DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850

Center for Medicaid, CHIP, and Survey & Certification

SMD #:11-003
ACA#: 16

April 22, 2011

Re: National Correct Coding Initiative: Appeals

Dear State Medicaid Director:

This letter clarifies earlier guidance the Centers for Medicare & Medicaid Services (CMS) provided in a September 1, 2010, State Medicaid Director letter regarding section 6507 of the Patient Protection and Affordable Care Act of 2010 (P.L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (P.L. 111-152) (together referred to as the Affordable Care Act). Section 6507 of the Affordable Care Act amends section 1903(r) of the Social Security Act, and no later than September 1, 2010, requires CMS to:

(1) Notify States of the Medicare National Correct Coding Initiative (NCCI) methodologies that are "compatible" with claims filed with Medicaid to promote correct coding and control improper coding leading to inappropriate payment of claims under Medicaid;
(2) Notify States of the NCCI methodologies (or any successor initiative to promote correct coding and to control improper coding leading to inappropriate payment) that should be incorporated for claims filed with Medicaid for which no national correct coding methodology has been established for Medicare; and
(3) Inform States as to how they must incorporate these methodologies for claims filed under Medicaid.

The September 1, 2010, State Medicaid Director letter identifies the four components of each of the five NCCI methodologies. The fourth component involves the provider/supplier appeals of denied payments for services based on the edits. A number of States posted inquiries about the compatibility of the appeals component within each of the five NCCI methodologies. While we determined initially that this component was compatible with Medicaid, a number of States communicated to CMS that they have no formal process in place for provider appeals of denied claims in their Medicaid programs because CMS had not previously established Medicaid appeals requirements related to denials of payment to providers. These States indicated that establishing and operating a formal process specifically for NCCI denials that would parallel Medicare's process would be a financial and operational hardship for them, particularly at this time.

After consideration of these comments, we have concluded that the appeals component of the five NCCI methodologies is not compatible with Medicaid at this time, and therefore States are not obligated to implement this component.

Nonetheless, we do encourage States to review their appeals procedures, and to ensure that providers have an adequate opportunity to alert States to potential errors associated with claims denials, including those generated by NCCI edits, and that providers have an avenue to resubmit claims or provide additional documentation to support their claims. The Medicare appeals process for NCCI may be instructive in this regard, and so we will continue to make information on that process available to States as they implement this requirement.

Furthermore, as stated in the September 1, 2010, State Medicaid Director letter, States may deactivate some or all NCCI edits due to a conflict with State laws, regulations, administrative rules, payment policies, and/or the State's level of operational readiness.[1] In order for States to seek deactivation of an edit, States must have a mechanism within the existing, or otherwise implemented, process to distinguish NCCI edits from other claim denial edits even if States do not use the Medicare appeals process for NCCI as a model.

We intend to continue conversations with States and providers about claims submissions, adjudications, and appeals to determine how best to simplify and streamline business practices and promote claims accuracy.

Please contact Rick Friedman, Director, Division of State Systems, of my staff, at 410-786-4451, or by email at Richard.friedman@cms.hhs.gov if you have any questions. We look forward to continuing our work together as we implement this important provision of the Affordable Care Act.

Sincerely,

/s/

Cindy Mann
Director

cc:

CMS Regional Administrators

[1] As of April 1, 2011, lack of operational readiness will no longer be a permissible basis for deactivation of the edits. Instead, the only basis for deactivation will be a conflict with State laws, regulations, administrative rules and/or payment policies.

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