



HEALTH CARE UPDATE

Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 Clarification of 3-Day Payment Window

July 3, 2010

The “Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010” (Act) signed into law on June 25, 2010, clarifies Medicare’s policy for payment of services provided in hospital outpatient departments on either the day of or during the three days prior to an inpatient admission (the “3-day payment window”).

Under the 3-day payment window policy, a hospital (or an entity wholly owned or operated by the hospital) includes, in its charges for the inpatient hospital stay, charges for all diagnostic services and non-diagnostic services “related” to the inpatient stay that are provided during the 3 day payment window.

The Act clarifies that the term “other services related to the admission” includes “all services that are not diagnostic services (other than ambulance and maintenance renal dialysis services) for which payment may be made by” Medicare that are provided by a hospital to a patient on the date of the patient’s inpatient admission, or during the 3 days (or in the case of a hospital that is not a subsection (d) hospital, during the 1 day) immediately preceding the date of admission unless “the hospital demonstrates (in a form and manner, and at a time, specified by the Secretary) that such services are not related to such admission.” The Act makes no changes to the billing of diagnostic services.

The Act also prohibits Medicare from reopening, adjusting or making payments when hospitals submit new claims or adjustment claims for services that were provided prior to June 25, 2010 in order to separately bill outpatient non-diagnostic services.

The 3-day payment window policy clarification is effective for services furnished on or after June 25, 2010.

CMS has announced plans “in the very near future” to provide instructions to the hospital community through its contractors advising them how to bill for related therapeutic services provided during the 3- or 1-day payment window. Until the instruction is issued, CMS has indicated that hospitals should include charges for all diagnostic services and all non-diagnostic services that it believes meet the requirements of this provision. If a hospital believes that a non-diagnostic service is truly distinct from and unrelated to the inpatient stay, the hospital may separately bill for the service provided that it has documentation to support that the service is unrelated to the admission, consistent with the new provision. Such separately billed service may be subject to subsequent review.

CMS also has announced that pending future guidance, hospitals may continue to bill Medicare separately for services provided prior to June 25, 2010 that are unrelated to an inpatient stay provided that such a claim meets all applicable filing deadlines and the hospital has supporting documentation that the service is truly unrelated to an inpatient stay.

The author of this update, attorney Cynthia Marcotte Stamer, has extensive experience advising and assisting health care providers and other health industry clients with reimbursement, compliance, public policy, regulatory, staffing, and other operations and risk management matters. You can get more information about her health industry experience [here](#). If you need assistance with these or other compliance concerns, wish to inquire about arranging for compliance audit or training, or need legal representation on other matters please contact Ms. Stamer at (469) 767-8872 or via e-mail [here](#).

Other Recent Developments

If you found this information of interest, you also may be interested in reviewing some of the following recent Updates available online by clicking on the article title:

- [HHS Invites Comments On Health Center Program Federal Tort Claims Policy Manual](#)
- [NCPDP SCRIPT 10.6 Approved As Medicare Part D/Advantage E-Prescribing Option](#)
- [President Directs Quick HHS Action To Implement Physician Medicare Payment Restoration](#)
- [Proposed Medicare Rules Will Require Hospitals Honor Patient Visitation Preferences](#)
- [IRS Invites Input On Application of New Tax Exemption Requirements For Hospital Organizations Added By Affordable Care Act](#)
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- [HIPAA Heats Up: HITECH Act Changes Take Effect & OCR Begins Posting Names, Other Details Of Unsecured PHI Breach Reports On Website](#)
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- [Federal HEAT & Other Federal Health Care Fraud Efforts Score More Than 15 Successes As OIG Claims \\$20.97 Billion Saved From Enforcement Activities In December](#)
- [HEAT Initiative Snares Health Fraud Related Guilty Pleas of Physical Therapist, Money Launderer and Patient Recruiter In Detroit](#)
- [Retaliation For Filing HIPAA Complaint Recognized As Basis For State Retaliatory Discharge Claim](#)
- [Quest Diagnostics Inc. To Pay \\$688,000 In Overtime Back Wages Settlement After Misclassifying Systems Employees As Exempt](#)

- [Homecare Workers Exempt From FLSA](#)

For More Information

We hope that this information is useful to you. If you need assistance evaluating or responding to the Health Care Reform Law or health care compliance, risk management, transactional, operational, reimbursement, or public policy concerns, please contact the author of this update, Cynthia Marcotte Stamer, at (469) 767-8872, cstamer@Solutionslawyer.net.

Vice President of the North Texas Health Care Compliance Professionals Association, Past Chair of the ABA Health Law Section Managed Care & Insurance Section and the former Board Compliance Chair of the National Kidney Foundation of North Texas, Ms. Stamer has more than 23 years experience advising health industry clients about these and other matters. A popular lecturer and widely published author on health industry and human resources matters, Ms. Stamer continuously advises health industry clients about health industry and other related concerns. Ms. Stamer also publishes and speaks extensively on health and managed care industry regulatory, staffing and human resources, compensation and benefits, technology, public policy, reimbursement and other operations and risk management concerns. Her insights on these and other related matters appear in the Health Care Compliance Association, Atlantic Information Service, Bureau of National Affairs, World At Work, The Wall Street Journal, Business Insurance, the Dallas Morning News, Modern Health Care, Managed Healthcare, Health Leaders, and a many other national and local publications. For additional information about Ms. Stamer, her experience, involvements, programs or publications, see [here](#).

You can review other recent health care and internal controls resources and additional information about the health industry and other experience of Ms. Stamer [here](#). If you or someone else you know would like to receive future updates about developments on these and other concerns, please be sure that we have your current contact information – including your preferred e-mail – by creating or updating your profile at [here](#) or e-mailing this information [here](#). To unsubscribe, e-mail [here](#).

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