

Advanced Beneficiary Notice of Noncoverage (ABN), Form CMS-R-131

OMB Approval No. 0938-0566

Request for Minor Revision to Notice Instructions

We would like to make a minor revision to the instructions that accompany the Advanced Beneficiary Notice of Noncoverage (ABN), Form CMS-R-131, approved by the Office of Management and Budget (OMB) in 2013 under OMB approval number 0938-0566.

Our existing published instructions for completion of the ABN state that the beneficiary or representative must choose one of the 3 Option boxes under (G). The last sentence of Option 1 states, "If Medicare does pay, you will refund any payments I made to you, less co-pay or deductibles." This statement could be true for assigned claims. However, if the claim is submitted as unassigned and the claim is determined to be payable, Medicare makes payment directly to the beneficiary for the Medicare allowed amount as payment in full. Contrary to the highlighted statement above, a refund from the supplier to the beneficiary would not be required for an unassigned claim. The Centers for Medicare & Medicaid Services (CMS) has not received any comments or questions on the ABN as it applies to unassigned claims until recently when an industry representative asked for clarification. Although the current form instructions allow for insertion of any additional information, we would like to add instructions specific to non-participating suppliers and providers who are enrolled with Medicare.

We propose minor changes to the language on page 5 and 6 of the instructions under "Sections and Blanks" to clarify this issue and insert the correct manual section reference. This added language is below in red italics.

### C. Options

**Blank (G) Options:** Blank (G) contains the following three options:

**OPTION 1.** I want the (D) \_\_\_\_\_ 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 understand that if Medicare doesn't pay, I am responsible for payment, but **I can appeal to Medicare** by following the directions on the MSN. If Medicare does pay, you will refund any payments I made to you, less co-pays or deductibles.

This option allows the beneficiary to receive the items and/or services at issue and requires the notifier to submit a claim to Medicare. This will result in a payment decision that can be appealed. See Ch. 30, §50.15.1 of the online Medicare Claims Processing Manual for instructions on the notifier's obligation to bill Medicare. *Suppliers and providers who don't accept Medicare assignment may make modifications to Option 1 only as specified below under D. Additional Information.*

...

...

## D. Additional Information

**Blank (H) Additional Information:** Notifiers may use this space to provide additional clarification that they believe will be of use to beneficiaries. For example, notifiers may use this space to include:

- A statement advising the beneficiary to notify his or her provider about certain tests that were ordered, but not received;
- Information on other insurance coverage for beneficiaries, such as a Medigap policy, if applicable;
- An additional dated witness signature; or
- Other necessary annotations.

Annotations will be assumed to have been made on the same date as that appearing in Blank J, accompanying the signature. If annotations are made on different dates, those dates should be part of the annotations.

### ***Special guidance ONLY for non-participating suppliers and providers (those who don't accept Medicare assignment):***

- *Strike the last sentence in the Option 1 paragraph with a single line so that it appears like this: ~~if Medicare does pay, you will refund any payments I made to you, less co-pays or deductibles.~~*
  - *This single line strike can be included on ABNs printed specifically for issuance when unassigned items and services are furnished. Alternatively, the line can be hand-penned on an already printed ABN.*
  - *The sentence must be stricken and can't be entirely concealed or deleted.*
  - *There is no requirement for suppliers or the beneficiary to place initials next to the stricken sentence or date the annotations when the notifier makes the changes to the ABN before issuing the notice to the beneficiary.*
- *When this sentence is stricken, the supplier shall include the following CMS-approved unassigned claim statement in the (H) Additional Information section.*  
*"This supplier doesn't accept payment from Medicare for the item(s) listed in the table above. If I checked Option 1 above, I am responsible for paying the supplier's charge for the item(s) directly to the supplier. If Medicare does pay, Medicare will pay me the Medicare-approved amount for the item(s), and this payment to me may be less than the supplier's charge."*
  - *This statement can be included on ABNs printed for unassigned items and services, or it can be handwritten in a legible 10 point or larger font.*
- *An ABN with the Option 1 sentence stricken must contain the CMS-approved unassigned claim statement as written above to be considered valid notice. Similarly, when the unassigned claim statement is included in the "Additional Information" section, the last sentence in Option 1 should be stricken.*