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

Transmittal 27 | **Date: JULY 25, 2003**

CHANGE REQUEST

CHAPTERS	REVISED SECTIONS	NEW SECTIONS	DELETED SECTIONS
13	60.1.1	60.1.3 90.1	100.3

Red italicized font identifies new material.

NEW/REVISED MATERIAL - EFFECTIVE DATE: July 1, 2003

Section 60.1.3 - Noncontracted Provider Appeals - Material regarding noncontacted providers has been moved from section 60.1.1, and material regarding waiver of liability documentation has been added.

Section 90.1 - Storage of Appeal Case Files by the Independent Review Entity - Moved material from section 100.3 to this new section.

CLARIFICATION - EFFECTIVE DATE: Not Applicable.

Table of Contents - Added two new line items for sections - "60.1.1 - Representative Filing on Behalf of the Enrollee," and "90.1 - Storage of Appeal Case Files by the Independent Review Entity," and deleted line item for section 100.3.

Section 60.1.1 - Representative Filing on Behalf of the Enrollee - Deleted text dealing with noncontracted providers from this section and moved to the new section, "60.1.3 - Noncontracted Provider Appeals."

Section 100.3 - Storage of Hearing Files - Deleted section 100.3 and moved to new section "90.1 - Storage of Appeal Case Files by the Independent Review Entity."

Medicare Managed Care Manual

Chapter 13 - Medicare + Choice Beneficiary Grievances, Organization Determinations, and Appeals

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This Chapter Last Updated - Rev. 27, 07-25-03)

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60.1.1 - Representative Filing on Behalf of the Enrollee

(Rev.27, 07-25-03)

An enrollee may appoint any individual (such as a relative, friend, advocate, an attorney, or any physician) to act as his or her representative. A representative who is appointed by the court or who is acting in accordance with State law may also file an appeal for an enrollee. With the exception of incapacitated or legally incompetent enrollees where appropriate legal papers, or other legal authority, support this representation, both the enrollee making the appointment and the representative accepting the appointment must sign, date, and complete an appointment of representative form or similar written statement. If the appointed representative is an attorney, only the enrollee needs to sign the appointment of representative form or similar statement.

The representative statement must include the enrollee's name and Medicare number. The enrollee may use Form CMS-1696-U4 or SSA-1696-U4 (Appendix 4 and Appendix 5 respectively), Appointment of Representative (available at Social Security offices), although it is not required. The enrollee may also use the appointment of representative statement provided in the IRE Reconsideration Processing Manual.

A signed form or statement must be included with the enrollee's appeal. A separate appointment of representative form or statement is required for each appeal.

Except in the case of incapacitated or incompetent enrollees, a request for reconsideration from a representative is not valid until supported with an executed appointment of representative form. It is the M+C organization's obligation to inform the enrollee and purported representative, in writing, that the reconsideration request will not be considered until the appropriate documentation is provided.

If a case file is initiated by a representative and submitted to the independent review entity, the independent review entity will examine the file for compliance with the appointment requirements. The independent review entity may dismiss cases in which a required appointment of representative form is absent.

When a request for reconsideration is filed by a person claiming to be a representative, but the party does not provide appropriate documentation upon the M+C organization's request, the M+C organization must make, and document, its reasonable efforts to secure the necessary appointment forms. The M+C organization should not undertake a review until or unless such forms are obtained. The timeframe for acting on a reconsideration request does not commence until the properly executed appointment form is received. However, if the M+C organization does not receive the form or statement at the conclusion of the appeal timeframe, plus extension, the M+C organization should forward the case to the independent review entity with a request for dismissal. The M+C organization must comply with the IRE Reconsideration Process Manual section on reconsiderations that fail to meet representative requirements.

A provider, physician, or supplier may not charge an enrollee for representation in an appeal.

Costs associated with the appeal are not reasonable costs for Medicare reimbursement purposes.

A representative who is a surrogate acting in accordance with State law may file an appeal. A surrogate could include, but is not limited to, a court appointed guardian, an individual who has Durable Power of Attorney, or a health care proxy, or a person designated under a health care consent statute.

60.1.3 – Noncontracted Provider Appeals

(Rev 27, 07-25-03)

A noncontracted provider is permitted to file a standard appeal for a denied claim only if the provider completes a waiver of liability statement, which provides that the provider will not bill the enrollee regardless of the outcome of the appeal. See Appendix 6.

Physicians and suppliers who have executed a waiver of beneficiary liability are not required to complete the representative form. In this case, the physician or supplier is not representing the beneficiary, and thus does not need a written appointment of representation.

When a noncontracted provider files a request for reconsideration of a denied claim, but the provider does not submit the waiver of liability documentation upon the M+C organization's request, the M+C organization must make, and document, its reasonable efforts to secure the necessary waiver of liability form. The M+C organization should not undertake a review until or unless such form is obtained. The time frame for acting on a reconsideration request does not commence until the properly executed waiver of liability form is received. However, if the M+C organization does not receive the form at the conclusion of the appeal time frame, the M+C organization should forward the case to the independent review entity with a request for dismissal. The M+C organization must comply with the IRE's Reconsideration Process Manual section on reconsiderations that fail to meet provider-as-party requirements.

90.1 – Storage of Appeal Case Files by the Independent Review Entity

(Rev.27, 07-25-03)

The CMS' independent review entity stores the appeal case files for a period of seven years from the end of the calendar year in which final action is taken. The inventory of case files include the reconsideration case files forwarded from the M+C organization and processed by the independent review entity which are not appealed further, as well as ALJ hearing case files returned to the independent review entity.
