DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

The ICD-10-related implementation date is now October 1, 2015. The switch to the new code set will affect every aspect of how your organization provides care, but with adequate planning and preparation, you can ensure a smooth transition for your practice. Keep Up to Date on ICD-10. Please visit the **ICD-10** website for the latest news and resources to help you prepare.

MLN Matters® Number: MM8100 | **Related Change Request (CR) #: CR 8100**

Related CR Release Date: October 26, 2012 | **Effective Date: January 28, 2013**

Related CR Transmittal #: R160BP | **Implementation Date: January 28, 2013**

Effect of Beneficiary Agreements Not to Use Medicare Coverage and When Payment May be Made to a Beneficiary for Service of an Opt-Out Physician/Practitioner

Provider Types Affected

This MLN Matters® Article is intended for physicians, other providers, and suppliers submitting claims to Medicare contractors (fiscal intermediaries (FIs), carriers, Regional Home Health Intermediaries (RHHIs), Durable Medical Equipment Medicare Administrative Contractors (DME/MACs) and A/B Medicare Administrative Contractors (A/B MACs) for services to Medicare beneficiaries.

Provider Action Needed

This article is based on Change Request (CR) 8100 which informs Medicare contractors that the Centers for Medicare & Medicaid Services (CMS) is amending Chapter 15, Section 40.6 of the "Medicare Benefit Policy Manual" to be consistent with current regulations. In addition, CMS is making some other minor changes to sections 40 through 40.40 of the same manual in order to update those sections of the manual.

Make sure that your billing staffs are aware of these changes. See the Background and Additional Information Sections of this article for further details regarding these changes.

Background

Section 4507 of the Balanced Budget Act of 1997 amended section 1802 of the Social Security Act ("the Act") to permit certain physicians and practitioners to opt-out of Medicare if certain conditions were met, and to provide through private contracts services that would otherwise be covered by Medicare.

The purpose of CR8100 is to modify section 40.6 of the "Medicare Benefit Policy Manual," Chapter 15, because to be consistent with the policy described in Medicare regulations at 42 CFR 405.435(c). That regulation permits Medicare payment to be made for claims submitted by a beneficiary for the services of an opt out physician or practitioner when the physician or practitioner did not privately contract with the beneficiary for services that were not emergency care services or urgent care services and that were furnished no later than 15 days after the date of a notice by the Medicare contractor that the physician or practitioner has opted out of Medicare.

Additional Information

The official instruction, CR 8100, issued to your carrier or A/B MAC regarding this change may be viewed at **http://www.cms.hhs.gov/Regulations-and-Guidance/Guidance/Transmittals/Downloads/R160BP.pdf** on the CMS website. The revised manual sections are attached to CR8100.

If you have any questions, please contact your MAC at their toll-free number. That number is available at **http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/index.html** under - How Does It Work.