

## Hospital Issued Notices Of Noncoverage

Revision:

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### Citations And Authority

The regulatory authorities for issuing notices of noncoverage are found at [32 CFR 199.15\(c\)](#).

A hospital has the authority to issue notices of noncoverage to beneficiaries or their representatives if the hospital determines that the care the beneficiary is receiving or about to receive is not covered because it is not medically necessary, not delivered in the most appropriate setting or custodial in nature. The Hospital-Issued Notice of Noncoverage (HINN) may be given prior to admission, at admission or at any point during the inpatient stay.

#### A. Preadmission/Admission Notices Of Noncoverage

Hospitals may issue notices of noncoverage before the beneficiary is admitted, upon admission or any time during the stay. Preadmission/admission notices of noncoverage may be issued by the hospital utilization review committee or the hospital directly, based on Defense Health Agency (DHA) coverage guidelines, prior DHA/TMA notices, bulletins, and/or other written directives from contractors or Utilization & Quality Control Peer Review organizations.

#### B. Continued Stay Notices Of Noncoverage

The process for issuing a continued stay notice of noncoverage will be the same for all types of hospitals.

Section 1154(e) of the Social Security Act requires the review of all hospital continued stay notices of noncoverage. This section requires that if a beneficiary (when reference is made to the beneficiary, reference is also assumed to be made to his/her representative) received a notice of noncoverage with only the concurrence of the attending physician, is still an inpatient and requests (before noon on the first working day after the date of receipt of the notice) an immediate review by the contractor:

- The hospital must provide the medical records to the contractor by close of business of the first working day after the date that the beneficiary receives the notice;
- The contractor must review the case and notify the beneficiary, the hospital, and the attending physician of its decision by the first full working day after the date of receipt of the beneficiary's request and required medical records from the hospital; and
- If the beneficiary made such a request and did not know, nor could reasonably have been expected to know, that the continued inpatient hospital stay was not necessary, the hospital may not charge the beneficiary before noon of the day after the day the beneficiary received the contractor's decision.

A hospital is required to notify a beneficiary when it requests a review of its decision because the attending physician disagrees with the hospital's issuing of the notice of noncoverage. This notice must be given to the beneficiary concurrently when the request is made for review.

The beneficiary's views are to be solicited whenever:

- Reviewed cases involve the HINN at the beneficiary's request; or
- The hospital requests a review because the attending physician disagrees with its decision to issue a notice of noncoverage.

### **Issuance Of Hospital Notices Of Noncoverage**

#### **A. Preadmission/Admission Notices Of Noncoverage**

The hospital issues a notice of noncoverage when it determines that the admission is not medically necessary or appropriate or is custodial in nature. The hospital is not required to obtain the attending physician's or the contractor's concurrence prior to issuing the preadmission or admission notice of noncoverage.

#### **B. Continued Stay Notices Of Noncoverage**

A hospital may issue a continued stay notice of noncoverage when it determines that a beneficiary no longer requires continued inpatient care and either the attending physician or the contractor concurs.

##### **1. Attending Physician Concurs**

If the attending physician concurs in writing (e.g., written discharge order) with the hospital's determination that the beneficiary no longer requires inpatient care, the hospital may issue a notice of noncoverage to the beneficiary.

##### **2. Attending Physician Does Not Concur**

The hospital is required to give a notice to the beneficiary when the attending physician disagrees with the hospital's proposed notice of noncoverage and the contractor is requested to review the case. The hospital may use its own letterhead, but may not alter or change the language. The notice must be given to the beneficiary concurrently when the hospital requests review. The contractor is responsible for developing procedures to monitor the hospital's compliance with the requirement to issue this notice; for example, at the time the beneficiary's views are solicited, the contractor may ask the beneficiary if the notice was received.

The hospital may request, either by phone or in writing, that the contractor review the case immediately. The contractor shall complete the review within two working days of either the hospital's request or the receipt of any additional information requested (such as a copy of the medical record). The contractor shall determine, on a case by case basis, whether a medical record is needed in order to make the determination as to the medical necessity and appropriateness of the admission and days of care. If the contractor concurs with the hospital's decision, the contractor shall notify the hospital that it may issue the notice.

#### **C. Review After Discharge**

The beneficiary may request review within 30 calendar days after receipt of the notice. Review is to be completed within 30 calendar days of the receipt of the request and either a denial notice or a notice explaining that the care is covered is to be issued.

**D. Content**

The HINNs must contain specific information for the protection of beneficiaries as well as hospitals. The HINN to the beneficiary must explain:

- The date the care is determined to be noncovered and why (e.g., admission noncovered because the services could be performed safely and effectively on an outpatient basis);
- Who made the determination (e.g., the hospital with the concurrence of the attending physician, or the hospital with the concurrence of the UM/PR contractor);
- That the notice is not an official TRICARE determination;
- The beneficiary's review rights;
- The procedures for requesting contractor review; and
- What affect the notice and a contractor review request have on the beneficiary's liability, including exactly when liability begins.
- The HINNs must not mislead the beneficiary or misstate the authority or responsibility of the hospital in issuing the notice. The notice cannot contain:
  - Statements and implications that the decision of noncoverage was not made by the hospital, but by someone else (e.g., by TRICARE), or
  - Inaccurate information as to the beneficiary's responsibility for payment.

**E. Acknowledgment Of Receipt**

The hospital must document, by obtaining an acknowledgment of receipt signed by the beneficiary, the date and time of the beneficiary's receipt of the HINN. A copy of this acknowledgment should be kept in the medical records. If the beneficiary refuses to sign the acknowledgment, the hospital should immediately write on the HINN that the patient refused to sign and prepare a report for its files (i.e., medical records). The date of the refusal is then considered the date of receipt. The contractor shall ask the hospital for a copy of that report, when necessary, for review. The hospital must develop procedures to use when the beneficiary is incapable of transacting business and the hospital cannot obtain the signature of his/her representative through direct personal contact. When the hospital must mail the notice to the beneficiary's representative, it should phone the beneficiary's representative and simultaneously mail the notice. The date of the phone conversation will be considered the date of the receipt of the notice. When direct phone contact cannot be made, the hospital should send the notice by certified mail, return receipt requested. The date that someone at the address of the representative signs (or refuses to sign) the receipt, is the date of receipt. If the above measures are not used, the hospital may use other hospital procedures which have been reviewed and approved by the contractor. When needed for review, the contractor shall ask the hospital to provide proof of proper notification.

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