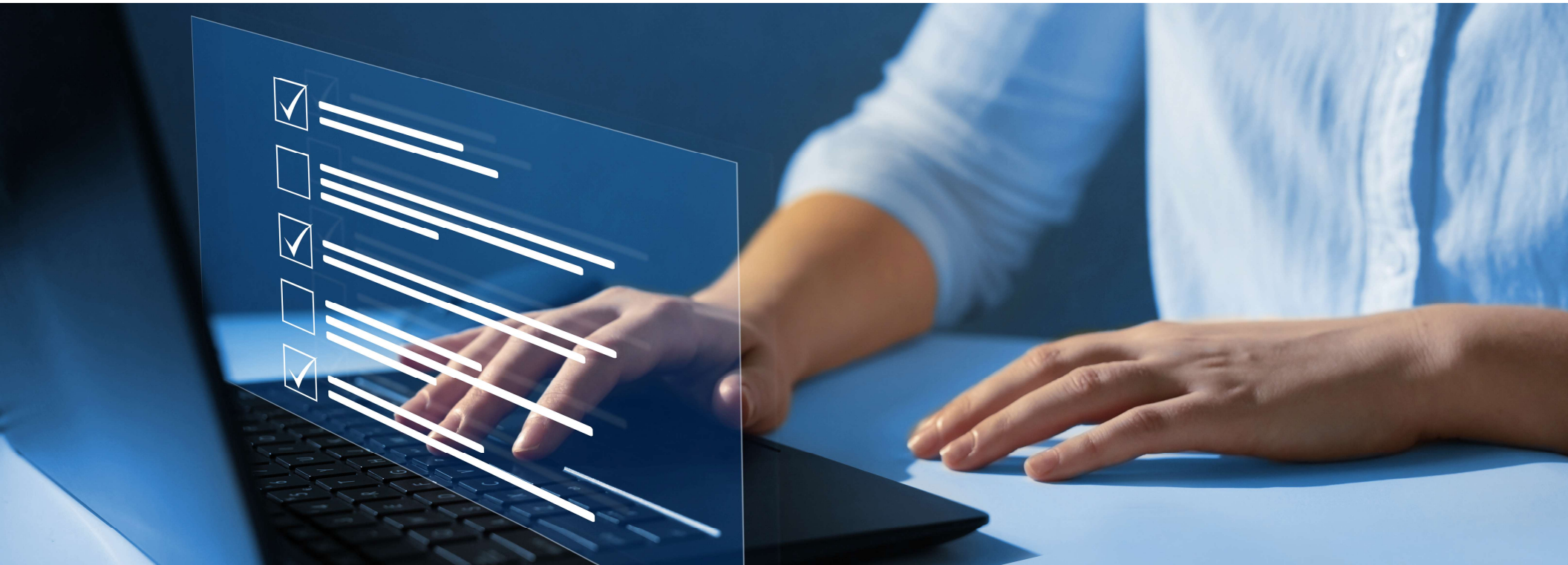




Advanced Beneficiary Notice of Noncoverage (ABN)

