Medicare
Carriers Manual
Part 3 - Claims Process

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CHANGE REQUEST 1516

HEADER SECTION NUMBERS	PAGES TO INSERT	PAGES TO DELETE
7100 - 7102	7-58.1 - 7-58.3 (3 pp.)	7-58.1 - 7-58.2 (2 pp.)

NEW/REVISED MATERIAL--*EFFECTIVE DATE: March 19, 2001*
IMPLEMENTATION DATE: No Later Than October 1, 2001

Section 7100, Overpayments - General, updates the requirement that Medicare contractors conduct post-payment claims reviews to identify and recover payments for service dates billed after the beneficiary's date of death.

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

These instructions should be implemented within your current operating budget.

Overpayments

7l00.   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 HCFA, 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 HCFA 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:

o   Payment based on a charge that exceeds the reasonable charge.

o   Duplicate processing of charges/claims.

o   Payment to a physician on a nonassigned claim or to a beneficiary on an assigned claim. (Payment made to wrong payee.)

o   Payment for noncovered items and services, including medically unnecessary services.

o   Incorrect application of the deductible or coinsurance.

o   Payment for items or services rendered during a period of nonentitlement.

o   Primary payment for items or services for which another entity is the primary payer.

o   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. 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 during fiscal year 2001 - contractors must identify improperly paid services and 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 HCFA Data Center.--This step allows the contractors to utilize a HCFA created annual computer file of all deceased beneficiaries. On an annual calendar year basis, HCFA will create a computer file of all Medicare beneficiaries who died in the preceeding calendar year. This computer file will be available for contractors to download from the HCFA Data Center by January 31 of each year.

EXAMPLE: On January 31, 2001, HCFA created a computer file containing information on all Medicare beneficiaries who died during calendar year 2000. The annual computer file will be located on HCFA's mainframe computer and may be found using the following dataset naming convention "p@edb.#2011.deceased.benes.dodyear", where "year" is equal to the calendar year in which the beneficiaries died.

EXAMPLE: Computer file "p@edb.#2011.deceased.benes.dod2000" contains information on all Medicare beneficiaries who died during calendar year 2000. Next, contractors will download the computer file and 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 HCFA Created Computer File of all Deceased Beneficiaries and Associated Improperly Paid Services.--On an annual fiscal year basis, a data team within the HCFA Program Integrity Group will identify improperly paid claims containing service dates after the beneficiary's date of death. This computer file will identify the deceased beneficiary, their 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. Next, HCFA will provide a computer file to each Medicare contractor paying claims for services after the beneficiary's date of death. Contractors will then utilize the information to perform overpayment recoupments for the associated improperly paid services/claims.

The Medicare law contains two provisions (§1870 and §1879) 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 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 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, HCFA 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 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.)

G.   HCFA or SSA Waiver of Recovery From Beneficiary (§1870(c) of Act).--If a beneficiary is liable for an incorrect payment, HCFA 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 Social Security 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, HCFA 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 HCFA.