

The Expedited Appeal Process in the Skilled Nursing, Home Health and Hospice Settings

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MASSPRO *Making an Impact.*

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Overview

- Terminology
- History
- Notices
- Appeal timeline
- Valid Notices – content and delivery
- Appeal review process
- Required information
- Resources

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Objectives

At the end of this session, you should be able to:

- Describe the requirements for issuing a Medicare Notice of Non-Coverage and Medicare Notice of Provider Non-Coverage
- Prepare a **valid** notice
- Name the key elements of sufficient and appropriate delivery documentation
- Explain the appeal process
- Identify key information Masspro needs to conduct an appeal review

Terminology

- Insurance terms:
 - ◆ FFS – fee-for-service (original Medicare)
 - ◆ “Health Plans” – Medicare Advantage
 - ◆ PFFS – private fee-for-service
 - ◆ SCO – Senior Care Organization
- CMS terms
 - ◆ Expedited Determination (ED)
 - ◆ Beneficiary Notice Initiative (BNI)
- Appeals terms
 - ◆ Discharge – end of Medicare covered services
 - ◆ Effective date – last covered day

Terminology (continued)

- Recipient terms
 - ◆ FFS – beneficiary
 - ◆ Health plans – enrollee
- Notices
 - ◆ Generic or Advance – notice when Medicare covered services ending
 - ◆ Detailed – notice explaining reasons for discharge after Generic (Advance) notice appealed
- Physician certification
 - ◆ FFS home-health cases only
 - ◆ A physician must certify that “failure to continue the service(s) may place the beneficiary’s health at significant risk.”



Terminology (continued)

- Masspro reviewers
 - ◆ Review Case Managers
 - ◆ Physician Reviewers
- Review decision/determination
 - ◆ Upheld
 - ◆ Overturned



History – Health Plans

- Result of 1993 class action lawsuit (Grijalva v Shalala) which challenged the adequacy of managed care appeals process and resulted in a settlement agreement that all Medicare health plan enrollees receive written notice when their covered services are about to end (even if they agree)
- Called Fast Track Appeal
- Began January 2004
- Settings
 - ◆ Skilled Nursing Facility (SNF)
 - ◆ Home Health Agencies (HHA)
 - ◆ Comprehensive Outpatient Rehabilitation Facilities (CORF)



History – FFS

- Part of the Medicare Benefits Improvement and Protection Act of 2000 (BIPA) Public Law
- Began July 2005
- Settings
 - ◆ SNF
 - ◆ HHA
 - ◆ CORF
 - ◆ Hospice



History – Hospitals

- Result of a 2003 lawsuit (Weichardt v Leavitt) in which settlement reached to require a more effective advance written notification before hospitalized Medicare beneficiaries and enrollees are discharged
- Began July 2007
- Setting: inpatient admissions
- Replaced continued-stay HINNs

Appeals Statistics

Case Distribution by Setting – 1/1/2010 through 12/31/2010

| | Health Plans | FFS |
|----------------|--------------|-----------|
| Total | 663 | 899 |
| SNF | 643 (97%) | 708 (79%) |
| HHA | 20 (3%) | 113 (12%) |
| Hospice | N/A | 78 (9%) |

➔ More statistics to follow

Appeal Timeline

- Health Plan: Decision made the day after we receive all information from the plan or provider
- FFS: Decision made within 3 calendar days of our receipt of appeal from beneficiary
- In all cases, Masspro notifies by telephone and follows up in writing



Appeal Process Steps – Overview

1. Provider/plan prepares a valid notice.
2. Provider delivers the notice in a valid manner.
3. Beneficiary calls Masspro to appeal.
4. Masspro calls provider/plan to:
 - ◆ Notify of appeal* and need to issue detailed notice
 - ◆ Request notice and information for review
5. Masspro faxes request for information.
6. Provider or plan faxes all requested information.

* For FFS HHA patients, appeal process does not begin until the physician certification statement is submitted



Appeal Process Steps – Overview (cont'd)

6. Masspro ensures notice is valid (both content and delivery).
7. Masspro completes review.
8. Masspro notifies everyone by telephone and then in writing.



