
CMS Manual System

Pub. 100-04 Medicare Claims Processing

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

Transmittal 296

Date: SEPTEMBER 3, 2004

CHANGE REQUEST 2825

NOTE: This transmittal replaces Transmittal 196, dated June 4, 2004. This is a correction to the MSN 5.7 message issued in Transmittal 196, Pub. 100-04 on June 4, 2004. The correct MSN 5.7 message is as follows: "Medicare payment may not be made for the item or service because, on the date of service, you were not lawfully present in the United States." This is the same as the message that was communicated in CR 2825 (AB-03-115), issued on 8/1/03. All other information remains the same.

I. SUMMARY OF CHANGES: This instruction manualizes Transmittal AB-03-115, dated August 1, 2003, entitled "Payment Denial for Medicare Services Furnished to Alien Beneficiaries Who Are Not Lawfully Present in the United States."

MANUALIZATION - EFFECTIVE DATE: Non-Applicable

- *IMPLEMENTATION DATE: Non-Applicable

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will only receive the new/revised information, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS:

(R = REVISED, N = NEW, D = DELETED)

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	Table of Contents
N	1/10/10.1.4.8/Payment Denial for Medicare Services Furnished to Alien Beneficiaries Who Are Not Lawfully Present in the United States

*III. FUNDING:

These instructions should be implemented within your current operating budget.

IV. ATTACHMENTS:

	Business Requirements
X	Manual Instruction
	Confidential Requirements
	One-Time Notification

***Medicare contractors only**

Medicare Claims Processing Manual

Chapter 1 - General Billing Requirements

Table of Contents *(Rev.296, 09-03-04)*

10.1.4.8 Payment Denial for Medicare Services Furnished to Alien Beneficiaries Who Are Not Lawfully Present in the United States

10.1.4.8 – Payment Denial for Medicare Services furnished to Alien Beneficiaries Who are Not Lawfully Present in the United States

(Rev.296, Issued:09-03-04, Implementation:09-03-04)

Medicare payment may not be made for items and services furnished to an alien beneficiary who was not lawfully present in the United States on the date of service.

The CWF must establish an auxiliary file based on enrollment data contained in the Enrollment Data Base maintained by the Social Security Administration in order to appropriately edit the claims specifically associated with alien beneficiaries. The auxiliary file will be the basis for an edit that rejects claims for a beneficiary that was not lawfully present in the U.S. on the date of service. Carriers and DMERCs must deny claims for items and services, rejected by CWF on the basis that the beneficiary was not lawfully present in the U.S. on the date of service. Carriers and DMERCs must refer to the CWF documentation on this subject for the error code MSN Message 5.7, assigned to this editing.

Upon receipt of an error code MSN Message 5.7, carriers, DMERCs, intermediaries, and RHHIs must deny the claim and use reason code 30, "Payment adjusted because the patient has not met the required eligibility, spend down, waiting or residency requirements." When CWF rejects a claim, carriers and DMERCs must use MSN message 5.7, "Medicare payment may not be made for the item or service because, on the date of service, you were not lawfully present in the United States." 5.7, Medicare no puede pagar por este artículo o servicio porque, en la fecha en que lo recibí, usted no estaba legalmente en los Estados Unidos.

A party to a claim denied in whole or in part under this policy may appeal the initial determination on the basis that the beneficiary was lawfully present in the United States on the date of service. All contractors must inform affected provider communities by posting relevant portions of this instruction on their Web sites within 2 weeks of the issuance date on this instruction. In addition, this same information must be published in your next regularly scheduled bulletin. If you have a listserv that targets the affected provider communities, you must use it to notify subscribers that information "Medicare Services for Alien Beneficiaries Lawfully present the United States" is available on your Web site.

NOTE: *Section 401 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), codified at 8 U.S.C. §1611, prohibits aliens who are not "qualified aliens" from receiving Federal public benefits including Medicare.*

However, Section 5561 of the Balanced Budget Act of 1997 (BBA) amended Section 401 of the PRWORA to create a Medicare exemption to the prohibition on eligibility for non-qualified alien beneficiaries, who are lawfully present in the United States and who meet certain other conditions. Specifically, payment may be made for services furnished to an

alien who is lawfully present in the United States (and provided that with respect to benefits payable under Part A of Title XVIII of the Social Security Act [42 U.S.C. 1395c et seq.], who was authorized to be employed with respect to any wages attributable to employment which are counted for purposes of eligibility for Medicare benefits). The definition for “lawfully present in the United States” is found at 8 CFR 103.12.