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The Ups and Downs of Payments
By: G. Christopher Kelly, Chief Legal Officer
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With one hand the government gives, and with the other it takes away. So it may be hard to keep up with what the Medicare fee schedule should be paying you this year. On one hand we have, for the first time in history, a negative inflation index. That's the bad news, but the good news is that it is only -.1%.

Then there is the ambulance relief bonus; the 2% urban, 3% rural, and 22.6% super rural add-ons. Remember, we got that half way through last year (and the retroactive portion still has not been paid in some states because the Carriers argued that they should be paid to recalculate, which they are now going to be, so that money should show up in the next month or two). But what about this year? Should you budget for those add-ons in January, or maybe July again? Not sure? Well, I'm not either. There has been talk about adding these increases to some legislation that was pending last month and this month, but I have not seen any mention from CMS about if or when they are going to implement the ambulance relief bonus for 2011.

Finally there are the "productivity adjustments" that are part of the Patient Protection and Affordable Care Act. These adjustments will reduce fee schedule payments by a yet-to-be-determined amount based on the theory that we should be getting more "productive" and efficient as we move toward more electronic recording and transactions. The good news here is that the adjustment will likely be similar to the inflation index for this year (i.e. less than 1%) and it should not be implemented until next year.

So keep your eye on the moving target that is your reimbursement. It may not change by much, but in tight budgetary times, every little bit counts.

G. Christopher Kelly is an attorney who focuses on federal laws and regulations as they relate to the health care industry and specifically to the ambulance industry. Chris lectures and advises EMS service clients across the U.S. This article is not intended to be legal advice, for more information or specific questions, Chris can be reached at ckelly@emscltd.com or by contacting EMS Consultants, Ltd. at (800) 342-5460.



Billing Tip of the Month

By: Brandie Tibbetts, Vice President of Billing Services
EMS Consultants

A beneficiary receiving maintenance dialysis on an outpatient basis does not ordinarily require ambulance transportation for dialysis treatment, whether the facility is free standing or part of a hospital. Ambulance services furnished to a maintenance dialysis patient are not payable unless documentation submitted with the claim shows that the patient's condition required ambulance services. Claims for routine round trip ambulance services to outpatient dialysis facilities must thoroughly document medical necessity. We suggest that the caregivers, nurses, family members and the beneficiary are all interviewed and that documentation of medical necessity is thoroughly obtained.



Comparative Billing Reports

By: R. Stephen Everett, Director of Medicare Compliance
EMS Consultants

"What Are They?"

CMS, Centers for Medicare & Medicaid Services, has begun to prepare Comparative Billing Reports (CBR's) on EMS Suppliers. This is actually an age-old tool which Medicare has utilized for years when examining physician practices. CBR's are used to; "based on selected study topics, look at utilization patterns and communicate this information to providers." It is basically an analysis to compare one supplier to its peers with regard to Medicare billing data.

CMS has couched this as an educational tool, which in a sense it is. It is useful for EMS suppliers to note how their billing compares to other suppliers. However, CMS' primary purpose for CBR's is to use them as a means of detecting suppliers whom they may subject to post-payment or pre-payment audit. Even this purpose is two-fold. Prior to recoupment of overpayments, CMS contractors are technically supposed to educate providers about possible billing improprieties. Sending a supplier a CBR prior to a full scale audit may fulfill this obligation. In every Administrative Law Judge (ALJ) hearing we have been a party to, we have always remind the judge that no education had been provided to the subject supplier. This alone has never resulted in overturning an overpayment, however, CMS may be trying to prevent that argument being made in the future via these reports.

"Why Focus on EMS?"

A 2006 Office of Investigations (OIG) report found that 25% of ambulance transports did not meet Medicare coverage requirements, resulting in \$402 million of improper payments. It was further noted that 27% of dialysis transports and 20% of non-emergency transports resulted in improper payments in the amount of \$149 million dollars paid. Need I say more with regard to why EMS suppliers are being subjected to increased audits by Medicare?

“What Is in the Report?”

Current CBR's are based on analysis of all paid Medicare ambulance claims with service dates from January 1, 2009 through December 31, 2009 that were processed by July 2010. The data was limited to HCPCS codes A0428 (basic life support non-emergency transport) or A0429 (basic life support emergency transport). The CBR will demonstrate two statistical report graphs specific to your business:

• **Percentage of BLS Transports That are Non-Emergency Transports and Percentage of Non-Emergency BLS Transports That are ESRD-Related in 2009: You, Your State and National Peers.**

AND

• **The Number of 2009 Transports Where Destination of a Non-Emergency BLS Transport is a Residence or Residential Facility per Type of Beneficiary; You, Your State and National Peers.**

Obviously, suppliers whose statistical analysis places them higher than their State or the National average in either, or both, of the categories are at a higher risk for audit. However, if you are diligent in following all Medicare rules, bill only for those Medicare patients whose conditions meet Medicare coverage requirements, and document ALL factors which are applicable, you place yourself in the best position to appeal and respond to an overpayment audit.



For more information, please contact Steven Everett, everethcc@aol.com. Stephen Everett, MBA, MPA, worked for HCFA (now CMS) for 14 years, first with the Office of Program Integrity and later as the Southeast Regional Chief of Medicare Policy. After his career with Medicare, Steve went on to serve as a Medicare Hearing Officer for 16 years. During this time, he heard thousands of ambulance related Medicare appeals involving at least 25,000 ambulance claims. Steve currently works with EMS Consultants as a Medicare Compliance Officer and assists with Medicare/Medicaid overpayment appeals cases.

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Come See Us

Please contact our office for a complete list of topics and availability for your EMS event!

Date	Event	Venue	Speaking Topics
02/09/11- 02/11/11	North Carolina Association of EMS Administrators Winter Educational Conference	Wilmington Hilton Riverside Wilmington, North Carolina	02/10/11 at 9:00 a.m. <u>Who Signs What and When</u> 02/10/11 at 10:45 a.m. <u>Audits, Program Safeguard Contractors and Medicare Compliance</u> G. Christopher Kelly, Esq. Chief Legal Officer
02/16/11- 02/18/11	Tennessee Ambulance Service Association Mid-Winter Conference	The Park Vista Gatlinburg, Tennessee	<i>We are not currently scheduled to speak at this event, but our Sales Consultant will be available.</i>
03/17/11- 03/18/11	2011 Southern Regional Conference	Imperial Palace Biloxi, Mississippi	<i>We are not currently scheduled to speak at this event, but our Sales Consultant will be available.</i>

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