Appeal Process – Valid Notice Content

To ensure appeal process isn't stopped at the notice level, make sure the form

- Is the standardized one (found at BNI website)
- Is the appropriate one
 - ◆ Health Plan: CMS-10095 NOMNC and CMS-10095-DENC
 - ◆ FFS: CMS-10123 and CMS-10124
- Displays the appropriate Office of Management and Budget (OMB) number
- Has the correct expiration date
 - ◆ Health Plan: 10/31/2013
 - ◆ FFS: 07/31/2011



Appeal Process – Valid Notice Content (cont'd)

To ensure appeal process isn't stopped at the notice level,
make sure you specify the correct type of service

- SNF: skilled nursing
- HHA: home health
- Hospice: hospice

Appeal Process – Valid Notice Delivery

- Effective date: Last covered day of Part A or Part B
- Timeframes
 - ◆ SNF: 2 days before the effective date
 - ◆ HHA: 2 days or 2 visits before the effective date
 - ◆ Hospice: 2 days or 2 visits before the effective date
- Valid delivery
 - ◆ In person
 - ◆ By phone (not voicemail)
 - ◆ By certified mail
 - ◆ By fax

Valid Notice Delivery – What Ifs?

- What if the patient or representative refuses to sign?
 - ◆ **Document** it on the notice
 - › The date of refusal is the date of delivery
 - › For certified mail, the date the recipient refused to sign the certified mail delivery form is the date of delivery
- What if you cannot deliver the notice in person?
 - ◆ Deliver by direct phone contact
 - › Tell the representative of appeal rights (include deadline)
 - › Give the representative Masspro's phone number
 - ◆ Deliver by mail, following all regulatory requirements
 - ◆ **Document** it on the notice

Valid Telephonic Delivery **Documentation**

Suggested documentation:

I delivered this notice telephonically to _____ [rep's name], for _____ [patient's name] on _____ [date] at _____ [time]. I explained that the last covered day will be _____ [date of last covered day]. I explained that if she/he disagrees with this notice, she/he can appeal this decision. I told her/him that Masspro is the review organization that handles these appeals and Masspro's toll free # is 800-252-5533. I explained that in order to request a fast appeal, Masspro must be called before noon on _____ [date].

Signed, _____ [name and title of person completing form]

Valid Mail Delivery **Documentation**

Suggested documentation:

*1/5/ 11 9:05 called; left message on machine to call
1/5/11 12:35 called, left message on machine to call
1/5/11 4:30 called, left message on machine to call
Signed, _____, Case Manager*

*After 3 telephone attempts to reach representative, I mailed
this notice on Wednesday 1/5/11. (Last covered day 1/7/11)
Notice received back unsigned from Post Office today, 1/9/11
Patient's liability began 1/8/11
Signed, _____, Case Manager*

Appeal Process – Beneficiary's Request

- Masspro must receive appeal no later than 12:00 noon the day before the effective date
- What happens if deadline missed?
 - ◆ Health Plan patients: appeal reverts to health plan
 - ◆ FFS patients: Masspro conducts appeal (non-expedited)
 - › Longer timeframe
 - › No liability protection
- FFS HHA additional requirement
 - ◆ A physician must certify that “failure to continue the provision of the service(s) may place the beneficiary's health at significant risk.”
 - ◆ Beneficiary has up to 60 days to submit this certification

Appeal Process – Required Information

- Contact information
 - ◆ Name of person during a weekday
 - ◆ Name of person during a weekend
 - ◆ Name of person faxing
 - ☹ IF WE CAN'T REACH SOMEONE, THE REVIEW MAY BE DELAYED (and may cost you \$\$)
 - The Notice
 - Patient demographic information
- ➔ All of this information should be received within **2 hours** of our contact phone call

Appeal Process – Required Info (cont'd)

Medical Information:

| SNF | HHA | Hospice |
|--|---|---|
| Part A: Complete medical record | All documentation for first certification period | All documentation for first certification period |
| Part B: • Last H&P • Physician's orders • All documentation relevant to Part B services | All documentation for last certification period | All documentation for last certification period |

