CMS Proposes Changes to Signature Rule and Other Regulations

CLICK HERE for information on PWW's July 28th "Special Alert" Webinar on this new Proposed Rule

On July 7, 2008, the Centers for Medicare and Medicaid Services (CMS) published a Proposed Rule in the Federal Register that would make further modifications to the Medicare signature rules for ambulance services. The Proposed Rule contained several other provisions that would also affect ambulance services.

CLICK HERE for the relevant excerpts of the July 7, 2008 Proposed Rule (14 pages, PDF format)

IMPORTANT: Please note that these latest proposed regulations are not in effect; until further notice all ambulance services must continue to adhere to the existing signature regulations, effective January 1, 2008, contained in 42 C.F.R. § 424.36. CLICK HERE for PWW's summary of the current regulations.

Summary of the Proposed Rule

Proposed Signature Rule Modifications

As discussed on page 38580 of the Proposed Rule (which you can download above), CMS is proposing new language to 424.36(a) - the "general rule" - to "clarify" that before ambulance services may rely on the signature of one of the authorized signers (such as a legal guardian or POA), they must first "make reasonable efforts to obtain the signature of the beneficiary." CMS does not define what it means by the term "reasonable efforts."

Also discussed on page 38580 of the Proposed Rule is Medicare's proposal to expand Section 424.36(b)(6) - which created an additional exception to the beneficiary signature requirements for "emergency ambulance transport services" - to non-emergency services as well.

CMS also proposes to amend the regulations to clarify that a signature "on the claim" does not mean that the signature actually has to be on the claim form itself, but that it could also be on a form that contains adequate notice that the purpose of the signature is to authorize a provider or supplier to submit a claim to Medicare for services, such as utilized in PWW's model signature forms, released in January 2008 following implementation of the current signature rules. This is essentially clarification of current practice since patients and authorized signers rarely sign the actual "claim forms" anyway.

Other Proposed Changes

GPCI Changes: CMS is also proposing to modify the 2009 "Geographic Practice Cost Index" portion of the Medicare Physician Fee Schedule (PFS). A portion of the PFS GPCI (the "Practice Expense" portion) affects the calculation of ambulance reimbursement rates under the Medicare Ambulance Fee Schedule (PFS). These proposed 2009 GPCI figures are contained on pages 38829 - 38831 of the Proposed Rule, which you can download by clicking the link above.

Appeals of Medicare Billing Privileges Decisions: CMS is also proposing to make some modifications to its recent Final Rule regarding appeals of decisions by Medicare contractors regarding a provider or supplier's Medicare billing privileges. These new proposed modifications to those regulations would make revocation of a provider or supplier's Medicare billing privileges effective on the date of Medicare exclusion, debarment, felony conviction or suspension or revocation of the provider or supplier's license. These proposed changes are discussed on page 38581 of the Proposed Rule, which you can download by clicking the above link.

Bonus Payments for Long Distance Ambulance Transports: As discussed on page 38578, CMS also issued a
"reminder" in the preamble of the Proposed Rule that the temporary 25% bonus on loaded miles in excess of 50 miles is due to expire after December 31, 2008. With the surge in fuel prices, this is certainly a cut that will be felt by ambulance services that regularly perform transports in excess of 50 miles.

**Submitting Comments**

The Proposed Rule allows for a comment period until **August 29, 2008**. Comments must be received by CMS no later than that date.

Comments may be submitted in four ways listed below (please note that fax comments will not be accepted). Also, please note that the July 7th Federal Register notice contained typographical errors regarding the submission of electronic comments - we have added what we believe to be the correct website for the submission of electronic comments in [brackets] below.

**ADDRESSES:** In commenting, please refer to file code CMS-1403-P.

You may submit comments in one of four ways (no duplicates, please):

1. **Electronically.** You may submit electronic comments on this regulation to Follow the instructions for "Comment or Submission" and enter the filecode to find the document accepting comments.

   **[PWW NOTE: this preceding sentence was taken directly from the Federal Register notice and is obviously incomplete. We believe the correct web address for the submission of electronic comments to be [http://www.cms.hhs.gov/eRulemaking](http://www.cms.hhs.gov/eRulemaking)**

2. **By regular mail.** You may mail written comments (one original and two copies) to the following address ONLY:

   Centers for Medicare & Medicaid Services,
   Department of Health and Human Services,
   Attention: CMS–1403–P,
   P.O. Box 8013,
   Baltimore, MD 21244–8013.

   Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. **By express or overnight mail.** You may send written comments (one original and two copies) to the following address ONLY:

   Centers for Medicare & Medicaid Services,
   Department of Health and Human Services,
   Attention: CMS–1403–P,
   Mail Stop C4–26–05,
   7500 Security Boulevard, Baltimore, MD 21244–1850.

4. **By hand or courier.** If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to either of the following addresses:

   a. Room 445–G, Hubert H. Humphrey Building,
      200 Independence Avenue, SW.,
      Washington, DC 20201.

   (Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

   b. 7500 Security Boulevard,
      Baltimore, MD 21244–1850.
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Comments mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

**PWW "Special Alert" Webinar Scheduled for July 28th**

PWW is holding a "Special Alert" webinar on July 28th to address this new Proposed Rule. [CLICK HERE](http://www.pwwemslaw.com/content.aspx?id=357) for information on this important webinar.

During this "Special Alert" webinar on the new CMS Proposed Rule, we will provide suggestions for specific points that you can use in formulating your own comment letters to CMS. It is apparent that CMS could benefit from further education by the ambulance industry, so these federal regulators with control over a substantial portion of this country’s ambulance industry revenues can better understand the impact of these unclear, often inconsistent and sometimes onerous regulations on this vital industry. While some aspects of these latest CMS proposed modifications may be beneficial - particularly for non-emergency ambulance services – CMS still has not addressed many other fundamental issues of concern brought about by the recent signature changes implemented January 1st.