Operational Policy Letter #53

Department Of Health & Human Services

Health Care Financing Administration

Medicare Managed Care

May 28, 1997

CREDITABLE COVERAGE UNDER THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

Question:

Are Medicare managed care plans required to provide beneficiaries with certification of creditable coverage in accordance with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA)?

Answer:

No. If an individual loses Medicare coverage entirely, the Medicare termination notice issued by the Social Security Administration will be deemed to be a certificate that complies with HIPAA. If an individual moves from a Medicare contracting managed care plan to another plan, or returns to fee-for-service coverage, Medicare coverage continues, and no certificate is required. You should not issue a certificate in that situation because it will confuse the beneficiary

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) requires that whenever an individual loses coverage under a group health plan, or an issuer providing coverage under such a plan, the group health plan must furnish the individual with a document which establishes the period during which the individual was entitled to coverage. This document is called a certificate of creditable coverage. The certification requirement applies to managed care and indemnity insurers offering coverage in connection with a group health plan or in the individual health insurance markets, and to the Medicare and Medicaid programs. CHAMPUS, and the Indian Health Service.

The purpose of the certificate of creditable coverage is to establish that an individual had coverage which may count toward reducing or eliminating preexisting condition exclusions that may be imposed by subsequent health coverage. As long as this creditable coverage is not interrupted by a significant break, generally a break of 63 or more days, the individual's creditable coverage may be aggregated from all coverage periods and benefit sources. In the group market, all group health plans or issuers offering group health insurance coverage that impose preexisting condition exclusions must reduce the length of any exclusion period they apply by the amount of an individual's creditable

coverage. In the individual market, an individual is deemed to be an "eligilble individual" entitled to guaranteed availability of coverage without preexisting condition exclusion periods if he or she has at least 18 months of creditable coverage (in addition ot certain eligibility criteria.)

Under Section 2791(a)(3) of the Public Health Service Act, 42 U.S.C x 300gg-91(a)(3), the Medicare program is treated as a "group health plan" solely for the purposes of the certification requirements. Therefore, as long as an individual does not lose their Medicare benefits, disenrollment from a managed care organization with a Medicare contract would not trigger the certification requirement. In fact, issuing a certificate would cause unnecessary confusion.

Certain categories of Medicare beneficiaries, such as those that are eligible due to a disability or a diagnosis of end-stage renal disease may eventually become ineligible for Medicare benefits and leave the program if the disease or condition is resolved through transplant or other treatment. The termination notice sent to these beneficiaries by the Social Security Administration will be deemed to satisfy the HIPAA certification requirement. Accordingly, we do not expect Medicare-contracting managed care plans to be responsible for providing certificates to Medicare beneficiaries under any circumstances.

NOTE:

In some circumstances it is possible that in order to avoid or reduce a preexisting condition exclusion period, an individual may need to establish that he or she was entitled to specific types of benefits during a particular parid. (See 42 C.F.R. xx146.113 and 146.115.) If your plan provided benefits in addition to the basic Medicare covered services, individuals might request that you provide information to help them document the coverage. This is not the same as providing a certificate of creditable coverage.

Contact:

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