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CMS: MA Follows Original Medicare Without Contracts, All Plans Defer to Medical Judgment

By Nina Youngstrom

In a new email, CMS has confirmed that Medicare Advantage (MA) plans have to follow Original Medicare for the most part in terms of payment, appeals and program integrity if they don't have contracts with hospitals. MA plans are required to apply the two-midnight rule and pay clean claims in 30 days, and deny or adjudicate other claims in 60 days when they're submitted by non-contracted hospitals, according to the email, which was sent to Phillip Baker, M.D., medical director of case management at Self Regional Healthcare in Greenwood, South Carolina. It confirms what CMS told Baker in a series of conversations over the past year (RMC 3/5/18, p. 1), although he still expects to get a policy letter from CMS.

There's power in this development to reduce Medicare denials and improve the appeal process, and the benefits should spread to hospitals with MA contracts if they make enough noise, Baker says. "More hospitals are starting to go to CMS with complaints," he says. CMS is increasingly aware of the problems hospitals are having with MA plans, which "don't like CMS knocking on their doors because it affects their Star ratings, and they don't get bonuses at the end of the year."

For all hospitals, with or without MA contracts, CMS had some surprising things to say. Although Medicare reimburses procedures on the inpatient-only (IPO) list only when they're performed on inpatients, the email states that "MA plans should generally follow the Original Medicare inpatient-only list with limited exceptions when the treating physician determines that a lower level of care is safe and medically appropriate." The email, which was written by Marty Abeln, senior analyst at the CMS Medicare Advantage Group, also seemed to reinforce the case-by-case exception to the two-midnight rule. He wrote that "the deciding factor for status determination is the medical judgment of the treating physician."

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