

Comments Received on Advance Beneficiary Notice of Noncoverage (ABN), Form CMS-R-131  
Dec 2012 – Feb 2013

Organization	Document (notice, instructions)	Page # (if applicable)	Issue/Comment	CMS Response
Weber State University	Notice		Support for proposal for simplification of ABNs. Believes that this notice change will reduce paperwork and decrease confusion in complying with Medicare regulations.	Thank you for your support of our proposal. It is our hope that these changes will simplify Medicare beneficiary notification requirements for home health agencies (HHAs).
Home Care Association of New York State	Notice		In general, supports CMS efforts to simplify (Home Health Advance Beneficiary Notice) HHABN by using the ABN and Home Health Change of Care Notice (HHCCN).	
National Association for Home Care & Hospice	Notice		Agrees that HHAs should use the ABN as currently required by other Medicare provider types.	
Home Care Association of New York State	Notice and Form Instructions		The ABN was not designed for home care cases, and the form and instructions need many revisions to be appropriate for home health patients.	The ABN and its instructions are currently used by many other Medicare providers and suppliers (i.e. laboratories, physician offices, imaging centers, hospices, DME suppliers, etc.). Therefore, in requesting Office of Management and Budget (OMB) approval to include HHA use of the ABN, we did not add HHA specific changes to the notice or instructions. We recognize that as home health agencies (HHAs) transition to using the ABN, they may need more guidance than the ABN Form Instructions provide and are revising the Medicare Claims Processing Manual (IOM 100-04), Chapter 30, Section 50. A section

				specific to HHA use of the ABN will be included. We plan to publish this manual revision concurrently with CMS's release of the ABN for HHA use. This additional HHA specific guidance in the manual instructions will assure appropriate use of the ABN for home health patients.
Living Resources Certified Home Health Agency	Notice		Can we list cost per visit or do we need to list the estimated cost for a 60 day period?	Yes, cost estimates per visit or per number of visits weekly are acceptable on the ABN. Cost estimate requirements for the ABN are unchanged from HHABN requirements and details on home care estimates will be published in the revision of the Medicare Claims Processing Manual, Ch. 30, Sec 50.
Home Care Association of New York State	Form Instructions	Page 4	Requests clarification on cost estimates for home care.	
Home Care Association of New York State	Form Instructions	Page 1, Paragraph 3	Requests clarification on "as far enough in advance" delivery of the ABN. Requests revision of "advance notice" language/requirement.	Timeframes for HHA delivery of the ABN will be the same as those for the HHABN. There may be instances that necessitate delivery immediately such as when an HHA finds that a beneficiary is no longer homebound, and the beneficiary wants to continue receiving home care that will not be covered. Criteria for determining whether or not a beneficiary knew services were going to be excluded because they were considered custodial care or not medically reasonable and necessary includes that the beneficiary is notified before receiving the service to determine knowledge as per 42 CFR §411.404(b)(3).
Living Resources Certified Home Health Agency	Form Instructions	Page 1, Paragraph 3	Requests clarification on "as far enough in advance" delivery of the ABN. Sometimes, it may be necessary for the HHA to deliver the ABN on the day of change.	
Connecticut Association for Healthcare at Home	Notice		History of MAC technical denials on claims filed by Connecticut HHAs due to improperly completed HHABNs. HHAs have implemented extra staff and education to comply with HHABN	The requirements for valid ABN completion essentially mirror the requirements for valid issuance of HHABN Option Box 1. Staff trained to properly issue HHABN Option Box 1 should easily transfer these skills to

