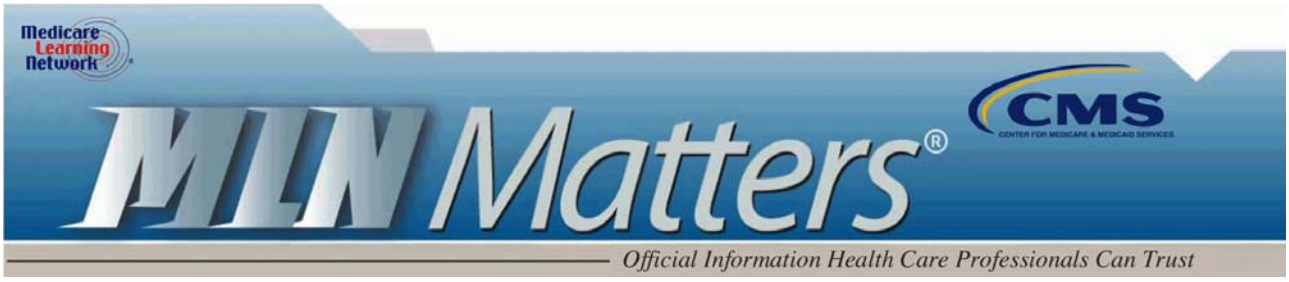
DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services



SE1128 (http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/SE1128.pdf), titled "Prohibition on Balance Billing Qualified Medicare Beneficiaries (QMBs)," reminds affected providers about their responsibilities to QMBs. This article is intended to help providers avoid inappropriately billing QMBs for Medicare cost-sharing, including deductible, coinsurance, and copayments.

MLN Matters® Number: MM7323

Related Change Request (CR) #: CR 7323

Related CR Release Date: December 1, 2011

Effective Date: February 3, 2012

Related CR Transmittal #: R2362CP

Implementation Date: February 3, 2012

Home Health Advance Beneficiary Notice, (HHABN), Form CMS-R-296

Note: This article was revised on October 22, 2013, to add a link to MM8403 (http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/MM8403.pdf) that alerts HH providers that effective December 9, 2013, HHABN Form CMS-R-296 will be discontinued and HHCCN will replace the HHABN option boxes 2 and 3. HHABN option box 1 will be replaced by the ABN of Noncoverage (CMS-R-131). All information is unchanged

Provider Types Affected

Home Health Agencies (HHAs) who bill Medicare regional home health intermediaries (RHHIs) for their services.

Provider Action Needed

STOP – Impact to You

This article is based on Change Request (CR) 7323 which implements the revised HHABN and its instructions.

CAUTION – What You Need to Know

CR7323 revises the "Medicare Claims Processing Manual" (Chapter 30, Section 60 and its subsections) incorporating edits to simplify presentation of previously released information. There have been no recent changes to the existing HHABN policy or the HHABN notice.

GO – What You Need to Do

See the Background and Additional Information Sections of this article for further details regarding these changes. Advise appropriate HHA staff of the availability of this updated resource for HHABN policy and issuance information.

Background

HHAs have issued HHABNs since 2002 that are related to the absence or cessation of Medicare coverage when a beneficiary had liability protection under Section 1879 of the Social Security Act (the Act) (See http://www.ssa.gov/OP_Home/ssact/title18/1879.htm on the Internet). The HHABN gained additional notification capabilities in 2006 following the U.S. Court of Appeals decision in the case LUTWIN V. THOMPSON.

Subsequent to that decision, the HHABN was modified so that it could also be used by HHAs to notify beneficiaries receiving home health services of any changes made to their plan of care in accordance with the HHA conditions of participation (COPs) in Section1891 of the Social Security Act.

Highlights of CR7323 Changes to Section 60

This article is based on Change Request (CR) 7323 which revises the currently published HHABN section contained in the "Medicare Claims Processing Manual" (Chapter 30, Section 60). The revised Section 60 is included as an attachment to CR7323, and the following are highlights of the revisions:

- Section 60 provides a general overview of the HHABN and a “Quick Glance Guide” to assist providers with HHABN issuance. This abbreviated reference tool is not meant to supersede or replace any published HHABN directives; however, providers may find it helpful in discerning which beneficiary situations require HHABN issuance.
- Section 60.1 describes how the HHABN was revised in 2006 to contain the three interchangeable Option Boxes within the body of the notice. They are designated as Option Box 1, Option Box 2, and Option Box 3.

- Option Box 1 language is applicable to situations involving potential beneficiary liability for HHA services as directed by §1879 of the Act.
- Option Box 2 or Option Box 3 is inserted into the HHABN form to notify beneficiaries of changes in a home health plan of care that are subject to the requirements of Section 1891 of the Social Security Act. See http://www.ssa.gov/OP_Home/ssact/title18/1891.htm on the Internet.

