Program Memorandum Carriers

Department of Health and Human Services (DHHS)
HEALTH CARE FINANCING ADMINISTRATION (HCFA)

Transmittal B-01-15 **Date: FEBRUARY 16, 2001**

CHANGE REQUEST 1562

SUBJECT: Durable Medical Equipment Regional Carrier (DMERC) Systems Requirements to Implement §114 of the Benefits Improvement and Protection Act of 2000 (BIPA)

This Program Memorandum (PM) addresses requirements in §114 of BIPA. This PM contains systems changes necessary to implement the policy in PM AB-01-16, dated January 29, 2001, Change Request (CR) 1514, which mandates that all suppliers and providers who bill drugs and biologicals to the Medicare program must bill on an assigned basis. This PM applies only to drugs and biologicals a supplier with a valid National Supplier Clearinghouse (NSC) number bills to a DMERC under the durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) benefit. For systems instructions for the proper billing of drugs and biologicals provided incident-to physician or non-physician practitioner's services, see PM B-01-10, dated February 9, 2001, CR 1553.

Mandatory Assignment

Under §114 of BIPA, DMEPOS suppliers must accept assignment on all claims for drugs and biologicals that they bill to the DMERCs. A supplier may not render a charge or bill to anyone for these drugs and biologicals for any amount other than the Medicare Part B deductible and coinsurance amounts.

Mandatory assignment does not apply to HCFA Common Procedure Coding System (HCPCS) code E0590, which represents the dispensing fee for nebulizer drugs.

DMERCs must inform suppliers on their websites and in their next bulletins that they must accept assignment on claims for drugs and biologicals furnished on or after February 1, 2001.

Beneficiary-Submitted Claims

DMERCs must deny any claims a beneficiary submits for drugs and biologicals with dates of service on or after February 1, 2001. The DMERCs must notify beneficiaries that suppliers are now required to accept assignment on claims for drugs and biologicals, and therefore, the beneficiaries may not submit claims for drugs and biologicals themselves. When denying beneficiary-submitted claims, use the following Medicare Summary Notice (MSN) messages:

MSN 16.6 (English): "This item or service cannot be paid unless the provider accepts assignment."

MSN 16.6 (Spanish): "Este artículo o servicio no se pagará a menos de que el proveedor acepte asignación."

MSN 16.7 (English): "Your provider must complete and submit your claim."

MSN 16.7 (Spanish): "Su proveedor debe completar y someter su reclamación."

MSN 16.34 (English): "You should not be billed for this service. You do not have to pay this amount."

MSN 16.34 (Spanish): "Usted no debería ser facturado por este servicio. Usted no tiene que pagar esta cantidad."

MSN 16.36 (English): "If you have already paid it, you are entitled to a refund from this provider."

MSN 16.36 (Spanish): "Si usted ya lo ha pagado, tiene derecho a un reembolso de su proveedor."

Supplier-Submitted Unassigned Claims

If a supplier submits an unassigned claim with a date of service on or after February 1, 2001, to the DMERC for a drug or biological, the DMERC must process the claim as though the supplier accepted assignment. It is possible that a supplier may bill drugs and other items on the same claim, which would result in a claim with some assigned and some non-assigned items.

In the event that a supplier bills an unassigned claim to a DMERC that contains both codes for drugs or biologicals and codes for other items, the DMERCs must replicate the claim. This will result in two claims in the DMERC system: an unassigned claim for items other than drugs or biologicals, and an assigned claim for drugs and biologicals furnished on or after February 1, 2001. When a DMERC changes an unassigned drug claim to an assigned claim, they must use the following messages on the supplier remittance advice:

Remark code MA72: "The beneficiary overpaid you for these assigned services. You must issue the beneficiary a refund within 30 days for the difference between his/her payment to you and the total of the amount shown as patient responsibility and as paid to the beneficiary on this notice." (Viable Information Processing Systems (VIPS) must use remark code MA72 on the claim level on the remittance advice for drugs and biologicals when the incoming claim indicated that the patient had already paid for the billed services.)

Remark code N71: "Your unassigned claim for a drug or biological was processed as an assigned claim. The law requires that you must take assignment on all claims for drugs and biologicals."

The VIPS must hard-code remittance message MA72 and remittance message N71 into their system.

The Non-Licensed Pharmacy Initiative

Section 4119 of the Medicare Carrier's Manual (MCM) requires that all suppliers who bill the DMERCs for drugs for use with DMEPOS must have a pharmacy license to dispense drugs. The MCM further states that when a DMERC denies a claim for a drug because the NSC's records do not show that the supplier has a pharmacy license, the DMERC must also deny any equipment, accessories, and supplies related to the drug, when the supplier bills the drug on the same claim as the equipment. (Suppliers should bill drugs for use with DMEPOS on the same claim as the equipment itself, if they are also providing and billing for the equipment.) In situations when a supplier bills unassigned drugs and equipment, accessories, or supplies on the same claim, the DMERC and VIPS must ensure that they apply non-licensed pharmacy equipment, accessory and supply edits and denials before they replicate the claim. Even if the system denies a line due to the non-licensed pharmacy edit prior to replicating the claim, the system must still replicate any unassigned claims for drugs and biologicals and change the assignment indicator. Use the following messages to suppliers, as appropriate:

Remittance advice MA72: "The beneficiary overpaid you for these assigned services. You must issue the beneficiary a refund within 30 days for the difference between his/her payment to you and the total of the amount shown as patient responsibility and as paid to the beneficiary on this notice." (VIPS must use remark code MA72 on the claim level on the remittance advice for drugs and biologicals when the incoming claim indicated that the patient had already paid for the billed services.)

Remark code N71: "Your unassigned claim for a drug or biological was processed as an assigned claim. The law requires that you must take assignment on all claims for drugs and biologicals."

Adjustment reason code B6: "This service/procedure is denied/reduced when performed/billed by this type of provider, by this type of provider in this type of facility, or by a provider of this specialty."

Adjustment reason code #107: "Claim/service denied because the related or qualifying claim/service was not paid or identified on the claim."

Remark code M143: "We have no record that you are licensed to dispense drugs by the state in which you are located."

VIPS must hard-code remittance message MA 72 and N71 into their system.

Lists of Affected HCPCS Codes

The four DMERCs must work together to create a list of HCPCS drug codes which suppliers must bill on an assigned basis. This will enable VIPS and the DMERCs to implement the necessary edits in their systems. Finally, the four DMERCs must work together to create a list of drug and equipment codes to which the non-licensed pharmacy edit would apply in this situation. For this second list, the DMERCs need only add drugs that are used with equipment, and the equipment, and related supplies and accessories, that use those drugs, as opposed to all drugs that are subjected to the licensure edit. The DMERCs must share these lists with VIPS and HCFA Central Office.

The *effective date* for this PM is February 1, 2001.

The *implementation date* for this PM is July 1, 2001. No retroactive adjustments.

These instructions should be implemented within your current operating budget.

This PM may be discarded after July 2, 2002.

If you have any questions, contact Renée Hildt at (410) 786-1446.