Program Memorandum Intermediaries/Carriers

Department of Health & Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

Transmittal AB-03-145 **Date: SEPTEMBER 26, 2003**

CHANGE REQUEST 2881

SUBJECT: Instructions for Contractors Other Than the Religious Nonmedical Health Care Institution (RNHCI) Specialty Intermediary Regarding Claims For Beneficiaries With RNHCI Elections

I. GENERAL INFORMATION

A. Background: Program Memorandum (PM) AB-00-30, published May 2000, contained the implementing instructions for the RNHCI benefit. Claims for RNHCI services are processed by a specialty intermediary, currently Riverbend GBA, and many of the instructions in PM AB-00-30 were directed to the specialty intermediary. That PM also contained instructions to all Medicare contractors (non-specialty contractors) regarding how to process claims that are rejected by the Common Working File (CWF) due to service dates that fall within a RNHCI election period. Two concerns have recently come to CMS' attention: 1) that the volume of these CWF rejects is greater than originally thought and 2) that consistent national procedures for responding to these claims may not be followed by contractors other than the specialty intermediary. This PM provides instructions regarding the RNHCI benefit to these non-specialty contractors.

Election Requirements

The RNHCI benefit is available under Part A and is unique among Medicare benefits. For an RNHCI to receive payment under the Medicare program, the beneficiary must make an election to receive benefits. Elections to receive RNHCI benefits under Medicare are framed in terms of "excepted" and "nonexcepted" medical treatment. "Excepted" medical treatment is defined as medical care or treatment that is received involuntarily or is required under Federal, State or local law. "Nonexcepted" medical treatment is defined as medical care or treatment other than excepted medical treatment.

To elect religious nonmedical health care services, the beneficiary or his or her legal representative must attest that the individual is conscientiously opposed to acceptance of nonexcepted medical treatment, and the individual's acceptance of such treatment would be inconsistent with the individual's sincere religious beliefs. The signed election must include a statement that the receipt of nonexcepted medical services would constitute a revocation of the election and may limit further receipt of payment of religious nonmedical health care services. The election is effective on the date it is signed and remains in effect until revoked. Since the specialty intermediary processes the RNHCI election, no non-specialty contractor requirements for these processes appear below.

Revocation of Election

A beneficiary may revoke an election in writing or by receiving nonexcepted medical care. After an initial revocation, the individual may again file a written election to receive the religious nonmedical health care benefit. This second election takes effect immediately upon its execution. If an individual makes and revokes a second election, the next election may not become effective until the date that is one year after the date of the most recent revocation. Any subsequent election may not become effective until the date that is 5 years after the date of the most recent revocation. Once an election has been revoked, Medicare payment cannot be made to an RNHCI unless a new valid election is filed.

It is rare for a beneficiary to revoke the election by submitting a written revocation request to Medicare. These written revocations, when made, are processed by the specialty intermediary only. Far more commonly, beneficiaries revoke the election simply by receiving nonexcepted medical services and requesting Medicare payment for those services. Any non-specialty contractor may receive such a claim for nonexcepted services. When the claim for medical services is processed through Medicare claims systems CWF initially rejects it, leaving the non-specialty contractor to determine whether the care was excepted or nonexcepted. The claim must never be automatically denied. The RNHCI election revocation does not interfere with the beneficiary's ability to seek other Medicare services within the limits of their Medicare coverage. All DMERC claims for DME, orthotic/prosthetic devices will be treated as *nonexcepted* medical care. CWF will accept the DMERC claim and revoke the RNHCI election.

The process for non-specialty contractors to follow in responding to this CWF edit is also unique among Medicare claims processes. A determination needs to be made whether the beneficiary's RNHCI election should be revoked. Therefore, unlike other CWF rejects which are processed in an automated fashion, claims rejected by CWF due to the presence of an RNHCI election must be suspended and reviewed to determine if the beneficiary received excepted care. Under previous instructions, this review consisted of a request for medical records. Effective with this PM, the review must consist of a telephone contact with the submitting provider in lieu of review of records. In some instances when the issue of excepted care is unclear, the review may require a telephone contact with the beneficiary or their legal representative.

The primary focus for review is to determine whether the care received is excepted (leaving the election intact) or whether it is nonexcepted (causing a revocation of the RNHCI election). Unless reasons to deny the claim are found incidentally to the primary focus, the claim will normally be paid. Once the reviewer makes a determination of whether the care is excepted or nonexcepted, the claim record is annotated accordingly and returned to CWF. The claim will be approved for payment and if the care was found to be nonexcepted CWF will cause the beneficiary's RNHCI election to be revoked. These processes are defined in the requirements below. Each contractor has the responsibility to document their in-house procedures for satisfying these requirements.

The importance of review lies in its effect on the beneficiary. If the claim for medical care is denied improperly based on the presence of the RNHCI election, the beneficiary will incur liability in error and may experience financial hardship. Similarly, it is important that the review result in accurate determinations of nonexcepted care since repeated revocations of this benefit can have an impact on the beneficiary's right to access the RNHCI benefit in the future. Careful compliance with the requirements below is necessary to avoid these impacts.

B - Policy: The statutory basis for the RNHCI benefit is contained in §1821 of the Social Security Act. Medicare regulations pertaining to RNHCI are found in 42 CFR 403 Subpart G.

