Dynamic Chiropractic

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Medicare and the Chiropractic Practice, Part 7

CONTINUING THE MEDICARE APPEALS PROCESS: LEVELS 3-5.

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Getting paid for what you do sometimes involves appealing claim denials. In the case of Medicare, the government maintains specific protocols for the appeals process. The following outline will assist you in knowing what is required to appeal a Medicare denial. It is a continuation of our previous article [Feb. 12 *DC*], which covered the first two levels of appeal.

Note: As mentioned in our last article, the Summit recommends and encourages DCs to appeal *all* improperly denied claims (even if it is only one claim); historically, many DCs do not. Remember that appealing is not only a service to your patient, who has a right to have their payable covered services reimbursed, but also is a service to your profession.

Overview of the Medicare Appeals Process
• When an initial claim determination is made and the claim is denied, participating physicians have the right to appeal.
• Physicians who do not take assignment on claims have limited appeal rights.
• Beneficiaries may transfer their appeal rights to non-participating physicians who did not accept assignment (and therefore do not have appeal rights). Form CMS-20031 must be completed and signed by the beneficiary and the non-participating physician to transfer the beneficiary's appeal rights.
• All appeal requests must be made in writing.
• Medicare offers five levels in the Part B appeals process. The levels, listed in order, are as follows:
• Level 1: Redetermination (performed by the carrier/MAC)
• Level 2: Reconsideration (performed by a Qualified Independent Contractor)
• Level 3: Hearing (performed by an Administrative Law Judge)
• Level 4: Review (performed by the Medicare Appeals Council within the Departmental Appeals Board
• Level 5: Judicial Review (in U.S. District Court)

Level 3: Administrative Law Judge Hearing

If at least $130* remains in controversy following the QIC's decision, an Administrative Law Judge (ALJ) hearing may be requested within 60 days of receipt of the reconsideration (refer to the reconsideration decision letter for details regarding the procedures for requesting an ALJ hearing).

Appellants must also send notice of the ALJ hearing request to all parties to the QIC reconsideration and verify this on the hearing request form or in the written request.

ALJ hearings are generally held by video-teleconference (VTC) or by telephone. If you do not want a VTC or telephone hearing, you may ask for an in-person hearing. An appellant must demonstrate good cause for requesting an in-person hearing. The ALJ will determine whether an in-person hearing is warranted on a case-by-case basis. Appellants may also ask the ALJ to make a decision without a hearing (on-the-record). Hearing preparation procedures are set by the ALJ. CMS or its contractors may become a party to, or participate in, an ALJ hearing after providing notice to the ALJ and all parties to the hearing.

The ALJ will generally issue a decision within 90 days of receipt of the hearing request. This time frame may be extended for a variety of reasons including, but not limited to, the case being escalated from the reconsideration level, the submission of additional evidence not included with the hearing request, the request for an in-person hearing, the appellant's failure to send notice of the hearing request to other parties, and the initiation of discovery if CMS is a party. If the ALJ does not issue a decision within the applicable time frame, you may ask the ALJ to escalate the case to the Appeals Council level.

**Note:* The monetary threshold to request an ALJ hearing is determined annually. The threshold for 2011 is $130.

Level 4: Appeals Council Review

If dissatisfied with the ALJ's decision, the party may request a review by the Appeals Council. There are no requirements regarding the amount of money in controversy. The request for Appeals Council review must be submitted in writing within 60 days of receipt of the ALJ's decision, and must specify the issues and findings that are being contested (refer to the ALJ decision for details regarding the procedures for filing a request for Appeals Council review).

In general, the Appeals Council will issue a decision within 90 days of receipt of the request for review. That time frame may be extended for various reasons, including but not limited to, the case being escalated from an ALJ hearing. If the Appeals Council does not issue a decision within the applicable time frame, you may ask the Appeals Council to escalate the case to the Judicial Review level.

First convened in September 2007, the Chiropractic Summit represents leadership from some 40 organizations within the profession. The Summit meets regularly to collaborate, seek solutions, and support collective action to address challenges with the common goal of advancing chiropractic.

A major focus of the Summit is to improve practitioner participation, documentation, and compliance within the Medicare system. This article, the seventh in a series developed by the Chiropractic Summit Documentation Committee, focuses on levels 3-5 of the five-level (if necessary) Medicare appeals process.

Level 5: Judicial Review in U.S. District Court

If $1,300* or more is still in controversy following the Appeals Council's decision, a party to the decision may request Judicial Review before a U.S. District Court judge. The appellant must file the request for review within 60 days of receipt of the Appeals Council's decision. The Appeals Council's decision will contain information about the procedures for requesting judicial review.

**Note:* The amount in controversy required to request judicial review is determined annually. The amount in controversy threshold for 2011 is $1,300.

The members of the Summit Subcommittee on Documentation are Dr. Carl Cleveland III, Dr. Farrel Grossman, Dr. John Maltby, Dr. Peter Martin, Ms. Susan McClelland, Dr. Ritch Miller, Dr. Frank Nicchi, Mr. David O'Bryon, and Dr. Frank Zolli. As with previous articles, Dr. Miller served as principal author of this article, with contributions from members of the subcommittee and the documentation working group.

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