ADVANCED BENEFICIARY NOTICE (ABN) OF NONCOVERAGE TRAINING

Medical Compliance Services
Office of Billing Compliance
ADVANCED BENEFICIARY NOTICE (ABN)

AGENDA

DEFINITION AND PURPOSE

ABN STANDARDS

USE OF ABN

MODIFIERS

RESOURCES
DEFINITION AND PURPOSE

An ABN, form CMS-R 131, is a written notice that must be issued to a Medicare patient before providing certain Medicare Part B (outpatient) or Part A (limited to hospice and Religious Nonmedical Healthcare Institutions only) items or services.

ABNs only apply if patient has Original Medicare including those dually eligible, not if they are in a Medicare private health plan (HMO, PPO or PFFS).

You must issue an ABN when:

• You believe Medicare may not pay for an item or service,
• Medicare usually covers the item or service, and
• Medicare may not consider it medically reasonable and necessary for this patient in this particular instance.
ADVANCED BENEFICIARY NOTICE (ABN)

WHAT ARE THE BENEFITS OF AN ABN?

The ABN protects the patient from unexpected financial liability in cases where Medicare denies payment and thereby given the opportunity to choose whether or not to receive the item/service.

The ABN serves as proof that the patient knew prior to getting the service that Medicare might not pay.

The ABN helps the patient make an informed decision about whether to obtain the item/service and prepares them to pay for it either “out-of-pocket” or by other insurance coverage that the patient may have.

The ABN allows the claim reviewed by Medicare and if payment is denied, the patient is liable for the payment and protects the provider/supplier from liability.
How do I know when Medicare might not pay?

• Medicare limits coverage of certain items and services by diagnosis. If the diagnosis on the claim is not one that Medicare covers for the item or service, Medicare will deny the claim.

What are Medicare Coverage Policies?

• Limited coverage may result from National Coverage Determinations (NCDs) or Local Coverage Determinations (LCDs). NCDs describe whether Medicare pays for specific medical items, services, treatment procedures, or technologies. In the absence of NCDs, LCDs indicate which items and services Medicare considers reasonable, medically necessary and appropriate.

How does Medicare define Medical Necessity?

• Reasonable and necessary for the diagnosis or treatment of an illness or injury or to improve the functioning of a malformed body member and not excluded under another provision of the Medicare Program.

What are frequency limits?

• A frequency limit means that Medicare will pay for only a certain quantity of a specific item or service in a given time period.
ADVANCED BENEFICIARY NOTICE (ABN)

ABN STANDARDS

• Must meet readability requirements

• Use an approved standard form (CMS-R 131) and meet all standards found in Medicare Claims Manual Chapter 30 Section 50 of the Medicare Claims Processing Manual and is available at http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/clm104c30.pdf

• Reproducible copies of Form CMS-R 131 ABNs (in English and Spanish) may be found at http://www.cms.gov/Medicare/Medicare-General-Information/BNI/index.html.

• Specificity, Delivery and Receipt, Timelines
  – Item must be clearly written and that the patient or authorized representative can understand
  – Delivered to patient before item/service is furnished either in person or via other means
  – Patient must receive a hard copy and provider must retain the original and file it in the medical record.

• Do not obtain an ABN from a patient in a medical emergency or under great duress or coercive circumstances.
ADVANCED BENEFICIARY NOTICE (ABN)

MANDATORY USE

You must issue an ABN when you expect Medicare to deny payment for an item or service because it is not reasonable and necessary under Medicare Program standards or Medicare considers it custodial care.

Common reasons include:

- Experimental and investigational,
- Not indicated for diagnosis and/or treatment in this case
- Not considered safe and effective, or
- More than the number of services that Medicare allows in a specific period for the corresponding diagnosis
Therapy Services

Therapists are required to issue an ABN to original Medicare patients prior to providing therapy that is not medically reasonable and necessary regardless of the therapy cap.

Example 1

• **Therapy cap is not met - ABN Mandatory -** In this example, the ABN must be issued prior to providing the services that won’t be covered by Medicare because they are no longer medically necessary.

