

DSH MEDICAID ELIGIBLE DAYS DOCUMENTATION

EXECUTIVE SUMMARY

On Friday, May 23, 2014, the Provider Reimbursement Review Board ("PRRB") released an alert directed at hospitals with pending appeals on the issue of allowable "Medicaid Eligible" days in the calculation of hospitals' disproportionate share ("DSH") payments. Hospitals with Medicaid eligible day appeals have 60 days to provide additional information to the PRRB. Further, hospitals should make sure they are including all Medicaid eligible days in their filed cost reports.

DISCUSSION

On May 23, 2014, the PRRB released an alert for hospitals with pending appeals challenging a failure by the Medicare Administrative Contractor/Centers for Medicare & Medicaid Services ("MAC/CMS") to include all Medicaid eligible days when calculating DSH payments. The alert is based upon a PRRB decision (*Danbury v. BCBSA*) issued in February involving a Connecticut hospital ("Hospital"). The Hospital challenged the failure of the MAC/CMS to include all Medicaid eligible days when calculating its DSH eligibility and payment. The MAC challenged whether the Hospital had jurisdiction to appeal, since the MAC had not adjusted the Hospital's eligible days as originally submitted in the Hospital's cost report. The Hospital claimed it was not able to submit all Medicaid eligible days in its cost report because complete data from the state for all Medicaid eligible days was not available when it filed its cost report.

In a lengthy decision, the PRRB determined that the Hospital did not have jurisdiction due to the Hospital's failure to adequately respond to its requests for additional documentation reflected in the bullet points below.

In its May 23, 2014 alert, the PRRB gave hospitals with pending appeals for the same issue 60 days to file jurisdictional documentation similar to what the PRRB requested from the Danbury hospital. Specifically, the PRRB alert requires hospitals with pending appeals on this issue to provide to the PRRB within 60 days:

- A detailed description of the methods by which the provider identified the actual Medicaid paid and unpaid eligible days that were reported and filed on the Medicare cost report at issue.
- The number of additional Medicaid paid and unpaid eligible days the provider is asserting should be included in the DSH calculation.
- A detailed explanation as to why these additional Medicaid paid and unpaid eligible days could not be verified by the state when the cost report was filed. The requirement for detail is so extensive that if there is more than one explanation, the Hospital must identify how many of these days are associated with each explanation.

After 60 days, the PRRB shall begin the process of rendering jurisdictional decisions and may do so without the benefit of this additional documentation if it is not timely submitted.

PRACTICAL TAKEAWAYS/WHAT ALL HOSPITALS NEED TO DO

As you file your cost reports, you should attempt to include your complete count of Medicaid eligible days. If you do not already have a process in place to identify and include in your submitted cost report **all** potential Medicaid "eligible" days, such as retroactive eligible days, out of state days, etc., you should take steps to address this or risk the ability to include such days at audit or on appeal if they could have been identified at filing. If you learn there are additional Medicaid eligible days prior to audit, we recommend that you attempt to include them via an amended cost report.

This PRRB alert underscores the importance of addressing all allowable costs, or in this instance all allowable days, in your submitted cost report and/or including all possible appeal issues as protested items. Cost report appeals that do not stem from an adjustment or protested item will likely face significant jurisdictional battles. If your hospital has filed individual appeals involving Medicaid eligible days, you should consult with your counsel/representative regarding the information requested by the PRRB.

If you have questions related to this alert, please contact:

- Keith D. Barber at 317-977-1428 or kbarber@hallrender.com;

- Elizabeth A. Elias at 977-1468 or eelias@hallrender.com;
- Maureen O'Brien Griffin at 317-977-1429 or mgriffin@hallrender.com; or
- Your regular Hall Render attorney.

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