



MEDICAL ASSISTANCE BULLETIN

COMMONWEALTH OF PENNSYLVANIA • DEPARTMENT OF PUBLIC WELFARE

ISSUE DATE
January 14, 2008

EFFECTIVE DATE
January 14, 2008

NUMBER
01-07-11

SUBJECT
Preventable Serious Adverse Events

Michael Nardone
Michael Nardone, Deputy Secretary
Office of Medical Assistance Programs

IMPORTANT REMINDER: Have you obtained and registered your **National Provider Identifier (NPI) number**? Don't delay! Register with Medical Assistance to ensure smooth claims processing during the implementation of NPI. Learn more about it at <http://www.dpw.state.pa.us/Business/NPIinfo/>.

PURPOSE:

The purposes of this bulletin are to inform Medical Assistance (MA) Program enrolled acute care general hospitals (hospitals) of the MA Program's payment policy for serious adverse events that were determined to have been preventable; and to ensure that acute care general hospitals are aware of MA Program regulations at Title 55 Pa.Code, Chapters 1101 General Provisions, 1150 MA Program Payment Policies and 1163 Inpatient Hospital Services, Subchapter A, Hospitals Under The Prospective Payment System regarding services that are harmful to an MA recipient, are of inferior quality or medically unnecessary as may be the case with a preventable serious adverse event.

SCOPE:

This bulletin applies to all acute care general hospitals enrolled in the MA Program and providing services to MA recipients in the fee-for-service delivery system. Acute care general hospitals enrolled in the MA Program and providing services to MA recipients in the managed care delivery system should direct questions regarding payment for preventable serious adverse events to the respective managed care organization (MCO).

BACKGROUND/DISCUSSION:

The MA Program is committed to ensuring that quality health care is provided to eligible MA recipients, whether through pay for performance programs for primary care providers, incentive payments to hospitals, or MCO incentive arrangements.

While these initiatives should promote implementation of evidence-based care and result in positive patient care outcomes, the MA Program finds it necessary to address serious adverse

COMMENTS AND QUESTIONS REGARDING THIS BULLETIN SHOULD BE DIRECTED TO:

The appropriate toll-free number for your provider type.

Visit the Office of Medical Assistance Programs website at www.dpw.state.pa.us/omap

events that should have been reasonably prevented from occurring in MA Program enrolled hospitals. The work of the National Quality Forum (NQF) to identify “serious reportable events” provides a starting point for health care organizations to establish measures and actions to be taken to actively improve the safety of patient care.

In relation to preventable serious adverse events and the MA Program’s review of those preventable serious adverse events and application of the MA Program payment policy, hospitals need to be aware of relevant MA regulations set forth at 55 Pa.Code, including but not limited to:

- §1101.71 relating to utilization control which sets forth the MA Program’s responsibility to establish procedures for reviewing the utilization of, and payment for, MA services in accordance with section 1902(a)(30) of the Social Security Act (42 U.S.C.A. § 1396a(a)(30)) as well as the provider’s responsibility to cooperate with such reviews;
- §1101.77 relating to enforcement actions by the Department of Public Welfare (Department) which sets forth that the Department may terminate a provider’s agreement for various violations of MA regulations, including the provision of MA services which the Department’s medical professionals have determined to be harmful to the recipient, of inferior quality, or medically unnecessary;
- §1101.83 relating to restitution and repayment which sets forth the Department’s right to restitution for services;
- §1150.51 relating to general payment policy which sets forth that the Department will pay for covered services that comply with applicable regulations;
- §1163.56(e) and (h) relating to outliers which set forth that the Department will certify the medical necessity of all days of care and services provided;
- §§1163.71 through 1163.80 relating to utilization review, which set forth that hospital inpatient services provided to MA recipients are subject to utilization review procedures; and
- §1163.91 relating to provider misutilization which sets forth that providers determined to have billed for services inconsistent with and to have provided services outside of the scope of customary standards of medical practice, or to have otherwise violated the standards set forth in the provider agreement are subject to sanctions.

For purposes of this policy, the terms used mean the following:

Preventable – Describes an event that could have been anticipated and prepared for, but that occurs because of an error or other system failure.

Serious – Describes an event that results in death or loss of a body part, disability or loss of bodily function lasting more than seven days or still present at the time of discharge from an inpatient health care facility or when referring to other than an adverse event, an event the occurrence of which is not trivial.

Adverse - a negative consequence of care that results in unintended injury or illness, which may or may not have been preventable.

Event – Means a discrete, auditable, and clearly defined occurrence.

The following guidelines will be used to determine when payment or partial payment to general acute care hospitals will be denied by the MA Program.

- **The event must be preventable.**
The definition of preventable is described above.
- **The event must be within control of the hospital.**
The hospital has policies and procedures in place to assure appropriate patient treatment and safety based on nationally accepted standards of care, e.g., Joint Commission on the Accreditation of Healthcare Organizations, NQF, American Osteopathic Association, Centers for Medicare and Medicaid Services (CMS).
The event represents a break down in the policies or procedures that are within the control of the hospital.
- **The preventable serious adverse event must occur during an inpatient hospital admission.**
- **The event must result in significant harm.**
The events for consideration will be limited to those that yield a serious adverse result.

