

New Medicare Appeals Process Raises Concerns

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A new process for appealing Medicare coverage denials is raising concern among some advocates for senior citizens.

"We're concerned about the ability of beneficiaries to get a fair and favorable hearing," said Vicki Gottlich, senior policy attorney at the Center for Medicare Advocacy, a Mansfield, Conn.-based group that helps beneficiaries with the appeals process. "Our organization and other organizations that do this kind of work have a very high success rate [for Medicare appeals] and we're concerned that the rate is going to go down."

That could mean collection snags for physicians, she added. For example, if the physician accepts assignment for Medicare, Medicare denies coverage for a claim, and the denial is unsuccessfully appealed by the patient, "the doctor will then have to go collect from the patient. They don't want to do that."

Under the new process, which is already underway, beneficiaries and providers whose claims are denied will be asked to appeal their claims to an admin-

istrative law judge (ALJ) via teleconference. Previously, these appeals were made in person.

"Older people and people with disabilities will have problems" with teleconferences, especially if their vision or hearing is impaired, Ms. Gottlich said. And if they ask for an in-person hearing instead, beneficiaries will waive their right to a timely decision if that request is granted. The new process also specifies that there will be three "regions" for hearing cases in person, rather than beneficiaries being allowed to have hearings in their home states.

Department of Health and Human Services spokesman Bill Hall said there are logistical reasons for waiving the right to speedy resolution in the case of an in-person hearing.

"We have to schedule everyone, allow time for them to travel, and set up a facility for the hearing," he said. "That does not mean we'll take a year to do it."

Ms. Gottlich noted that the changes were made in the first place in part because members of Congress were dissatisfied with how long it was taking for beneficiaries to make their way through the appeals process.

"The changes are supposed to protect

beneficiaries," but the system needs better funding to make sure everyone gets their chance to be heard in a timely way, she said. "There are some cases where teleconferencing could work, but for an individual beneficiary who's gone through the whole inhuman system and wants to see a real person, the system doesn't really work."

Another change in the process places administrative law judges under the jurisdiction of HHS, rather than the Social Security Administration. Further, judges are instructed to place more weight on Medicare regulations than they were before. "The [law] says the administrative law judge is supposed to be independent of [the Centers for Medicare and Medicaid Services], but now they are supposed to give deference to their rules," Ms. Gottlich said.

The Medical Group Management Association, which represents medical practice managers, is one group that is very interested in how the appeals process plays out. "We have concerns about how effective arbitration or review will be through a distance," said Jennifer Miller, external relations liaison at MGMA's Washington office. "How effective can someone be to advocate their position over teleconference? When the rubber hits the road and

we start seeing more [cases], we'll have a better feel for it."

"Before now, someone dealing with disability issues would be trying to adjudicate what may be their third case of this type out of 300 cases, so they may not be as familiar with it," she said. "Now there will be a specialized group of magistrates—it's going to be a new breed of ALJ."

Several senators expressed concern about changes to the appeals process. A bill, the Justice for Medicare Beneficiaries Act, sponsored by Sens. Christopher Dodd (D-Conn.), Edward M. Kennedy (D-Mass.), John Kerry (D-Mass.), and Jeff Bingaman (D-N.M.), was introduced earlier this summer and would reverse many of the changes.

For instance, the bill says that judges "shall not be required to give substantial deference to local coverage determination, local medical review policies, or Centers for Medicare and Medicaid Services program guidance."

The measure also calls for appeal hearings to be in person "unless such individual requests that the hearing be conducted using tele- or video conference technologies." The bill was referred to the Senate Finance Committee. ■

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June 2005