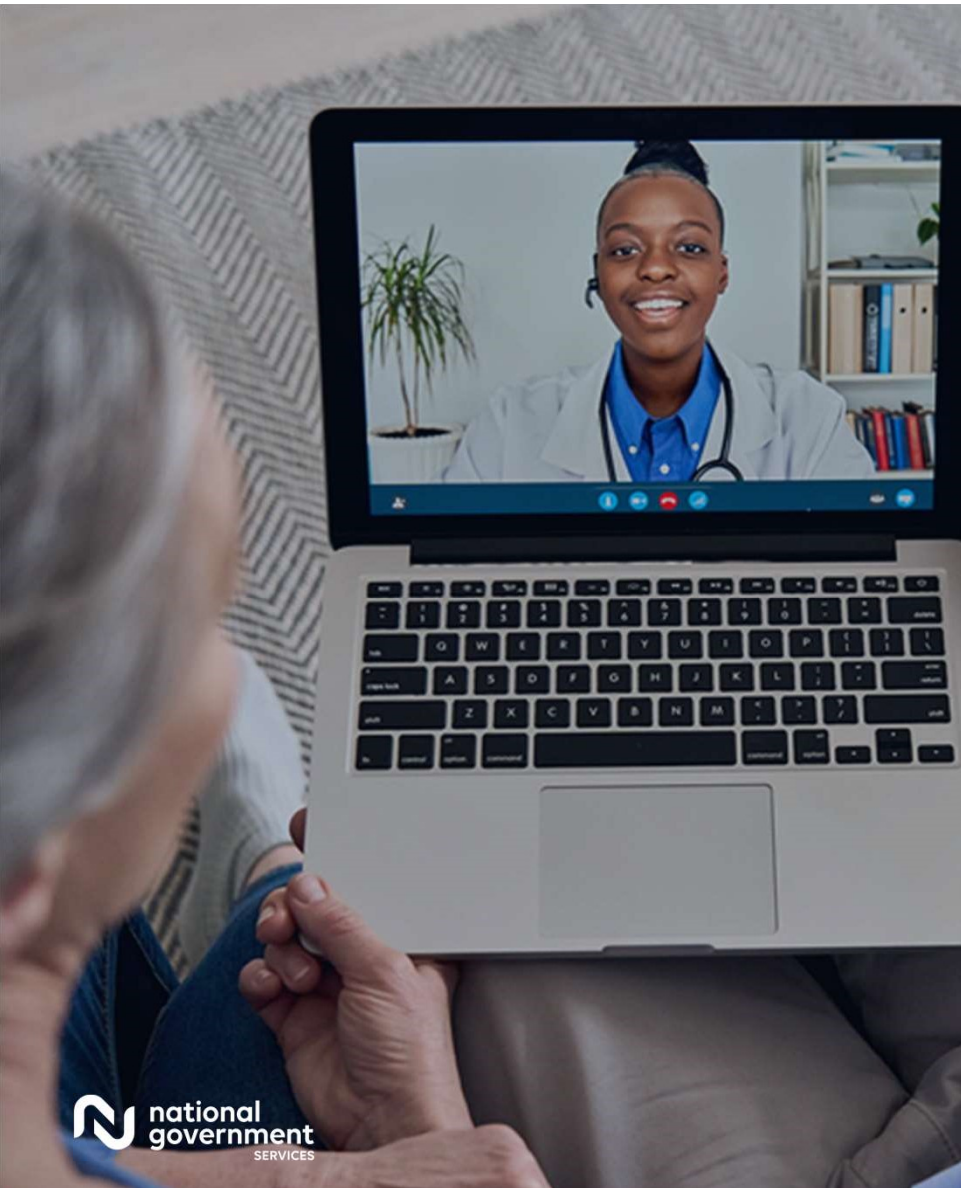
4/19/2023





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Objective

- Provide guidance on when and how to issue a proper ABN (Form CMS-R-131)
- Provide guidance on applicable billing guidelines for ABN
- Provide guidance on using liability modifiers as well as Condition Codes 20 and 21
- Provide resources



Today's Presenter:
Jean Roberts RN, BSN, CPC

Agenda

Virtual Conference Announcement

Payment Liability Conditions 1 – 3

- Voluntary ABN
- Mandatory ABN
- Covered services

Liability Modifiers, Condition Codes
20 & 21, Additional Outpatient
Beneficiary Notices

Resources



Part A Virtual Conferences Are Coming!

- May 10, 2023 (Day 1): 8:30 – 4 PM ET (7:30 – 3 PM CT)
 - The Medicare Appeals Process for Medicare Part A Providers – Turn Today’s Denials Into Tomorrow’s Payments!
 - Ending the COVID-19 Public Health Emergency – Part 1
 - Correctly Coding When Submitting MSP and MSP Conditional Claims
 - Ending the COVID-19 Public Health Emergency – Part 2
 - Counseling to Prevent Tobacco Use
- May 17, 2023 (Day 2): 8:30 – 4 PM ET (7:30 – 3 PM CT)
 - SNFs: Medicare Here, Now and Tomorrow
 - Medicare Federally Qualified Health Centers - Life After COVID-19
 - Acute Care Hospitals - Billing Medicare After the COVID-19 PHE Ends
 - Medicare Rural Health Clinics - Life After COVID-19
 - Counseling to Prevent Tobacco Use

Did You Know

- Not all services provided to Medicare beneficiaries are covered/payable under the Medicare Program
- Examples of noncovered services include, but are not limited to
 - Foot care
 - Custodial care
 - Personal comfort items
 - Cosmetic surgery
 - Dental surgery
 - Services not reasonable and necessary

Medicare Coverage

- Statutory ability to shift liability only applies to items/services usually covered as part of an established Medicare benefit per Title XVIII of the Social Security Act
 - Benefits not addressed in Title XVIII are statutorily excluded from Medicare coverage
 - ✓ Medicare not authorized to cover/reimburse
- Financial liability occurs when items/services are not covered by Medicare due to specific sections of the SSA stated below
 - Section 1862(a)(1): Services that otherwise may be covered but which are not medically reasonable and necessary in the individual case
 - Section 1862(a)(9): Custodial care which Medicare never covers

Medicare Coverage

- Section 1879(g)(1): Home care given to a beneficiary who is neither homebound nor needs intermittent skilled services at home
- Section 1879(g)(2): Hospice care given to someone not terminally ill
- Beneficiary must be informed via written notice prior to receiving such services and notice must specify the reason
 - e.g.: Advanced Beneficiary Notice of Noncoverage