Payment Policies

The MA Program is responsible for ensuring payment is made to hospitals for the delivery of medically necessary services to MA recipients. As set forth in the MA Program regulations listed above, the MA Program is not responsible for the payment of services that are harmful to an MA recipient, are of inferior quality or medically unnecessary as may be the case with a serious adverse event. The MA Program will deny payment only for the care made necessary by the preventable serious adverse event.

The MA Program will utilize the above guidelines in determining when payment will be denied or recovered as follows:

- (a) the preventable serious adverse event is the reason for the payment; or
- (b) the preventable serious adverse event for the case in question results in a higher level payment or if the hospitalization results in eligibility for outlier payment as set forth in 55 Pa.Code §1163.56 relating to outliers.

Hospitals are advised that the MA Program policy set forth in 55 Pa.Code §1163.57 relating to readmissions, which includes premature discharges, will not change. Additionally, the MA Program will review other cases where quality of care concerns are not on the NQF list as set forth in 55 Pa.Code §§1163.71 through 1163.80 relating to utilization review and 55 Pa.Code §1163.91 relating to provider misutilization.

The MA Program will utilize a variety of techniques to determine what cases will be subject to physician review, including identification of cases through concurrent review; outlier and quality review; and claims payment review.

PROCEDURES:

Case Review

During the course of hospital utilization review, MA Program utilization review staff may identify cases where a preventable serious adverse event occurred and for which the MA recipient requires additional medical or health services. The MA Program may request the patient's medical records to review the care provided.

Outlier and Quality Reviews

Preventable serious adverse events may be identified by the MA Program during its retrospective review of medical records, i.e., medical records submitted for outlier payment or as a result of other retrospective quality reviews.

Claims Review

The MA Program will require hospitals to follow the CMS' instructions regarding identification of the Present on Admission (POA) indicator for all diagnosis codes, as applicable, on submitted claims effective on and after January 14, 2008. Regardless of the manner in which hospital claims are submitted, the POA indicator is to be assigned with each diagnosis code as applicable.

On a monthly basis, the MA Program will generate a report identifying claims submitted with an ICD-9 diagnosis code or external cause of injury (E) codes that might indicate the occurrence of a preventable serious adverse event.

For cases identified through claims review, the MA Program will request the hospital to submit the MA recipient's entire inpatient medical record to the MA Program for medical/quality review and payment determination, as set forth in 55 Pa.Code §1101.51.

In order to make a payment determination concerning the preventable serious adverse event, the MA Program is requiring that the record(s) be submitted within 30 days of the MA Program's request. In the event a hospital fails to submit a medical record to the MA Program,

the MA Program may seek to impose administrative sanctions, including but not limited to payment denial or restitution in relation to the hospital stay.

The MA Program expects to conduct its medical review and make a determination within 30 days of receipt of the entire medical record related to the preventable serious adverse event. Therefore, the MA Program expects such reviews to be completed approximately 90 days from the date the initial claim is processed, provided that the requested medical record is submitted as required within 30 days of the MA Program's request. In the event of an adverse determination, a notice will be forwarded to the hospital outlining the reason for the decision. Based on the outcome of review, the payment, as applicable, may be adjusted accordingly.

Please see the "Manual for Diagnosis Related Group Review of Inpatient Hospital Services" for appeal process details.

In order to ensure that the MA Program provides the appropriate payment:

- When submitting claims for payment, which includes treatment as a result of a preventable serious adverse event, hospitals are to include the appropriate ICD-9 diagnosis codes, including applicable external cause of injury or E codes on the claim. Examples of ICD-9 and "E" diagnosis codes can be found on Attachment B. Attachment B is not to be considered an "all-inclusive" list of codes.
- If a condition described on Attachment B leads to a hospitalization, the hospital should include the "Present on Admission" (POA) indicator on the claim submitted for payment.
- If during the acute care hospitalization, a preventable serious adverse event causes the death of an MA recipient, the claim should reflect the Patient Status Code 20 "Expired".
- The claim will be identified for retrospective review if one of the identified codes in Appendix B is not present at the time of admission but appears on the claim at discharge, indicating that the event may have occurred during patient's hospitalization.
- The MA Program will request the MA recipient's entire inpatient medical record as appropriate. Upon receipt of the complete medical record, the MA Program's physician reviewer will conduct a medical review in conjunction with the claim submission to ensure that payment is made for services unrelated to the preventable serious adverse event and that the MA payment is adjusted if necessary.
- A "Hospital Admission DRG/CHR Certification Notice of Decision" will be forwarded to the hospital in the case of an adverse determination. The notice provides the reason(s) for the decision, and outlines appeal rights and instructions.

ATTACHMENTS:

- Attachment A: Current National Quality Forum List of Serious Reportable Events
- Attachment B: Preventable Serious Adverse Event Screening Codes (ICD-9 and E Codes)