II. BUSINESS REQUIREMENTS

Requirement #	Requirements	Responsibility
2881.1	Contractors shall ensure that claims rejected with CWF error code U5189 are suspended for review.	FIs and local Carriers
2881.2	Contractors shall review all claims suspended with CWF error code U5189 to determine whether the claim is for excepted or nonexcepted care.	FIs and local Carriers
2881.2.1	Contractors shall ensure that their staff is trained in the definition of excepted and nonexcepted care under the RNHCI benefit.	FIs and local Carriers
2881.2.2	Contractors shall determine whether the claim is for durable medical equipment or prosthetic/orthotic devices. All such claims are treated as nonexcepted care and no further review is necessary.	FIs and local Carriers

2881.2.3	Contractors shall initially contact the submitting provider by telephone, inquiring about the circumstances under which the care was delivered.	FIs and local Carriers
2881.2.4	In cases in which telephone contact with the provider cannot provide sufficient information to determine whether care was excepted or nonexcepted, contractors shall contact the beneficiary or their representative, inquiring about the circumstances under which the care was delivered.	FIs and local Carriers
2881.2.5	Contractors shall make determinations of excepted or nonexcepted care within 30 days of the receipt of the CWF reject.	FIs and local Carriers
2881.2.6	Contractors shall document their telephone contact procedures to ensure a consistent, repeatable process.	FIs and local Carriers
2881.3	Contractors shall annotate claim records with an indicator of excepted or nonexcepted care.	FIs and local Carriers
2881.3.1	Contractors shall enter an excepted/nonexcepted indicator in the field on the electronic claim record corresponding to the CWF locations in Attachment One.	FIs and local Carriers
2881.3.2	Contractors shall enter the following values to reflect the results of their review: Indicator 1 (one) for excepted care; or Indicator 2 (two) for nonexcepted care. Note: Indicator 0 (zero) presents no entry.	FIs and local Carriers
2881.3.3	Once the excepted/nonexcepted indicator has been entered, contractors shall return the claim to CWF to be approved for payment.	FIs and local Carriers
2881.4	Contractors shall reflect the results of their review on their notice to the beneficiary.	FIs and local Carriers
2881.4.1	Contractors shall reflect a finding of excepted care using MSN message number 42.1.	FIs and local Carriers
2881.4.2	Contractors shall reflect a finding of nonexcepted care using MSN message number 42.2.	FIs and local Carriers

III. SUPPORTING INFORMATION AND POSSIBLE DESIGN CONSIDERATIONS

A. Other Instructions:

X-Ref Requirement #	Instructions
2881.2.1	Contractors may find it advisable to have an identified specialist (or specialists) familiar with excepted and nonexcepted care used in the review of beneficiaries with RNHCI elections and who handle all claims receiving CWF error U5189, since this process is so unlike other Medicare claims processes.
2881.2.1	Examples of *nonexcepted* medical care could include but are not limited to the following: o A beneficiary receiving medical diagnosis and/or treatment for persistent headaches and/or chest pains.

	o A beneficiary in an RNHCI who is transferring to a community hospital to have radiological studies and the reduction of a fracture. o A beneficiary with intractable back pain receiving medical, surgical, or chiropractic services.
2881.2.1	Examples of *excepted* medical care include, but are not limited to the following: o A beneficiary that receives vaccinations required by a State or local jurisdiction. This is compliant behavior to meet government requirements and not considered as voluntarily seeking medical care or services; or o A beneficiary who is involved in an accident and receives medical attention at the accident scene, or in transport to the hospital, or at the hospital before being able to make their beliefs and wishes known; or o A beneficiary who is unconscious and receives emergency care and is hospitalized before regaining consciousness or being able to locate his or her legal representative. Use these examples as a guide in making your determination.
2881.2.1	Note that the terms 'excepted' and 'nonexcepted' care represent mutually exclusive conditions under §1821 of the Social Security Act.

B. Design Considerations: N/A

C. Interfaces: N/A

D. Contractor Financial Reporting /Workload Impact: N/A

E. Dependencies: N/A

F. Testing Considerations: N/A

IV. ATTACHMENT: Field Locations for Excepted/Nonexcepted Indicators

Effective Date: January 1, 2004 Implementation Date: January 1, 2004 Discard Date: January 1, 2005 Pre-Implementation Contacts: Jean-Marie Moore (RNHCI policy) at 410-786-3508 or Wil Gehne (claims processing) at 410-786-6148	Post-Implementation Contact: Jean-Marie Moore (RNHCI policy) at 410-786-3508 or Wil Gehne (claims processing) at 410-786-6148 Funding: Within current operating budget

Attachment – Field Locations for Excepted/Nonexcepted Indicators

The following are the fields and locations for the excepted and nonexcepted indicators on the CWF record types:

Record	Field	Size	Location
HUIP (Inpatient hospital/SNF claim)	84	1	823
HUOP (Outpatient)	64	1	778
HUHC (Hospice)	64	1	778
HUHH (Home Health)	64	1	778
HUBC (Carrier/Part B claim)	13	1	57

The screen field corresponding to these CWF fields may vary depending on the Medicare Shared System in use at a contractor's location. Contact your Shared System maintainer if necessary to determine the correct screen location to use for excepted/nonexcepted care indicators.