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CMS: No MSP Waiver for COVID-19 Vaccines, But There's a Shortcut; CMS Increases Payment

By Nina Youngstrom

Although it may slow the process of putting COVID-19 shots in arms, hospitals are required to complete the Medicare as Secondary Payer (MSP) questionnaire or a version of it when administering the vaccine. There's no waiver for finding out whether Medicare is the primary payer, a CMS spokesperson said, although CMS two years ago provided a shortcut.

"The MSP questions must be asked during the vaccine process," a CMS spokesperson told *RMC*.

That presents a challenge for hospitals as they try to meet vaccination demands, especially if they use volunteers in their vaccination clinics, said a compliance officer who prefers not to be identified. "This is a large burden, as we are trying to get people vaccinated quickly," she noted.

The MSP questionnaire is used to determine whether Medicare is the primary or secondary payer. If another insurer is primary, it pays the lion's share of the patient's bill, and Medicare covers the rest. Hospitals and other providers are required to ask Medicare patients the questions about their insurance coverage or at least to ascertain whether their insurance has changed.

The compliance officer had hoped for a waiver of the MSP questionnaire requirement because hospitals are vaccinating a tidal wave of patients, and "it is much too time-consuming to do this," she said. "We also have volunteers assisting our normal staff with carrying out these vaccines. It would take significant time to train volunteers to complete the MSP questionnaire. We really would want the process to be as simple as possible. On top of that, Medicare is paying for the vaccines of patients who have Medicare Advantage. Normally we do not have to complete the questionnaire for Medicare Advantage patients, but now we really should."

There's a Way to Skip MSP Questionnaire

CMS reduced the burden of getting the insurance information in 2019. In fact, hospitals don't necessarily have to use the MSP questionnaire as long as they do electronic insurance verification and ask patients whether their insurance has changed, according to Medicare Transmittal 123.[1] The MSP questionnaire is only necessary when the patient's insurance information has changed. The transmittal refers to the MSP questionnaire as a "model" and makes it optional. CMS apparently doesn't want hospitals to annoy patients, assuming they can get Medicare primary and secondary payer information elsewhere.

Nothing has changed about the need to know the information. "Prior to submitting a bill to Medicare, you must determine whether Medicare is the primary or secondary payer for each beneficiary's inpatient admission or outpatient encounter by asking the beneficiary about any other insurance coverage that may be primary to Medicare," CMS said in a related *MLN Matters* (10863).[2]

But CMS said it's "clarifying" the process. "If you have access to the Common Working File (CWF), your admission staff may ask the beneficiary if any insurance information it contains has changed. If there are no

changes to the beneficiary's insurance, then there is no need to ask the questions. However, if insurance information has changed, you must ask the MSP questions." For auditing purposes, providers have to document that the questions were not asked if beneficiaries say their insurance information is unchanged, CMS adds.

In response to the Medicare transmittal, Mass General Brigham in Boston redesigned its MSP process "in a way that relies on electronic verification of coverage so that we are asking the patient if any insurance information has changed," said Steve Gillis, director of compliance coding, billing and audit. "If they say no, then we are done." So far, so good; a recent audit of one Mass General Brigham hospital by a Medicare administrative contractor (MAC) went well, and the MAC "said we were one of the first to be following the updated guidance," Gillis said.

CMS Hikes Payment for Vaccine Administration

Meanwhile, CMS on March 15 announced an increase in the payment for COVID-19 vaccine administration, which applies to all payers. It's rising from $28 to $40 for vaccines administered on or after March 15, 2021, for physicians, hospitals, pharmacies and other immunizers for single-dose vaccines, and an increase from about $45 to $80 for vaccines requiring two doses. Vaccine providers are not permitted to charge patients for the vaccine or vaccine administration, because they're receiving the vaccine free from the federal government.

Here's the CMS breakdown for various programs:

- **Medicare**: Beneficiaries pay zero for COVID-19 vaccines, which means there's no copayment, coinsurance or deductible.
- **Medicare Advantage (MA)**: This year (and last), Medicare pays providers directly. "MA plans are not responsible for paying providers to administer the vaccine to MA enrollees during this time," CMS said. There's no cost-sharing.
- **Medicaid**: State Medicaid and Children's Health Insurance Program agencies are required to administer the vaccine with no cost-sharing during the public health emergency (PHE) and for at least a year after it's over.
- **Private plans**: CMS, the Department of Labor and the Department of the Treasury are requiring most private health plans and issuers to cover the vaccine and its administration with no cost-sharing during the PHE. "Current regulations provide that out-of-network rates must be reasonable, as compared to prevailing market rates, and reference the Medicare reimbursement rates as a potential guideline for insurance companies," CMS said. "In light of CMS's increased Medicare payment rates, CMS will expect commercial carriers to continue to ensure that their rates are reasonable in comparison to prevailing market rates."
- **Uninsured**: Providers may submit claims for administering the vaccine to people without insurance to the Provider Relief Fund, which is run by the Health Resources and Services Administration.

The payment increase is the latest in the shifting sands of COVID-19 regulatory requirements.

"The regulatory landscape governing the nation's response to the pandemic is rapidly evolving and changing, keeping us all on our toes," said attorney Ahsin Azim, with King & Spalding in Washington, D.C. For example, President Joe Biden announced that all Americans will be eligible for the vaccine by May 1, superseding the tiers established by states.

Until then, however, providers may be vulnerable to various consequences if they defy their state's vaccine

eligibility criteria or state plan. "Some state health departments have already started investigating complaints of providers giving the vaccine to people not yet eligible under the state's plan and have taken action," Azim said. For example, according to a Jan. 28 article on wyff4.com, "The Medical Center of Elberton says the Georgia Department of Public Health has suspended its COVID-19 vaccine supply for six months after the center gave extra vaccines to teachers, bus drivers and administrators."[3] After an appeal, the state agreed to let the medical center resume vaccinations March 14.

"More states are investigating improper administration of the vaccine, and the responses vary across state lines for non-compliance," Azim said. The Department of Justice also has headed down that road, according to a compliance officer with knowledge of the investigations.

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1 CMS, "Updating Language to Clarify for Providers Chapter 3, Section 20 and Chapter 5, Section 70 of the Medicare Secondary Payer Manual," Trans. 123, *Medicare Secondary Payer Manual*, Pub. 100-05, August 17, 2018, https://go.cms.gov/2QgBQoS.
2 CMS, "Updating Language to Clarify for Providers Chapter 3, Section 20 and Chapter 5, Section 70 of the Medicare Secondary Payer Manual," *MLN Matters*, MM10863, accessed March 18, 2021, https://go.cms.gov/3s4Pv00.
3 "Elberton medical facility that gave COVID-19 vaccines to teachers early suspended for 6 months," WYFF, January 28, 2021, http://bit.ly/3vEwnZ2.