I - GENERAL INFORMATION   CR 2022

Subject: Carrier, DMERC, Intermediary and RHHI Processing Requirements for Claims Edited by CWF for Medicare Beneficiaries in State or Local Custody Under a Penal Authority

Version:	Effective Date: April 1, 2003
Implementation Date: April 1, 2003	Funding: Within Current Operating Budget
Discard Date: April 1, 2004	Pre-Implementation Contact: Joan Proctor-Young
Post-Implementation Contact: Your Regional Office	

A - Background:

Under Sections 1862(a)(2) and (3) of the Social Security Act, the Medicare program does 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. These provisions are implemented by regulations 42 C.F.R. § 411.4(a) and 411.4 (b), respectively.

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 improper payments for beneficiaries who, on the date of service on the claim, were 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:

Exclusion from Coverage

Medicare excludes from coverage items and services furnished to beneficiaries in State or local government 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 healthcare items and 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. 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 healthcare items and services. Therefore, Medicare denies payment for items and services furnished to beneficiaries in State or local government custody.

However, providers and suppliers that render services or items to a prisoner or patient in a jurisdiction that meets the conditions of 42 CFR 411.4(b) should indicate this fact with the use of a modifier (for carrier processed claims) or condition code (for intermediary processed claims).

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.

C. Implementation

1. Intermediary/RHHI Claims Processing Procedures

a.   Intermediaries must deny claims for items and services rendered to beneficiaries under State or local government custody when CWF rejects the claim. Provide appeal rights as specified above.

b.   Government Meets the Regulatory Standard

Providers that render services or items to a prisoner or patient in a jurisdiction that meets the conditions of 42 CFR 411.4(b) should indicate this fact on the claim. Providers should use the "63" condition code. This condition code indicates that the provider has been instructed by the state or local government agency that requested the healthcare items or 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 healthcare items and services and that it pursues collection of debts incurred for furnishing such items or services with the same vigor and in the same manner as any other debt.

2.   Carrier/DMERC Claims Processing Procedures

a.   Carriers must deny claims for items and services rendered to beneficiaries when rejected by CWF. Provide appeal rights as specified above.

b.   Government Meets the Regulatory Standard

Providers that render services to a prisoner or patient in a jurisdiction that meets the conditions of 42 CFR 411.4(b) should indicate this fact on the claim. Providers should use the QJ modifier. Language approved for QJ reads: "Services/items provided to a prisoner or patient in State or local custody, however, the State or local government, as applicable, meets the requirements in 42 CFR 411.4(b)." This modifier indicates that the provider has been instructed by the state or local government agency that requested the healthcare items or services provided to the patient that State or local law makes the prisoner or patient responsible to repay the cost of Medical services and that it pursues collection of debts incurred for furnishing such items or services with the same vigor and in the same manner as any other debt.

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 file that contains the data concerning beneficiaries who are in custody.	CWF
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 are within the period of the "from" and "through" dates of the period of custody.	CWF
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.	CWF
1.4	Carriers, DMERCs, RHHIs, and Intermediaries must deny claims identified by CWF as non-covered under 42 C.F.R. § 411.4(a) and 411.4(b). Use reason code 96, non-covered charges, Remark Code N103: "Social Security records indicate that this beneficiary was in the custody or a State or	All Standard Systems

	local government when the service was rendered. Medicare does not cover items and services furnished to beneficiaries while they are in State or local government custody under a penal authority, unless under State or local law, the beneficiary is personally liable for the cost of his or her health care while in such custody and the State or local government pursues such debt in the same way and with the same vigor as any other debt."	
1.5	When CWF rejects a claim, Carriers, DMERCS, RHHIs and Intermediaries must use MSN message #29.13 "Medicare does not pay for these services because they are payable by another government agency. Submit this claim to that agency." Spanish Translation: "Medicare no pagara estos servicios debido a que pueden ser pagados por otra agencia gubernamental. Envie esta reclamacion a esa agencia."	All Standard Systems
1.6	CWF must ensure that any claim submitted with the "QJ" modifier bypasses the CWF edit for beneficiaries under State or local government custody..	CWF
1.7	CWF must ensure that any claim submitted with "63" condition code bypasses the CWF edit for incarcerated beneficiaries.	CWF

III - Supporting Information and Possible Design Considerations

A – Other Instructions:

X-Ref Req. #	Instructions
1.9	All Carriers, DMERCs, Intermediaries, and RHHIs must announce that CMS will begin denying claims for beneficiaries who are in custody of a State or local government under the authority of a penal statute at the time the provider rendered the service. Publish an article announcing this policy in your next regularly scheduled provider bulletin and on your web site. Republish the article annually.

B – Design Considerations:

X-Ref Req. #	Recommendation for Medicare System Requirements

C - Interfaces: CWF must implement the necessary changes to edit for these claims effective October 1, 2002 under CR 2139. Carriers, DMERCs, Intermediaries and RHHIs must implement the necessary standard systems changes to deny these claims effective April 1, 2003.

D - Contractor Financial Reporting /Workload Impact:

E - Dependencies:

F - Testing Considerations: