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MEMORANDUM

TO: RHCF and Community Services Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst

DATE: March 8, 2010

SUBJECT: Medicare Part B and Therapy Caps Exceptions Process

ROUTE TO: Administrator, CFO

ABSTRACT: Congress acts on Medicare Part B and therapy caps relief.

Introduction

The Centers for Medicare and Medicaid Services (CMS) has issued the following notices regarding recent Congressional action on critical Medicare issues:

Notice Number One:

On March 2, 2010, President Obama signed into law the “Temporary Extension Act of 2010.” Among other things, this law extends through March 31, 2010, the zero percent update to the Medicare Physician Fee Schedule that was in effect for claims with dates of service January 1, 2010, through February 28, 2010. Consequently, effective immediately, claims with dates of service March 1 and later which were being held by Medicare contractors will be released for processing and payment. Please keep in mind that the statutory payment floors still apply and, therefore, clean electronic claims cannot be paid before 14 calendar days after the date they are received by Medicare contractors (29 calendar days for clean paper claims).

In addition, the new law extends through March 31, 2010, the exception process for therapy claims reaching the annual cap, retroactive to January 1, 2010. Affected providers may submit claims for exceptions to the annual therapy caps, with dates of service January 1 through March

31, 2010, using the KX modifier, following the pre-January 1, 2010, requirements for therapy cap exceptions.

Notice Number Two:

The Temporary Extension Act of 2010, enacted on March 2, 2010, extends the therapy cap exceptions process through March 31, 2010, retroactive to January 1, 2010. Outpatient therapy service providers may now submit claims with the KX modifier, when an exception is appropriate, for services furnished on or after January 1, 2010 through March 31, 2010.

The therapy caps are determined on a calendar year basis, so all patients began a new cap on January 1, 2010. For physical therapy and speech language pathology services combined, the limit on incurred expenses is \$1,860. For occupational therapy services, the limit is \$1,860. Deductible and coinsurance amounts applied to therapy services count toward the amount accrued before a cap is reached.

Some therapy providers have been holding claims for services furnished on or after January 1, 2010, for patients who exceeded the cap but qualified for an exception under previous law. These providers may submit those claims to Medicare effective immediately. Therapy providers, who submitted claims which were denied, for services furnished on or after January 1, 2010, for patients who exceeded the cap but whose services now qualify for an exception, should contact their Medicare contractor to request that their claim be adjusted to add the KX modifier and ensure the appropriate exception applies.

A small number of therapy providers continued to submit claims with the KX modifier for services furnished on or after January 1, 2010, even though the exceptions process had expired on December 31, 2009. Medicare contractors held these claims and will now begin to release them for processing. These providers do not need to take any action on the claims that were held.

Providers who charged beneficiaries for services that exceeded caps, which are now payable under the exception process, should refund the beneficiary's cost, less the appropriate amount of deductible and co-insurance. Affected claims should be either submitted or, if already submitted, the provider should contact their contractor for an adjustment.

Acton Needed

NYAHSa and AAHSa are continuing to advocate with Congress for a final resolution. If you have not already done so, please go to the <http://capwiz.com/aahsa/home/> Web site and make sure that Congress hears from you on the critical need to resolve both these issues.

Please contact me with any questions at pcucinelli@nyahsa.org or call 518-449-2707 ext. 145.

