CMS Limits the Scope of Review for Certain Redeterminations and Reconsiderations

Lanchi N. Bombalier

For providers who have received inconsistent or varying reasons for denial while navigating through the Medicare appeals process, the Centers for Medicare & Medicaid Services (CMS) has provided much-needed relief in the form of a Technical Direction Letter to Medicare Administrative Contractors (MACs) and Qualified Independent Contractors (QICs). On August 13, 2015, CMS issued a MLN Matters® Special Edition Article, SE1521, to alert providers about clarifications issued by the agency to MACs and QICs to limit the scope of their review during the redetermination and reconsideration appeal process for post-payment reviews and audits.

Although federal regulations provide these contractors with the discretion to consider new issues upon appeal, CMS acknowledges that this practice has led to situations in which a provider has adequately addressed the original denial reason upon appeal, only to receive an unfavorable decision with a different basis for denial. As a result, CMS has instructed MACs and QICs to limit their assessment of a claim denial to the initial reason or reasons for the denial of the claim. CMS emphasizes that this limitation for the scope of review applies only to certain claims. Specifically, CMS issued the following qualifications and stipulations:

- The limitation for the scope of review applies only to claims denied in a post-payment review or audit only. Thus, prepayment denials may continue to be denied for different reasons, other than those identified in the original determination.
- The limitation will not apply in circumstances where the original post-payment denial was based upon the provider's failure to submit the requested documentation, and additional documentation submitted upon appeal does not support medical necessity.
- The limitation will apply only to reconsideration and redetermination requests received by the MAC or QIC on or after August 1, 2015 and will not be applied retroactively. In addition, providers may not request reopening of a prior decision for the purpose of re-applying for an appeal for the purpose of limiting the scope of review.

Claims that are subject to this limitation in the scope of review include claims denied by MACs, as well as Zone Program Integrity Contractors (ZPICs), Recovery Auditors (RACs), or Comprehensive Error Rate Testing (CERT) contractors. Ideally, this change in the review process will improve the potential ability of providers to avoid being mired in the growing backlog of appeals at the Administrative Law Judge level by increasing the chances of gaining a favorable decision at the lower levels of appeal.

The link to the MLN Matters ® Special Edition Article is: https://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/2015-Transmittals-Items/SE1521.html?DLPage=1&DLEntries=10&DLFilter=limi&DLSort=1&DLSortDir=ascending.

Authors and Contributors

Lanchi N. Bombalier
Associate, Atlanta Office
404.873.8520
lanchi.bombalier@agg.com

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Atlanta Office
171 17th Street, NW
Suite 2100
Atlanta, GA 30363

Washington, DC Office
1775 Pennsylvania Avenue, NW
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