Appeal Review

- Review Case Manager
 - ◆ Reviews case, using appropriate manual guidelines
 - ◆ Prepares review for Physician Reviewer
- Physician Reviewer
 - ◆ Reviews case, using medical judgment
 - ◆ Makes decision whether Medicare covered services are no longer necessary
- Medical record **documentation** must support that skilled, home health or hospice services are no longer necessary



Communication

Communication is an essential element in the process

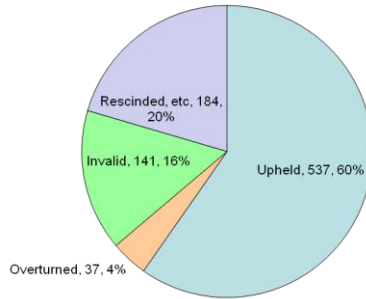
| You and Beneficiary/Rep | You and Masspro |
|--|--|
| Meet with family to discuss the what, where, how of discharge. | Include contact information on the contact sheet. |
| Before (or when) giving the Notice, explain what it means. | Make sure anyone answering the phone knows to whom to direct the call. |
| Understand that even with excellent pre-issuance discussions, beneficiary may appeal. That is his/her right. | Remember that Masspro cannot proceed without a copy of the Notice. For HHA staff, make sure the Notice isn't in the car. |
| If you think the beneficiary will appeal, spread the word throughout your facility or agency so anyone can react when Masspro calls. | |



Appeals Counts & Analysis – FFS

Of the 899 total calls, here is the resolution distribution:

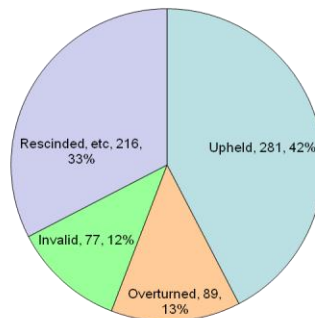
FFS Distribution of 899 Appeals



Appeals Counts & Analysis – Health Plans

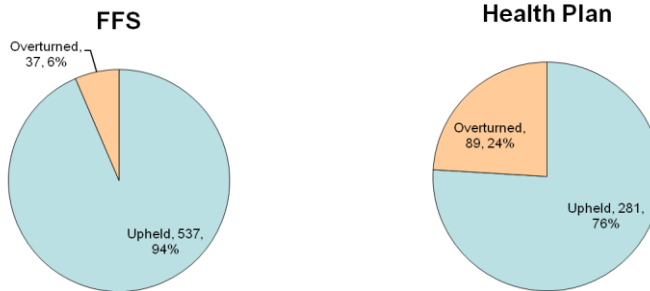
Of the 663 total calls, here is the resolution distribution:

Health Plan Distribution of 663 Appeals



Appeals Counts & Analysis – “True” Cases

If you remove the 325 FFS and 293 Health Plan invalid and non-real cases, here are the statistics:



Resources – Notices

- Health Plans
 - ◆ Notice of Medicare Non-Coverage (NOMNC)
 - ◆ <http://www.cms.gov/BNl> MA ED Notices

- FFS
 - ◆ Notice of Medicare Provider Non-Coverage (Generic Notice)
 - ◆ <http://www.cms.gov/BNl> FFS ED Notices

- Detailed Explanation of Non-Coverage
 - ◆ Required when patient appeals

Resources

- CMS Website – <http://www.cms.gov/bni/>
- General questions/operational issues – Nancy Steber (781-419-2765)
- Questions about a specific appeal that is in progress – Helpline (1-800-252-5533)
- Appeals fax 781-419-2509



Contact Information

- Review Case Managers – Expedited Appeals
 - ◆ Nancy Steber, LPN, CPHM
 - › 1-781-419-2765 email: nsteber@maqio.sdps.org
 - ◆ Nancy Keene, RN
 - › 1-781-419-2844 email: nkeene@maqio.sdps.org
 - ◆ Janet Modesto, Administrative Appeals Coordinator
 - › 1-781-419-2879
 - ◆ Kenneth Jones, Call Center Coordinator
 - > 1-800-252-5533



Questions?

Thank you for coming

Please remember to:

- ◆ Complete your evaluation
- ◆ Provide your e-mail address

