November 2014

The ABC's of ABN

An Advance Beneficiary Notice of Noncoverage (ABN), Form CMS-R-131, is a written notice issued by providers to beneficiaries before providing certain Medicare Part B healthcare services. Physicians are feeling the hit of rising costs for providing patient services and procedures with a decrease in payment; collecting every possible legitimate dollar for rendered services is vital. Section 1879 of the Social Security Act protects Fee-For-Service (FFS) Medicare beneficiaries from payment liability for non-covered services unless they are given an advance notice of their potential liability—these notification requirements are fulfilled by the ABN. The ABN will allow physicians to bill Medicare patients for services that do not meet Medicare's definition of *medically necessary*.

A.   What is an Advance Beneficiary Notice of Noncoverage (ABN)?

An ABN is a standardized notice issued to a Medicare beneficiary **before** providing items or services. **An ABN cannot be issued after the service is provided.** If the ABN is not executed before providing the specific item or service and Medicare denies the claim, the beneficiary cannot be billed for the services.

When properly written and delivered an ABN form shifts financial liability to the patient. An ABN notifies the patient that the physician expects Medicare to deny payment for the proposed service or procedure. It informs the patient that s/he will be responsible for the full charge of the service if Medicare denies the claim and provides acknowledgement that the patient accepts that full responsibility.

B.   Guidelines for Issuing and ABN

 A physician must issue an ABN when the following conditions are applicable:

- Medicare may not pay for an item or service;
- Medicare normally covers the item or service; and
- Medicare may not consider the item or service medically reasonable and necessary for the patient in the instance.

Note: You should only issue an ABN to beneficiaries enrolled in in the Medicare Fee-For-Service Program. ABNs apply to FFS and may not adhere to Medicare Advantage. It is important to check your contract. (Source: Medicare Learning Network: ABN)

What Is Medical Necessity?

Medicare considers a service to be medically necessary if it is:

- Reasonable and necessary;
- For the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member; and
- Not excluded under another provision of the Medicare Program

An ABN serves several important purposes:

- Allows the beneficiary (patient) to make an informed decision about whether to get a service that may or may not be covered by Medicare—and accept financial responsibility in the event Medicare denies payment for the claim.
- Provides proof that the physician notified the beneficiary prior to the service that Medicare may not cover the service.
- Provides notice of financial liability prior to receiving care.

Medicare prohibits physicians from issuing ABNs on a routine basis—meaning there is no reasonable basis to expect that Medicare may not cover the item or service. In issuing each ABN, the provider must ensure there is a possibility for noncoverage. However, there are some exceptions to the rule of when ABNs may be issued routinely, such as:

- Experimental items and services;
- Items and Services with <u>frequency limitations</u> for coverage; or
- Services that are always denied for medical necessity.

In addition, do not issue an ABN:

- To charge a patient for services when Medicare makes full payment through a bundled payment
- To transfer liability to the beneficiary when Medicare would otherwise pay for the item or service
- When the patient is under duress (he/she is prepped for a surgical procedure).
- In an emergency situation unless the patient has received screening and/or stable care.

C. Key Points for Physician Anesthesiologists

Medicare limits coverage of certain items and services by the diagnosis and limited coverage may result from National Coverage Determinations (NCDs) or Local Coverage Determinations (LCDs). Medicare expects physicians to stay current with both NCDs and LCDs. For example, it is important for pain medicine physicians to know that one of the services Medicare may deny includes providing a patient with a greater number of facet joint injections than the LCD for their jurisdiction will allow.

Modifiers CMS Recognizes When an ABN is Involved:

GA. Waiver of Liability Statement Issued as Required by Payer Policy, Individual Case

Use this modifier to report when you issue a mandatory ABN for a service as required and it is on file. You do not need to submit a copy of the ABN, but you must have it available on request.

GX. Notice of Liability Issued, Voluntary Under Payer Policy

Use this modifier to report when you issue a voluntary ABN for a service Medicare never covers because it is statutorily excluded or is not a Medicare benefit. You may use this modifier in combination with modifier GY.

GY. Item or Service Statutorily Excluded, Does Not Meet the Definition of Any Medicare Benefit

Use this modifier to report that Medicare statutorily excludes the item or service or the item or service does not meet the definition of any Medicare benefit. You may use this modifier in combination with modifier GX.

GZ. Item or Service Expected to Be Denied as Not Reasonable and Necessary

Use this modifier to report when you expect Medicare to deny payment of the item or service due to a lack of medical necessity and no ABN was issued.

Additionally, Medicare may not pay for anesthesia for certain patients undergoing a particular service or procedure—such as anesthesia for interventional pain procedures.

ABNs are useful for both physicians and beneficiaries. An ABN provides the beneficiary the opportunity to accept or refuse a service and protects the physician from unexpected financial liability in cases where Medicare denies payment. For more information on ABNs and its implications, please visit the resources provided on behalf of CMS below:

[Fee-For-Service Advance Beneficiary Notice of Noncoverage](#)

[ICN 006266: Advance Beneficiary Notice of Noncoverage (ABN)](#)