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MAY PHYSICIANS CHARGE FOR MISSED APPOINTMENTS?

In accordance with Chapter 30.3.13 of the Medicare Claims Processing Manual, providers may charge a Medicare patient directly for missed appointments. The Centers for Medicare & Medical Services ("CMS") allow physicians and suppliers to charge Medicare beneficiaries for missed appointments in accordance with the provider's missed appointment policy as long as the policy is applied uniformly to Medicare and non-Medicare patients. In other words, the amount charged to Medicare patients must be the same as the amount charged to non-Medicare patients. CMS reasons that the charge for a missed appointment is a charge for a "missed business opportunity," rather than a charge for a service. Therefore, the assignment and limiting charge provisions do not apply. Medicare does not pay for missed appointments, and charges to beneficiaries for missed appointments should not be billed to Medicare. The physician/supplier should bill the Medicare beneficiary directly.

CMS "Tamper-Resistant" Prescription Pad Requirements Now in Effect

As of April 1, 2008 all non-electronic written prescriptions for covered outpatient drugs must be written on tamper-resistant prescription pads in order to be reimbursable by federally funded health plans. The legislation requiring tamper-resistant prescription pads was enacted with an intended implementation date of October 1, 2007; however, Congress delayed the effective date for six months to allow physicians and pharmacists time to comply with the new requirements. Pursuant to the new regulations, Medicaid programs, including TennCare, are not permitted to pay for prescriptions written on non tamper-resistant prescription pads. The new requirement is applicable regardless of whether Medicaid is the primary or secondary payor of the prescription being filled.

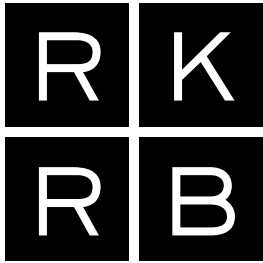
Tamper-Resistant Defined

At the present time, in order to be considered tamper-resistant, a prescription pad must contain at least one of the following industry-recognized tamper resistant properties:

1. Features designed to prevent unauthorized copying of the prescription pad;
2. Features designed to prevent erasure or modification of the prescription;
3. Features designed to prevent the use of counterfeit prescription forms.

However, as of October 1, 2008, to be considered tamper resistant, a prescription pad must contain *all three* of the characteristics noted above.

(continued)



CMS “Tamper-Resistant” Prescription Pad Requirements Now in Effect

(continued)

Exceptions

The tamper-resistant requirement does not apply to prescriptions that include, without limitation, the following:

- refills of written prescriptions presented to a pharmacy before April 1, 2008;
- e-prescriptions transmitted to the pharmacy;
- prescriptions faxed to the pharmacy by the prescriber;
- prescriptions communicated by the prescriber to the pharmacy by telephone.

Additionally, in emergency situations, pharmacists may provide a 72-hour supply of the drug and the prescription will be covered as long as the physician provides the pharmacy with a verbal, faxed, electronic, or tamper-resistant written prescription within 72 hours after the prescription was filled.

As to electronic prescriptions for controlled substances, there are separate restrictions governing controlled substances.

Rainey Kizer Announces New Office Location in Memphis, Tennessee

The Memphis office has relocated to the Morgan Keegan Tower, 50 N. Front Street, Suite 610, Memphis, TN 38103. All of the firm's phone and fax numbers will remain the same.

For Rainey Kizer, the new office means improved client service, new amenities for employees, and room for growth.

Legislative Update

Effective
April 10, 2008,
Advanced Practice Nurses
may now be
members of
physician-owned
MPLLCs.

Federal Government Establishes New FMLA Regulations

On January 28, 2008, the Federal Government enacted The National Defense Authorization Act (NDAA). This Legislation contains two key changes to the Family Medical Leave Act (FMLA). According to this legislation, employers with 50 or more employees must provide 12 weeks of leave under FMLA due to a qualifying exigency arising out of the active military duty of an employee's spouse, parent or child. This provision includes notice of impending call or order to active duty of an employee's spouse, parent or child. Unfortunately, at this time, the Federal government has not released the regulations defining “a qualifying exigency.” Further, if a service member is injured, an employee who is the spouse, parent, child, or next of kin of the service member is eligible for 26 weeks of leave in a twelve month period. Therefore, these two provisions both create new circumstances in which an employee is eligible for leave and increases the amount of leave available when a relative of an employee is an injured service member.

*Submitted by: The Rainey Kizer
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