig.#dbpc.deceased.partD.fy(yyyy)" , where "(yyyy)" is equal to the fiscal year the beneficiaries died. Contractors who utilize this option will download their respective information from this file to perform overpayment recoupments for the associated improperly paid services/claims. The format for these files is a text file and may also be found using "c@pig.#dbpc.pbfy(yyyy).format" for Part B carriers, or using "c@pig.#dbpc.pdfy(yyyy). format" for DMERCS. **(DO NOT USE THE PARENTHESIS when entering fy(yyyy)**. Reference example below.

EXAMPLE: Computer file "c@pig.#dbpc.deceased.partB.fy2000" contains Part B carrier information on all improper payments on beneficiaries who died during fiscal year 2000.

EXAMPLE: Computer file "c@pig.#dbpc.deceased.partD.fy2000" contains DMERC information on all improper payments on beneficiaries who died during fiscal year 2000.

Sections 1870 and 1879 of the Social Security Act (the Act) dealing with liability for, and recovery of, overpayments. These provisions are reflected in §§7100.1 - 7118. The following paragraphs summarize the provisions dealing with liability for overpayments to physicians, and waiver of recovery of overpayments to physicians and beneficiaries.

D. Overpaid Physician Not Liable Because He Was Without Fault With Respect to Overpayment (§1870(b) of the Act).--If a physician was without fault with respect to an overpayment he received (or is deemed without fault, in the absence of evidence to the contrary, because the overpayment was discovered subsequent to the third calendar year after the year of payment), the physician is not liable for the overpayment; therefore, he is not responsible for refunding the amount involved. Make these determinations. This provision forms the basis for policies and instructions in §§7102, 7103, 7103.1, 7106, and 7106.2.

E. Beneficiary Liable for Overpayments to Physician Who Was Without Fault With Respect to Overpayment (§§1870(a) and (b) of the Act).--If an overpaid physician was without fault or is deemed without fault, and therefore not liable for refund in accordance with subparagraph A, liability shifts to the beneficiary. If the overpayment involves medically unnecessary services, you may waive the beneficiary's liability for the overpayment in accordance with subparagraph C. If the overpayment does not involve medically unnecessary services, CMS or SSA may waive recovery in accordance with subparagraph D. This provision forms the basis for the policies and instructions in §§7104, 7106 and 7106.2.

F. Waiver of Liability Where Physician and Beneficiary are Without Fault With Respect to Overpayment for Medically Unnecessary Services (§1879 of the Act).--When both the physician and the beneficiary are without fault with respect to an overpayment on an assigned claim for medically unnecessary services, waive liability for the overpayment, i.e., take no action to recover the overpayment. This provision forms the basis for the policies and instructions in §§7102, 7104 and 7115C. (Refer to §§7300ff. for comprehensive instructions regarding implementation of §1879 of the Act.)

G. CMS or SSA Waiver of Recovery From Beneficiary (§1870(c) of the Act).--If a beneficiary is liable for an incorrect payment, CMS or SSA may waive recovery if the beneficiary was without fault with respect to the overpayment and recovery would defeat the purposes of Title II or Title XVIII of the Act (i.e., cause financial hardship) or would be against equity and good conscience. (Where an overpayment is discovered subsequent to the third calendar year after the year the payment was made, recovery is deemed against equity and good conscience if the beneficiary was without fault.) This section forms the basis for policies and instructions in §§7106, 7106.2, 7116, and 7118.

7100.1 Time Limits on Recovery of Overpayments.--The two time limitations to consider in deciding whether to recover an overpayment are:

o Do not recover an overpayment not reopened within 4 years (48 months) after the date of payment, unless the case involves fraud or similar fault. (See §§7115B and 12100ff.)

o Do not recover an overpayment discovered later than 3 full calendar years after the year of payment unless there is evidence that the physician or beneficiary was at fault with respect to the overpayment. (See §7106.)

Refer to §7106 (Note) for exception to these rules.

7102. DETERMINING LIABILITY FOR OVERPAYMENTS

Determine whether the physician or the beneficiary is liable for the overpayment. A beneficiary is always liable for an overpayment he received. However, CMS may waive recovery if he is without fault and recovery would defeat the purposes of Title II or Title XVIII or would be against equity and good conscience. Examine cases that may involve such circumstances in accordance with §7116 for possible referral to CMS.