

Client Briefing

Urgent Legal News • April 2004

Reassignment Of Benefits Now Permitted For Off-Site Contractors

By John S. Mulhollan

Until recently, the Medicare laws and instructions prohibited "reassignment" of benefits except under certain situations. These exceptions included payments to a clinic or practice group for services of employed physicians, payments to agents such as a billing and collection company, or payments to an organized health care delivery system where the services of the contractor were performed on-site. If the services of the contractor were performed at a location other than the premises of the practice or facility, direct payment to the entity under reassignment was often difficult.

Effective December 8, 2003, however, the Medicare Prescription Drug Benefit and Modernization Act of 2003 ("MMA") directed the Secretary of Health and Human Services to ease the restrictions on direct payment for reassigned claims.

MMA also amended the Social Security Act to allow reassignment of claims under a contractual arrangement, provided that the "contractual arrangement meets such program integrity and other safeguards as the Secretary may determine to be appropriate." This is good news for practitioners and health care facilities that hire contractors to perform services under a reassignment, such as anesthesiology groups that hire independent physician contractors to provide anesthesia services off-site for

a local hospital or surgery center, or orthopedic physicians that hire radiologists to read x-rays off-site (e.g., through telemedicine consultation).

The Secretary, acting through the Centers for Medicare and Medicaid Services ("CMS"), published new guidelines for payments under a reassignment of benefits. The guidelines state that Medicare Part B carriers are to directly pay health care providers enrolled in Medicare for claims submitted under a reassignment of benefits — regardless of the location at which the reassigning contractor provides the service — as long as certain contractual conditions are met.

Contractors may now reassign benefits to health care providers regardless of whether the health care services were performed at the provider's facility or at another office. Health care providers working with contractors should make certain that written agreements for services (including the reassignment) contain the following provisions:

1. The health care provider and the contractor actually supplying the services share liability for any Medicare overpayments relating to the reassigned claim.

2. The contractor supplying the services is entitled to unrestricted access to claims submitted by the health care provider for services rendered. These provisions ensure that Medicare Part B carriers can seek restitution from either the provider or the contractor for overpayments, and ensure that the contractor has access to records of the claims in case of an audit or investigation by Medicare authorities.

If you would like assistance in reviewing the impact of this change on your practice or facility, including assistance in updating your written contractor agreements, please do not hesitate to contact a member of Walter & Haverfield's Health Care Practice Group.

For information on this or other health care issues, please contact one of our Health Care attorneys.

For information on this or other health care issues, please contact one of our Health Care attorneys:

Robert Crump	(rcrump@walterhav.com)	216-928-2933
Michael Jordan	(mjordan@walterhav.com)	216-928-2922
Mark McGrievy	(mmcgriev@walterhav.com)	216-928-2925
John Mulhollan	(jmulhollan@walterhav.com)	216-928-2898
Kevin O'Connor	(koconnor@walterhav.com)	216-928-2918
Charles Schaefer	(cschaefer@walterhav.com)	216-928-2894
Amy Leopard Woodhall	(awoodhall@walterhav.com)	216-928-2889

©2004 Walter & Haverfield LLP All rights reserved.

The information in this newsletter is a summary of often complex legal issues and may not cover all the "fine points" related to a specific situation or court jurisdiction. Accordingly, it is not intended to be legal advice, which should always be obtained in consultation with an attorney.

WALTER & HAVERFIELD LLP
ATTORNEYS AT LAW

The Tower at Erieview • 1301 E. Ninth Street • Suite 3500 • Cleveland, Ohio 44114-1821
Tel: 216.781.1212 • Fax: 216.575.0911 • www.walterhav.com