



Health Reform Act: Changes to Medicare Enrollment, Claims, and Documentation Become Effective on July 6, 2010

A major goal of the Patient Protection and Affordable Care Act (“Health Reform Act”) is strengthening the integrity of the Medicare program by ensuring that only qualified providers participate and that these providers bill accurately for their services. As noted by the Centers for Medicare & Medicaid Services (“CMS”),

Historically, Medicare has permitted the enrollment of providers and suppliers whose qualifications for meeting all of our enrollment standards were sometimes questionable. This has raised concern that providers and suppliers in our program may be underqualified or even fraudulent and has led us to increase our efforts to establish more stringent controls on provider and supplier entry into [and participation in] the Medicare program. 75 Fed. Reg. 24,437 (May 5, 2010) (to be codified at 42 C.F.R. pts. 424, 431).

To this end, CMS has made several changes to Medicare enrollment procedures under the Health Reform Act. CMS promulgated an interim final rule (“IFR”) on May 5, 2010. This rule becomes effective on July 6, 2010, and public comments are being accepted through that date.¹

Medicare providers and suppliers should be aware of several changes to Medicare enrollment falling under

three broad categories. First, all providers and suppliers that qualify for a National Provider Identifier (“NPI”) must include their NPI on all enrollment applications and claims for payment. Second, only physicians and, at times, other eligible professionals can order and refer covered Part B items and services for Medicare beneficiaries, and these physicians and other eligible professionals must be enrolled in Medicare or maintain a valid opt-out record as reflected in the Provider Enrollment, Chain, and Ownership Systems (“PECOS”). Third, the IFR implements several requirements for the documentation of referrals to programs at high risk of waste and abuse, including durable medical equipment, prosthetics, orthotics, and supplies (“DMEPOS”); home health; laboratory; imaging; and specialist services.

NPI Inclusion on All Enrollment Applications and Claims

Generally, the Health Reform Act codifies the NPI requirements that Medicare already requires for its fee-for-service (“FFS”) providers and suppliers. Now, all providers and suppliers who qualify for an NPI must include their NPI on all enrollment applications and claims for payment. Specific provisions are as follows:

- A provider or supplier who is eligible for an NPI must report the

¹ See 75 Fed. Reg. 24,437 (May 5, 2010) (to be codified at 42 C.F.R. pts. 424, 431), available at <http://edocket.access.gpo.gov/2010/pdf/2010-10505.pdf>, for specific provisions and instructions for commenting.



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NPI on its Medicare enrollment application (with limited exceptions). If the provider or supplier enrolled in Medicare prior to obtaining an NPI, it must report the NPI to Medicare in an enrollment application so that it can be added to the enrollment record in PECOS.²

- A provider or supplier enrolled in FFS Medicare must report its NPI on all submitted claims. It must also provide the NPI of any other provider or supplier required to be identified on those claims. Claims that do not contain required NPIs will be rejected.
- Claims submitted by Medicare beneficiaries must contain the name and, if known, the NPI of any provider or supplier required to be identified.

Ordering and Referring Part B Items and Services for Medicare Beneficiaries

The Health Reform Act seeks to protect the integrity of Medicare in part by creating tighter regulations to govern suppliers and providers of items and services entailing a high risk of fraud and abuse. Specific provisions implementing this goal include the following:

- Generally, only a physician may order or refer Part B items or services (i.e., many outpatient services). Certain other eligible professionals, however, may order or refer DMEPOS services. Such professionals include physical and occupational therapists, speech-language pathologists, audiologists, physician assistants, nurse practitioners, clinical nurse specialists, certified registered nurse anesthetists, certified nurse-midwives, clinical social workers, clinical psychologists, registered dietitians, and nutrition professionals.
- Such ordering or referring physicians

and other eligible professionals must be enrolled in Medicare or maintain a valid opt-out record as reflected in PECOS.

- In order for a provider or supplier of Part B items or services to obtain reimbursement, the claim must include the legal name and NPI of the ordering or referring physician or other eligible professional (as discussed above).

Documentation of Orders of and Referrals to High Risk Items and Services

One goal of the Health Reform Act is the protection of the integrity of Medicare through stricter regulations aimed at programs identified as entailing a high risk of waste and abuse. The IFR implements these provisions by establishing new requirements relating to the maintenance of and access to documentation on referrals to such programs, which include DMEPOS, home health, laboratory, imaging, and specialist services. Specific provisions include the following:

- Both physicians or other eligible health professionals ordering or referring these services *and* providers or suppliers furnishing them must maintain documentation relating to the ordered item or service for seven years.
- This documentation must include the NPI of the ordering or referring physician or other eligible professional and must be furnished to CMS or the Medicare contractor upon request.
- Failure to adhere to these documentation requirements subjects the physician, other eligible professional, supplier, or provider to up to a one-year revocation of Medicare enrollment and billing privileges per incident.

²The Provider Enrollment, Chain, and Ownership Systems (PECOS), implemented in 2003, is the national repository of enrolled Medicare fee for service providers and suppliers (except DMEPOS suppliers, who will be added to PECOS later in 2010). PECOS contains the information furnished by providers and suppliers in their Medicare enrollment applications and additional information added as required to keep the information current and to protect the integrity of the Medicare program.

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If you have questions or would like more information to determine how the Health Reform Act's changes to Medicare enrollment, claims, and documentation will impact your organization, please contact Emily G. Towey or Emy Trende at (866) 967-9604 or by email at etowey@hdjn.com or etrende@hdjn.com.

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