

7/29/08 CMS Guidance on Signature Requirement

On July 29, 2008, CMS posted an educational document on its website, in which CMS provides formal guidance on the patient signature requirement for ambulance services. The document summarizes the new exception for emergency ambulance transports that went into January 1, 2008, and also offers clarification on other aspects of the signature requirement. To view the guidance document, go to <http://www.cms.hhs.gov/center/ambulance.asp>, and click on the link for "Guidance on Beneficiary Signature Requirements for Ambulance Claims". The following issues were addressed in this document:

1. New Exception for Emergency Transports -- CMS summarizes the requirements needed to qualify for the new exception for emergency ambulance transports. There was nothing new in this section, to qualify, you would still need to obtain: (1) a statement from your crew that the patient was unable to sign and that there was no authorized person able or willing to sign for the patient, (2) documentation of the date and time of the transport, and the name and address of the receiving facility, and (3) documentation from the receiving facility confirming when the patient was received by that facility, which could be done either at the time of transport or via a secondary form of verification obtained after the fact.

2. Facility Signatures on Patient's Behalf -- CMS also clarified when a facility representative can sign on the patient's behalf under the exception set out 42 C.F.R. §424.36(b)(4). To qualify, CMS stated the following conditions must apply:

- An employee or representative of the facility must sign a form acknowledging: (1) the name of the patient, (2) the fact that the patient was transported by the specific ambulance provider or supplier to the specified facility on the specified date, and (3) that the facility representative is signing for the purpose of allowing the ambulance provider or supplier to submit a claim to Medicare for the transport; and
- The facility must have provided care, services or assistance to the patient.

Note: While CMS' discussion seemed to center only on a signature from the receiving facility, the regulation does not distinguish between the sending and receiving facility. Therefore, as long as the sending facility provided care, services or assistance to the patient, a representative of that facility can sign on the patient's behalf.

CMS also reiterated that the facility representative's signature does not need to be on the claim form. Instead, CMS agrees that the facility representative can sign a form created by the ambulance provider or supplier, or can sign a form prepared by the facility for this purpose.

CMS did state that you would need to use "reasonable efforts" to obtain the patient's signature before submitting the claim to Medicare based on the facilities signature. However, CMS stated that this requirement would be met if the patient could not sign at the time of the trip and you had a "reasonable basis" to believe that the patient would not be able to sign at any point in the future. For example, where the patient had significant dementia, you would not need to make any additional efforts to get the patient's signature beyond those made at the time of transport.

Note: this "reasonable efforts" requirement is one of the changes including in the current proposed rule on the patient signature. Moreover, the proposed rule does not define what "reasonable efforts" entails. Thus, it is interesting that, in the guidance document, CMS has included at least a partial definition of what "reasonable efforts" means for ambulance. We expect that this issue will be addressed further in the AAA comment letter on the proposed rule.

3. "Reasonable Efforts" -- In discussing the facility representative's signature, CMS stated its belief that you would need to use "reasonable efforts" to get the patient's signature before submitting the claim based on the facility signature. CMS stated that this

“reasonable efforts” requirement would also apply to those situations where you got a signature on the patient's behalf from a personal representative (e.g., a legal guardian, spouse, daughter, etc.).

Note: the “reasonable efforts” requirement would **NOT APPLY** to situations where you have met the new exception for emergency ambulance transports. If you can meet this exception, you can immediately submit the claim.

4. Financial Responsibility Where Facility Signs -- CMS also clarified that a facility would not become financially responsible for the ambulance transport if their representative signed on the patient's behalf, or signed to help you meet the exception for emergency ambulance transports. While this is not new, CMS felt this was necessary because some facilities have, up till now, been reluctant to provide signatures, because they were worried that it might make them financially responsible. As a result, you now have something official from CMS that you can take to the facilities to help convince them to sign.

Source: D. Werfel e-mail dated 7/30/08