
Program Memorandum Intermediaries/Carriers

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

Transmittal AB-02-061

Date: MAY 1, 2002

CHANGE REQUEST 2139

SUBJECT: CWF Editing of Claims for Medicare Beneficiaries in State or Local Custody Under a Penal Authority

I. GENERAL INFORMATION

A. Background:

Under Sections 1862(a)(2) and (3) of the Social Security Act, the Medicare program will not pay for services if the beneficiary has no legal obligation to pay for the services and if the services are paid for directly or indirectly by a governmental entity.

Regulations at 42 CFR 411.4(b) state that "Payment may be made for services furnished to individuals or groups of individuals who are in the custody of the police or other penal authorities or in the custody of a government agency under a penal statute only if the following conditions are met: (1) State or local law requires those individuals or groups of individuals to repay the cost of medical services they receive while in custody and (2) The State or local government entity enforces the requirement to pay by billing all such individuals, whether or not covered by Medicare or any other health insurance, and by pursuing the collection of the amounts they owe in the same way and with the same vigor that it pursues the collection of other debts."

A recent Office of Inspector General audit of Medicare payments identified a vulnerability for the Medicare trust fund with respect to this issue. The study identified potential improper payments for beneficiaries who, on the date of service on the claim, are in State or local custody under the authority of a penal statute. To address this vulnerability, CMS is establishing claim level editing using data received from the Social Security Administration (SSA). Specifically, the data contain the names of the Medicare beneficiaries and time periods where the beneficiary is in such State or local custody. This data will be compared to the data on the incoming claims. CWF will reject claims where the dates from the SSA file and the dates of service on the claim overlap. Any claims rejected by CWF will contain a trailer to the Medicare contractor indicating the date span covered.

B. Policy:

Denial of Claims

The CMS presumes that a State or local government that has custody of a Medicare beneficiary under a penal statute has a financial obligation to pay for the cost of medical services. Therefore, Medicare will deny payment for services to patients in State or local custody under a penal statute unless it is determined that the State or local government enforces a legal requirement that all prisoners/patients repay the cost of all medical services rendered while in such custody and also pursues collection efforts against such individuals in the same way, and with the same vigor, as it pursues other debts.

NOTE: The purpose of this pm is to provide direction to CWF on the necessary requirements for the editing of claims. Contractors will receive a subsequent PM with procedures for processing claims. The Enrollment Data Base will not be populated so that no contractor will receive this trailer until such time as the standard systems changes are implemented.

Appeals

A party to a claim denied in whole or in part under this policy may appeal the initial determination on the basis that on the date of service (1) the conditions of § 411.4(b) were met or (2) the beneficiary was not, in fact, in the custody of a State or local government under authority of a penal statute.

Intermediary Claims Processing Procedures

State or Local Law Requires the Prisoner or Patient to Repay the Cost of Medical Services

Intermediaries are to deny claims for services rendered to incarcerated beneficiaries when CWF rejects the claim. All such denials will provide appeal rights as specified above.

Providers that render services to a prisoner or patient and meets the conditions of 42 CFR 411.4(b) must attest so on the claim with the use of the “__” condition code. This condition code indicates that the provider has been instructed by the state or local agency that requested the medical services provided to the patient that it is the policy of the state or local government that the prisoner or patient is responsible to repay the cost of Medical services and it is appropriate to bill Medicare for these services.

Carrier/DMERC Claims Processing Procedures

State or Local Law Requires the Prisoner or Patient to Repay the Cost of Medical Services

Carriers are to deny claims for services rendered to incarcerated beneficiaries when rejected by CWF. All such denials will provide appeal rights as specified above.

Providers that render services to a prisoner or patient and meets the conditions of 42 CFR 411.4(b) must attest so on the claim with the use of the “__” modifier. This modifier indicates that the provider has been instructed by the state or local agency that requested the medical services provided to the patient that it is the policy of the state or local government that the prisoner or patient is responsible to repay the cost of Medical services and it is appropriate to bill Medicare for these services.

II. BUSINESS REQUIREMENTS

- *use the word “must” to indicate a mandatory action*
- *use the word “will” to indicate an optional action*
- *Resp. column is optional*

Req. #	Requirements	Resp.
1.1	CWF must compare the beneficiary Health Insurance Claim (HIC) number and date of service on the claim with the beneficiary HIC number and date of incarceration on the auxiliary file.	
1.2	The CWF system must reject claims that meet the following criteria: (1) beneficiary HIC # on the claim matches the beneficiary HIC # on the auxiliary file and (2) the dates of service on the claim overlap the period of the from and through dates of the file.	
1.3	CWF must return a trailer for any identified claims to the Carrier, DMERC, RHHI, or Intermediary that submitted the claim indicating the dates identified by the CWF editing.	
1.4	CWF must ensure that any claims submitted with the “__” modifier are not subject to this editing.	
1.5	CWF must ensure that any claims submitted with condition code “__” are not subject to this editing.	

III. SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS

A. Other Instructions:

B. Design Considerations:

C. Interfaces: CWF must implement the necessary changes to edit for these claims effective October 1, 2002.

D. Contractor Financial Reporting /Workload Impact:

E. Dependencies: Obtaining HCPCS modifier for carrier/DMERC claims.
Obtaining a new condition code for intermediary claims.

Version:	Effective Date: October 1, 2002
Implementation Date: October 1, 2002 for CWF <i>(Standard System Changes will be completed in a future release)</i>	Funding: These instructions should be implemented within your current operating budget.
Discard Date: October 1, 2003	Pre-Implementation Contact: Joan Proctor-Young
Post-Implementation Contact: Joan Proctor-Young (410) 786-0949	