

March 5, 2014

Marilyn Tavenner
Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Re: Concerns regarding 90-day grace period in ACA-subsidized exchange health insurance

Dear Administrator Tavenner:

The undersigned medical organizations respectfully request that the Centers for Medicare & Medicaid Services (CMS) **revisit its policy that allows health insurers who offer qualified health plans on the exchanges (issuers) to pend and deny claims for months two and three of the 90-day grace period.** We further urge CMS to strengthen the requirements for how and when issuers notify physicians and other providers that a patient who has purchased subsidized Affordable Care Act (ACA) exchange health insurance coverage has entered the 90-day grace period for non-payment of premiums. **Specifically, we recommend that CMS require issuers to provide grace period information as soon as a patient enters the first month of the grace period.**

Now that the exchanges have become operational and millions of individuals have purchased exchange coverage with advance premium tax credits, we expect physicians to begin to provide care for many patients who have never previously purchased their own health insurance. It is essential for physician practices to have accurate, up-to-date information in order to work with patients and plan accordingly for potential financial liabilities associated with non-coverage.

We recognize that the ACA regulations require issuers to pay physicians for care provided in the first month of the grace period. But by allowing issuers to “pend” claims during months two and three of the grace period, rather than being responsible for claims incurred during the entire three-month grace period as CMS had originally proposed, CMS has unfairly shifted the burden and risk of potential loss for patient non-payment of premiums to physicians. This financial burden will be untenable for many physicians.

The regulations implementing the grace period require issuers to “notify providers of the possibility for denied claims when an enrollee is in the second and third months of the grace period” (45 C.F.R. §156.270(d)). However, the timing and manner of such notice is left to the discretion of the issuers. We believe these current notice requirements are inadequate and will lead to administrative confusion for physicians and practices. Current CMS guidance to issuers in federally-facilitated exchanges states “CMS’ expectation is that issuers will provide this notice

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within the first month of the grace period and throughout months two and three. Issuers can opt to provide this notice by several means, however, issuers are encouraged to provide this notice whenever responding to an eligibility verification request from a health or dental care provider” (emphasis added) (Federally Facilitated Marketplace Enrollment Operational Policy and Guidance, October 3, 2013, CMS). While we appreciate this guidance, it is not binding on issuers and does not go nearly far enough to protect providers and patients from unforeseen financial harm. Therefore, we urge CMS to **require** issuers, through supplemental rulemaking or clear and specific guidance, to meet the notification specifications outlined in the October 3 Guidance document.

In particular, we urge CMS to require issuers to notify providers of a patient’s grace period status as part of the insurance eligibility verification process. As of January 1, 2013, the operating rules for HIPAA electronic eligibility verification transactions (X12N 270/271) require insurers to provide more robust eligibility information, including patient financial responsibility within 20 seconds (or overnight for batch requests). The goal of this requirement is to create uniformity with the electronic standard in order to provide clear, accurate, timely, and actionable information to providers. It is essential for practices to have this grace period eligibility information in a similar manner.

Additionally, if a practice uses another communication method to verify eligibility, such as calling or using an insurer’s online portal, issuers should be required to provide the same grace period information. Failure to provide such information in a timely and accurate manner should result in a binding determination upon the issuer for any services furnished during the last 60 days of the grace period for a patient whose coverage is eventually terminated. We ask CMS to require issuers to assume full financial responsibility if an issuer provides inaccurate eligibility information during the last 60 days of the grace period.

Timely notification that patients have entered the grace period will enable physicians to educate patients about the importance of paying their monthly premiums, as well as help physicians anticipate or mitigate the effect of potential claim denials in months two and three of the grace period and better manage the financial aspect of the patient encounter.

We look forward to working with you to find a reasonable solution that is fair to patients, physicians, and issuers. If you have any questions, please contact Margaret Garikes at margaret.garikes@ama-assn.org (202-789-7409) or Anders Gilberg at agilberg@mgma.org (202-293-3450).

Sincerely,

American Medical Association
Medical Group Management Association
American Academy of Child and Adolescent Psychiatry
American Academy of Dermatology Association
American Academy of Facial Plastic and Reconstructive Surgery
American Academy of Family Physicians

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American Academy of Neurology
American Academy of Ophthalmology
American Academy of Otolaryngology – Head and Neck Surgery
American Association of Neurological Surgeons
American Association of Neuromuscular and Electrodiagnostic Medicine
American Association of Orthopaedic Surgeons
American College of Cardiology
American College of Emergency Physicians
American College of Physicians
American College of Radiology
American Congress of Obstetricians and Gynecologists
American Osteopathic Academy of Orthopedics
American Osteopathic Association
American Psychiatric Association
American Society for Gastrointestinal Endoscopy
American Society for Reproductive Medicine
American Society of Anesthesiologists
American Society of Cataract and Refractive Surgery/ American Society of Ophthalmic
Administrators
American Society of Clinical Oncology
American Society of Dermatopathology
American Society of Echocardiography
American Society of Interventional Pain Physicians
American Urological Association
College of American Pathologists
Congress of Neurological Surgeons
Heart Rhythm Society
North American Spine Society
Society for Cardiovascular Angiography and Interventions
The Endocrine Society

Medical Association of the State of Alabama
Alaska State Medical Association
Arizona Medical Association
Arkansas Medical Society
California Medical Association
Colorado Medical Society
Connecticut State Medical Society
Medical Society of Delaware
Medical Society of the District of Columbia
Florida Medical Association Inc
Medical Association of Georgia
Hawaii Medical Association
Idaho Medical Association
Illinois State Medical Society

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Indiana State Medical Association
Iowa Medical Society
Kansas Medical Society
Kentucky Medical Association
Louisiana State Medical Society
Maine Medical Association
MedChi, The Maryland State Medical Society
Massachusetts Medical Society
Michigan State Medical Society
Minnesota Medical Association
Mississippi State Medical Association
Missouri State Medical Association
Montana Medical Association
Nebraska Medical Association
Nevada State Medical Association
New Hampshire Medical Society
Medical Society of New Jersey
New Mexico Medical Society
Medical Society of the State of New York
North Carolina Medical Society
North Dakota Medical Association
Ohio State Medical Association
Oklahoma State Medical Association
Oregon Medical Association
Pennsylvania Medical Society
Rhode Island Medical Society
South Carolina Medical Association
South Dakota State Medical Association
Tennessee Medical Association
Texas Medical Association
Utah Medical Association
Vermont Medical Society
Medical Society of Virginia
Washington State Medical Association
West Virginia State Medical Association
Wisconsin Medical Society
Wyoming Medical Society