• Mr. X has been receiving physical therapy (PT) three times per week, and currently, he has achieved all his PT goals established in the plan of care (POC). The total amount applied to his therapy cap this year is $780. Mr. X requests continued PT services two times per week even though PT is no longer medically necessary. In this example, the ABN must be issued prior to providing the services that won’t be covered by Medicare because they are no longer medically necessary.
Therapy Services

Therapists are required to issue an ABN to original Medicare patients prior to providing therapy that is not medically reasonable and necessary regardless of the therapy cap.

Example 2

- **Therapy cap has been met - ABN Mandatory** - *In this example, the ABN must be issued prior to providing the services that are not medically necessary and exceed the cap in order for the therapist to transfer liability and charge the patient.*

- *Ms. Z has recently been receiving physical therapy (PT) three times per week, and she has achieved all her PT goals established in the POC. The total amount applied towards her therapy cap this year is $1900. Ms. Z. requests continued PT services two times a week even though PT is no longer medically necessary.*
Voluntary Use – Not Required (Statutorily Excluded Items)

Medicare does not require ABNs for statutorily excluded care or for services Medicare never covers. However, you may issue an ABN voluntarily.

Examples of Medicare Program Excluded items/services:

- Personal comfort items
- Self-administered drugs and biologicals (i.e., pills and other medications not administered by injections)
- Cosmetic Surgery
- Services paid by government entity other than Medicare
- Eye exams for the purpose of prescribing, fitting or changing eyeglasses or contact lenses in the absence of a disease
- Routine physicals and most screening tests, hearing aids
- Bath tub/shower chair
ABN INSTRUCTIONS

- Use ABN form CMS-R 131 (03/11)

- Typed, handwritten or electronic form completed far enough in advance prior to item/service being furnished

- Preferably in person and review with patient

- Explain in its entirety and answer all questions

- Signed and dated by the patient or his/her representative after he/she selects one of the option boxes

- Give patient a hard copy and provider keeps the original
ADVANCED BENEFICIARY NOTICE (ABN)

WHO MAY SIGN AN ABN?

- The patient

- An authorized representative
  (an individual under state law authorized to make health decisions)

A close friend is "an adult who has exhibited special care/concern for the patient, who is familiar with the patient’s personal values and who is reasonably available"
**ADVANCED BENEFICIARY NOTICE (ABN)**

**ACCEPTABLE ABN**

---

**Note:** If Medicare doesn’t pay for (D)Item below, you may have to pay.

Medicare does not pay for everything, even some care that you or your health care provider have good reason to think you need. We expect Medicare may not pay for the (D)Item below.

<table>
<thead>
<tr>
<th>Item Description</th>
<th>Medicare May Not Pay</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oxygen concentrator and homefill system</td>
<td>Medicare requires room air oxygen saturation of 85% or below for coverage criteria. Your ordering physician has results from 08/17/11 at 95% at rest and you understand that Medicare will deny these items as not medically necessary. You choose to receive these items and services.</td>
<td>$250.00 a month</td>
</tr>
</tbody>
</table>
ADVANCED BENEFICIARY NOTICE (ABN)

ACCEPTABLE ABN

You currently have oxygen equipment, and there are no test results available to determine if you qualify under Medicare’s guidelines. You understand that your Medicare insurance will not pay without this information and you choose to privately pay for the equipment.

WHAT YOU NEED TO DO NOW:
- Read this notice, so you can make an informed decision about your care.
- Ask us any questions that you may have after you finish reading.
- Choose an option below about whether to receive the (D) Equipment listed above.

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.

OPTION 1. I want the (D) Equipment 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.

