Alert: Important Medicare News and New OIG Opinion

Are you aware that there are going to be major changes in how ambulance services bill mileage? Read below for PWW's overview of the new submission requirements. Additionally, two other Medicare updates are discussed, as well as the new OIG Advisory Opinion relating to subsidy arrangements.

Confused or concerned about all of the new Medicare changes? The attorneys and consultants of PWW will fully address ALL of these new changes at the ABC3 Fall Conference. ABC3 attendees will learn what these changes mean, how to cope with these changes and what the impact could potentially have on your bottom line. The ABC3 "Expanded Medicare and Reimbursement Session" will provide up-to-the-minute detailed information on these and other late-breaking industry issues. READ MORE....

Summary

1) New Mileage Claim Submission Requirements - "Fractional"
Currently, Medicare instructs ambulance suppliers to bill mileage by "rounding up" tenths of miles to the next whole number. (Medicare Claims Processing Manual, Chapter 15, Section 30.1.2). A recent CMS Transmittal changes this requirement for dates of service beginning January 1, 2010. According to CMS Transmittal 1787 (July 31, 2009), for all claims submitted with dates of service on and after January 1, 2010, suppliers must submit fractional mileage, rounded to the nearest tenth of a mile, for all mileage traveled up to, but not including 100 miles (e.g. 0.1 to 99.9 miles). For all trips totaling 100 miles or more, no fractional reporting is required, instead, the Transmittal instructs suppliers to "continue to report mileage rounded to the nearest whole number mile (e.g., 999)." This is an unclear instruction since suppliers do not currently round to the nearest whole number, but instead, they round up to the nearest whole number. CMS has not clarified as to how mileage for transports greater than 100 miles should be accurately billed.

It is important to note that this change applies to all ambulance suppliers that bill ambulance services on the CMS 1500 paper claim form, or ANSI X12N 837P electronic claim form. The change does not affect hospital based ambulance services (providers). It is also important to note that when a supplier fails to report mileage in Field 24G of the CMS 1500 format, or the corresponding loop in ANSI X12N 837P format, CMS Contractors are instructed to automatically default to 0.1 miles.

While the exact "intent" or "purpose" of this change is unclear, CMS expressed concern that potential overpayments have occurred because "CMS has been unable to accurately reimburse" fractional mileage, and that such inaccurate mileage reporting could "become an issue" in Medicare audits. Further, CMS was concerned that "the inability to submit an accurate claim represents a possible program integrity issue."

It is not clear from this transmittal if CMS is abandoning its long standing policy of rounding mileage payment up to the next whole number for mileage that is any tenth of a mile over the previous whole number. Additional clarification may need to be obtained from CMS. In any event, this transmittal points to the importance of accurately reporting mileage.

View the Transmittal here:

View the related Medlearn Matters Article here:

2) "Inflation Factor" for 2010

Payment amounts under the ambulance fee schedule are calculated with a complex formula, one component of which involves the
Social Security Act, the subsequent year's fee schedule amount is "increased by the percentage increase in the consumer price index for all urban consumers (U.S. city average) for the 12-month period ending with June of the previous year." Therefore, the percentage increase in the consumer price index typically becomes the ambulance "inflation factor," which is multiplied by the previous years "conversion factor" to generate the new conversion factor, as used in calculating the current ambulance fee schedule amount.

Historically, the consumer price index increased each year since 2002, always creating a positive "inflation factor," effectively increasing the conversion factor and ambulance fee schedule amount. The consumer price index, however, from June 2008 (218.815) to June 2009 (215.693) decreased. While the ambulance inflation factor amount for 2010 has not yet been published, most speculate that it would be 0% (and we certainly hope that CMS doesn't impose a "negative" inflation factor for 2010!)

3) Quarterly Interest Rate Announced

For purposes of calculating interest rates owed (either for overpayments or underpayments), CMS relies upon the quarterly published interest rate. On August 18, 2009, HHS adopted the interest rate as adopted by the U.S. Department of Treasury. (74 FR 41702). The interest rate for the quarter ending June 30, 2009 is 11 ¼%. Transmittal 154 (July 10, 2009) also discusses this change, and outlines applicable interest rates for the previous several years.


4) OIG Approves Hospital Subsidy to Ambulance Cooperative for the Provision of ALS Services

On August 18, 2009, the Office of Inspector General (OIG) posted Advisory Opinion 09-13, where the OIG approved a subsidy arrangement between a Hospital and an Ambulance Cooperative. Under the arrangement, the Ambulance Cooperative would assume responsibility for providing ALS services currently provided by the Hospital, and the Hospital would provide a subsidy to the Cooperative (in the form of cash, equipment, and services) to be used exclusively to subsidize the provision of the ALS services. The OIG stated that, given the unique circumstances that were present, the arrangement posed a low risk of abuse under the Anti-Kickback Statute (AKS) and it would not impose sanctions for the arrangement. However, this was a highly fact specific, unique, and confusing situation. As with all other Advisory Opinions, it is only binding on the requesting party. But, due to the unique situation involved here, this Opinion certainly may not be a clear indicator of

For more information on these issues and other EMS industry-related news, visit the PWW EMS Law Library or go to www.pwwemslaw.com.