

Part 8

DISCLOSURE OF INFORMATION BY PROVIDERS AND FISCAL AGENTS

Claims for Payment in Alcohol and Drug
Abuse Cases

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8001. CLAIMS FOR PAYMENT IN ALCOHOL AND DRUG ABUSE CASE - GENERAL

These instructions deal with the release of information by providers for claims processing purposes from the records of alcohol and drug abuse patients. These instructions are consistent with the requirements of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act Amendments of 1974 and with Public Health Service regulations at 42 CFR Part 2, Confidentiality of Alcohol and Drug Abuse Patient Records. They are also consistent with Section 1902(a)(27) of the Social Security Act. That section requires that the State plan provide for agreements with providers of services under which the provider agrees to keep records necessary to disclose fully the extent of services provided to individuals receiving assistance under the State plan and to furnish the State agency or the Secretary with information regarding any payments claimed by such provider of services.

8002. CONFIDENTIALITY OF PROVIDER RECORDS

The law requires providers to observe more stringent rules when disclosing medical information for claims processing purposes from the records of alcohol and drug abuse patients than when disclosing information for other Medicaid recipients. The standard consent statement on most provider billing forms is not sufficient authority under the law to permit the provider to release information from the records of alcohol or drug abuse patients. A more explicit consent statement is provided in §8003. Providers participating in the Medicaid program that are reluctant to disclose information from records of alcohol and drug abuse patients to the State agency should be advised to obtain written consent from recipients in each alcohol or drug abuse case. It is the responsibility of the provider to obtain authorization for disclosure of information from the medical records in its custody. (See §8003 for authorization requirements.) If the provider is unable to release information for lack of proper patient authorization and you need this information in order to determine the appropriateness of payments under title XIX, deny payment or, if payment has already been made, recover the overpayment.

8003. CONSENT FORM

The written consent which will allow the provider to disclose records of alcohol and drug abuse patients should include all of the following:

1. The name of the organization or person (hospital, physician, etc.) which is to make the disclosure;
2. The name or title of the organization or person to which disclosure is to be made (e.g., the Health Care Financing Administration and the State agency, specified by name);
3. The name of the patient;

4. The purpose or need for disclosure (e.g., for processing a claim for Medicaid payment and for such evaluation of the treatment program as is legally and administratively required in the overall conduct of the Medicaid program);

5. The specific extent or nature of information to be disclosed (e.g., all medical records regarding the patient's treatment, hospitalization and/or outpatient care including treatment for drug abuse or alcoholism);

6. A statement that the patient may revoke his consent at any time to prohibit disclosures on or after the date of revocation;

7. A statement specifying a date (not to exceed 2 years), event, or condition upon which consent will expire without revocation;

8. The date on which the consent is signed; and

9. The signature of the patient, and/or the signature of his/her authorized or legal representative.

The provider should keep the consent statement with the patient's medical and other records. The duration of the consent statement is not to exceed 2 years, after which it must be renewed by the patient if further disclosures are necessary.

If the patient wishes, the consent statement may be expanded to permit disclosure by the provider to any other person, organization, or program, as appropriate. Authorization may also be given to HCFA or the State agency to redisclose specific information to third party payors for insurance purposes. When you redisclose information to third party payors, you must include the following written statement:

"This information has been disclosed to you from records whose confidentiality is protected by Federal law. Federal regulations (42 CFR Part 2) prohibit you from making any further disclosure of it without the specific written consent of the person to whom it pertains, or as otherwise permitted by such regulations. A general authorization for the release of medical or other information is NOT sufficient for this purpose."