OPTION 2. I want the (D) Equipment listed above, but do not bill Medicare. You may...
ADVANCED BENEFICIARY NOTICE (ABN)

UNACCEPTABLE ABN

Unreadable or illegible ABN

Patient incapable of understanding the ABN

ABN given during an emergency, under duress, coerced or misled

ABN given to a patient more than a year before item/service was furnished

Routine ABN with no specific, identifiable reason to believe Medicare will not pay

A Generic ABN stating Medicare may not pay

Obtaining a signature on a blank ABN

Completing and obtaining a patient signature after providing the item/service
ADVANCED BENEFICIARY NOTICE (ABN)

UNACCEPTABLE ABN

<table>
<thead>
<tr>
<th>Equipment / Supply (ies)</th>
<th>Reason Medicare May Not Pay</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oxygen Concentrator</td>
<td>Client doesn't qualify</td>
<td>$428.00</td>
</tr>
<tr>
<td>Oxygen Portable</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

WHAT YOU NEED TO DO NOW:

This notice gives our opinion, not an official Medicare decision. If you have other questions on this notice or Medicare billing, call 1-800-MEDICARE (1-800-633-4227/TTY: 1-877-486-2048.

Signing below means that you have received and understand this notice. You also received a copy.

Signature: [Redacted]

Date: 6/21/2011
ADVANCED BENEFICIARY NOTICE (ABN)

GA MODIFIER

• Waiver of Liability Statement Issued as required by payor policy, individual case.

• Use this modifier when you issue a mandatory ABN for a service or item that you think the service will be denied because it does not meet the Medicare program standards for medically necessary care and you gave the patient an ABN and it is filed in the medical record.

• You are required to include the GA modifier on your claim anytime you obtain a signed ABN, or have a patient's refusal to sign an ABN witnessed properly in an assigned claim situation (except an assigned claim for one of the specified DMEPOS technical denials).
GY MODIFIER

- Item or service Statutorily Excluded, does not meet the definition of any Medicare Benefit.

- Use this modifier to report that Medicare statutorily excludes this item or service or that it does not meet the definition of any Medicare benefit. ABNs are not an issue for these services. There are no ABN requirements for statutory exclusions.

- 1) Routine physicals, laboratory tests in absence of signs or symptoms, hearing aids, air conditioners, services in a foreign country, services to a family member. 2) Surgery performed by a physician not legally authorized to perform surgery in the State.
ADVANCED BENEFICIARY NOTICE (ABN)

GZ MODIFIER

• Item or service expected to be denied as not reasonable and necessary.

• Use this modifier to report when you expect Medicare to deny payment of the item or service due to lack of medical necessity and no ABN was issued.

• When you would have given an ABN to a patient but could not because of an emergency care situation, e.g., in an EMTALA covered situation in an emergency room, or in an ambulance transport.

• When a patient was not personally present at your premises and could not be reached to timely sign an ABN, e.g., when you realize too late, only after furnishing a service, that you should have given the patient an ABN.
Notice of Liability Issued, Voluntary Under Payer Policy.

Report this modifier only to indicate that a voluntary ABN was issued for services that are not covered.

Medicare will automatically reject claims that have the –GX modifier applied to any covered charges.

Modifier –GX will be rejected if submitted with the following modifiers: EY, GA, GL, GZ, KB, QL, TQ
ADVANCED BENEFICIARY NOTICE (ABN)

Resources and Reminders

ULearn:
• http://www.Ulearn.miami.edu

CMS Website:
• http://www.cms.gov/Medicare/Medicare-General-information/BNI/index.html
MEDICAL COMPLIANCE SERVICES/
OFFICE OF BILLING COMPLIANCE
CONTACT INFORMATION

Who are we?

• Gemma Romillo, Assistant Vice President of Clinical Billing Compliance & HIPAA Privacy Officer
  
• Lilian Eymann, Associate Director, Hospital Billing
  Email: leymann@med.miami.edu
  Ph.: 305-243-5842

• Iliana De La Cruz, Associate Director, Professional Billing
  Email: idelacru@med.miami.edu
  Ph.: 305-243-5842

Where are we?

• Professional Arts Center (PAC)
  1150 NW 14 Street, Suite 404
  Miami, FL. 33136
  • http://www.obc.med.miami.edu