			Option Box 1 issuance. Concern that changing to ABN issuance will add confusion and increase costs.	ABN issuance.
Connecticut Association for Healthcare at Home	Notice		<b>Recommendations to change language in the Options listed on the ABN.</b> Confusion over use of “you” and “I” in option box language.	The language for Options 1, 2, and 3 of the ABN was consumer tested for beneficiary comprehension prior to the notice’s OMB approval in 2008 and has remained unchanged. To this date, we have had no complaints from beneficiaries or beneficiary advocates regarding this language.
Living Resources Certified Home Health Agency	Notice		Confusion over use of “you” “I” and “paid” in Option 1 and 2 language	
Home Care Association of New York State	Notice		Options section language on the ABN is confusing and recommendations were made for language changes to the option statements. Current language: <b>OPTION 1.</b> <i>“I want the _____ listed above. You may ask to be paid now, but I also want Medicare billed for an official decision on payment, which is sent to me on a Medicare Summary Notice (MSN).”</i> <b>Suggested change to :</b> <i>“I want the _____ listed above. I may be asked to pay for _____ now but I also want Medicare billed for an official decision on payment, which will be sent to me on a Medicare Summary Notice (MSN).”</i> Current language: <b>OPTION 2.</b>	

			<p><i>“I want the _____ listed above, but do not bill Medicare. You may ask to be paid now as I am responsible for payment.”</i></p> <p><b>Suggested change to:</b></p> <p><i>“I want the _____ listed above, but do not bill Medicare. I may be asked to pay for _____ now as I am responsible for payment.”</i></p>	
National Association for Home Care & Hospice	Notice		Replace MSN in statement under Option 1 with “...I can appeal to Medicare by following the directions on the Medicare Summary Notice.”	The MSN acronym used in that statement is preceded by a sentence containing “Medicare Summary Notice (MSN)”; so, we will refrain from making this suggested change.
CT Association for Healthcare at Home	Notice		Add an option box to ABN about billing secondary insurance.	Including secondary insurance information is not a requirement under limitation of liability notification. The ABN addresses secondary insurance billing with the statement, “Note: If you choose Option 1 or 2, we may help you to use any other insurance that you might have, but Medicare cannot require us to do this.” If desired, HHAs may use the “Additional Information” on the ABN to include agency specific information on secondary insurance claims or a blank line for the beneficiary to insert secondary insurance information. Agencies may pre-print language in the “Additional Information” section.
Home Care Association of New York State	Notice		Add on option box to ABN about billing secondary insurance. Statement on choosing Option 1 when a claim must be filed with secondary insurance should be included in the notice and the “ Note: If you choose Option 1 or 2, we may help you...” statement should be removed.	
National Association for Home Care & Hospice	Notice		Delete “D_____ listed above” from all 3 options and replace with “services and/or supplies listed above”.	The lettering on the ABN is for form instructional purposes only and all lettering, including the “D”, should be removed from the ABN prior to issuance. HHAs may remove the blank line and insert the words

				“services and/or supplies” when customizing the ABN with their individual HHA contact information.
Home Care Association of New York State	Form Instructions	Page 3 – last bullet	<p>Requests clearer guidance on:</p> <ul style="list-style-type: none"> <li>• issuance of the ABN for reductions to avoid confusion with HHCCN issuance;</li> <li>• Listing the same reason for noncoverage if it applies to all services;</li> <li>• representative signatures; and</li> <li>• ABN issuance for non-covered home health services</li> </ul>	The basic ABN form instructions do not include all details that an HHA may need for proper issuance and refer the reader to the Medicare Claims Processing Manual, Ch. 30, Section 50. Additional guidance specific to HHAs will be published in the revised Section 50 and is scheduled for release with approval for ABN use by HHAs.
Home Care Association of New York State	Form Instructions	Page 4	Reasons for Medicare not paying that are listed on page 4 are not appropriate for home health care. Request that examples given in CMS Transmittal 2362, December 1, 2011 are included in form instructions	The ABN form instructions give very general examples of why Medicare may not pay for a service. The detailed examples specific to home health that are currently published in the Medicare Claims Processing Manual, Chapter 30, Section 60 (found in CMS Transmittal 2362) will be published in the Section 50 on ABN issuance. This publication will be released when the ABN is released for HHA use.
Home Care Association of New York State	Notice		Request a “more realistic” burden estimate than 7 minutes to deliver the ABN.	The current ABN with a time burden estimate of 7 minutes for notice completion was approved in 2008 and the estimate for notice completion has remained unchanged. We have not heard from industry members that completion, delivery, and explanation of the ABN is more time consuming than this 7 minute average.