- Section 60.2 has been edited to simplify understanding of the scope of the HHABN.
  - Section 60.2.A describes the statutory authorization of the HHABN and provides an improved reference chart on HHABN issuance for LOL purposes. The chart contains brief descriptions of patient care scenarios associated with specific statutory provisions and includes recommended explanations for HHAs to use in the "Header" section of the Option Box 1 HHABN. This section reiterates that when the HHABN is being used to inform of a change in care, it is formatted with either Option Box 2 or Option Box 3.
  - Section 60.2 B clarifies that HHAs do not use the Advance Beneficiary Notice (ABN), Form CMS-R-131. HHAs may voluntarily use the HHABN for non-covered care outside the definition of the Medicare home health benefit. The HHA must issue an expedited determination notice called the Notice of Medicare Provider Non-Coverage, (NOMNC), CMS-10123, when all covered services are being terminated.
  - Section 60.2 C explains who issues and who receives the HHABN.
    - HHAs are the only type of Medicare providers that issue the HHABN.
    - Subcontractors may deliver HHABNs under the direction of a primary HHA. However, overall notification responsibility including effective delivery always rests with the primary HHA.
    - Recipients of the HHABN are beneficiaries enrolled in Original Medicare only.
    - HHABNs are not used in Medicare managed care.
    - HHABNs are non-transferrable in cases in which the beneficiary receives care from more than one HHA.
    - DME suppliers that bill separately from the HHA continue to use the general ABN, Form CMS-R-131, as required, when providing an item to a home care beneficiary.
    - Pharmacies that provide home infusion medications and bill the patient's drug benefit directly are responsible for issuing any applicable liability notification for these medications.

- Section 60.3 (A, B, & C) addresses HHABN triggering events, which are still initiation, reduction and termination. These events are defined as they apply to issuance of HHABN 1, 2, or 3. Clinical examples of HHABN issuance are given for applicable understanding.
- Section 60.3 D points out that Medicare beneficiaries with other insurance coverage, of any type, must still receive the HHABN when applicable.
- Section 60.3 E updates exceptions to notification requirements. Specific clinical situations that do not require issuance of the HHABN are listed.
- Section 60.3.F outlines voluntary use of the HHABN, and provides an example of voluntary HHABN issuance when a beneficiary is receiving telehealth services.
- Section 60.4 gives instructions for completing the HHABN. In 2009, minimal changes were made to the notice. Formatting changes in accordance with Section 508 of the Rehabilitation Act of 1973, as amended in 1998, were made and the health insurance claim number (HICN) was removed from the notice. The HHABN continues to include an interchangeable Option Box with flexibility to insert Option Box 1, 2, or 3 on the form that is delivered to the beneficiary. Effective dates of the HHABN and extended use of HHABNs are also covered in this section.
- Section 60.5 covers HHABN delivery in person and other than in person, including via telephone notice. HHAs must make every effort to ensure beneficiaries understand the entire HHABN prior to signing it. HHAs keep a copy of the completed, signed or annotated HHABN in the beneficiary's record, and the beneficiary must receive a copy. HHAs may retain a scanned copy of the "wet" document in an electronic medical record if desired. The primary HHA must retain the HHABN if a subcontractor is used.
- Section 60.6 provides factors that constitute the validity of an HHABN. The HHA must use the current OMB approved HHABN notice that is:
  - completed according to CMS instructions;
  - includes good faith cost estimate when used as a liability notice;
  - signed by the beneficiary;
  - not issued under circumstances of coercion or health care crisis; and
  - not issued as a "blanket" notice by the HHA.
- Section 60.7 covers the collection of funds, the beneficiary's liability, the financial liability for providers, unbundling prohibition, and shifting of financial liability, and the effect of initial payment determinations on liability.
- Section 60.8 discusses special issues associated with the HHABN.
  - Some States have specific rules on completion of HHABN Option Box 1 for dual eligibles (Medicaid recipients who are also Medicare beneficiaries).

HHAs serving dual eligibles need to comply with HHABN State policy within their jurisdiction.

- HHAs must respond to requests for copies of the HHABN from beneficiaries or their representatives and approved government agencies.

Additional Information

The official instruction, CR7323, issued to your RHHIs regarding this change may be viewed at http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R2362CP.pdf on the CMS website. You will find the HHABN notice and instructions at http://www.cms.gov/Medicare/Medicare-General-Information/BNI/index.html on the CMS website.

If you have any questions, please contact your RHHI at their toll-free number, which may be found at http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html on the CMS website.

News Flash - It's a Busy Time of Year. Make each office visit an opportunity to remind your patients about the importance of getting the seasonal flu vaccination and a one-time pneumococcal vaccination. Medicare pays for these vaccinations for all beneficiaries with no co-pay or deductible. The Centers for Disease Control and Prevention also recommends that healthcare workers and caregivers be vaccinated against the seasonal flu. Protect your patients. Protect your family. Protect yourself. Get the Flu Vaccine – Not the Flu. Remember: The flu vaccine plus its administration are covered Part B benefits. The flu vaccine is NOT a Part D-covered drug. For more information on coverage and billing of the flu vaccine and its administration, and related educational provider resources, visit the following CMS web pages Medicare Learning Network® Preventive Services and Immunizations. Get the Flu Vaccine -- Not the Flu. For the 2011-2012 seasonal flu vaccine payment limits, visit http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/McrPartBDrugAvgSalesPrice/VaccinesPricing.html on the CMS website.