Best Practices

- You should
 - Review planned services as well as potential coverage/ noncoverage for all applicable insurers
 - Determine any potential beneficiary liability and reason for anticipated Medicare noncoverage
 - Discuss planned services with beneficiary including any potential financial liability and cost estimate
 - Issue any involuntary/voluntary notice per liability determination
 - Allow beneficiary to determine whether accepting any financial liability for identified services
 - Beneficiary has right to refuse service/not accept financial liability
 - Render services per beneficiary decision and bill accordingly

Three Payment Liability Conditions

- Only one of the following three payment liability conditions can apply to a given item or service, or to a given line of a claim
- When possible, split claims so that one of these three conditions apply per claim
 - It is understood that splitting claims is not always possible and that multiple conditions and notices may apply to a single claim
 - ✓ E.g.: claims paid under OPPS requires all services provided on the same day to be billed on the same claim with few exceptions

Payment Liability Condition One

Scenario	Payment Condition One
Description	Items and services being billed are statutorily excluded from Original Medicare coverage, meaning item(s)/ service(s) are not defined as a specific Medicare benefit per the SSA ; therefore, such services are never paid
Notification (prior to billing)	Liability notices are voluntary (i.e., voluntary ABN); for statutory exclusions, there are no required Medicare notices
Billing	Items and services may be billed as noncovered on Medicare claims
Liability	Always denied in Medicare claims processing; beneficiaries are liable for these denials unless providers code their claims to transfer liability to themselves

Payment Liability Condition One: Exclusions from Medicare Coverage

- Ensure beneficiary informed service would be billed as noncovered and patient would be financially liable
 - Ensure a clear specific reason for Medicare noncoverage was conveyed to beneficiary and documented
- When beneficiary is informed of noncoverage of service the medical record must include documentation
- ABN not required if patient elects to receive services excluded from Medicare by statute
 - ABN may be used for voluntary notification purposes

Voluntary ABN

- Voluntary use of ABN is allowed (not required) for certain services to serve as courtesy/ forewarning of impending financial obligation
 - Beneficiary not asked to choose option box or sign notice
- Voluntary ABN can be issued for care:
 - Statutorily excluded (SSA Section 1862) from coverage
 - Fails to meet technical benefit requirement (SSA Section 1861)

Voluntary ABN

- Issuance not required for care either
 - Statutorily excluded (SSA Section 1862[a][1] and [9]) from coverage under Medicare (never covered) or
 - Care that fails to meet technical benefit requirement (lacks required certification)
 - ✓ ABN may be issued voluntarily
 - Serves as courtesy to beneficiary in forewarning of impending financial obligation
 - Beneficiary should not be asked to choose an option box or sign notice

Payment Liability Condition Two

Scenario	Payment Condition Two
Description	Items and services being billed are either a reduction or termination of Medicare coverage, or are otherwise expected to be denied, leaving financial liability for a beneficiary or provider
Notification (prior to billing)	Liability notices are required <ul style="list-style-type: none">• i.e.: expedited determination notice, ABN
Billing	Billing of such items and services can vary, and can depend on the ability to segregate into covered and noncovered portions (if both exist)
Liability	For any services that are not paid by Medicare itself, properly notified beneficiaries are usually liable for resulting denials

Payment Liability Condition Two

- Provider determines service typically covered by Medicare not medically reasonable/ necessary for specific beneficiary/situation
 - Examples:
 - ✓ Outpatient therapy exceeding the threshold and provider determines does not qualify for exception
 - Beneficiary received physical therapy and at some point physician/therapist determines therapy is no longer reasonable/ necessary due to no further improvement anticipated; services now considered maintenance but beneficiary requests to continue PT

Payment Liability Condition Two

- Provider must issue ABN
 - When services reduced or terminated and thought to be not covered
 - ✓ Delivery of ABN can permit shift of liability
 - ✓ Provider must issue ABN to beneficiary before services are delivered
 - ✓ Failure to issue ABN when required means provider will not be able to shift liability to beneficiary
 - ✓ Must document in medical records when issue mandatory ABN
 - Example: Provider determines physical therapy no longer medically necessary (met all goals) but beneficiary wants to continue PT

What is an ABN?

- Written notice issued by provider of services to Medicare beneficiary with traditional FFS Medicare in certain circumstances before identified services are provided
 - Explains Medicare payment is expected to be denied
 - Allows patient to make informed decision before services rendered
 - Shifts liability for payment to patient if they choose to still obtain those service
- Specific form must be used: ABN Form CMS-R-131
 - Approved by Office of Management and Budget (OMB)
 - Must use current version
 - ✓ Renewed form :Mandatory on 6/30/23. with expiration date 01/31/2026
- [CMS IOM Pub. 100-04, Medicare Claims Processing Manual, Chapter 30, Section 50](#)

When Should an ABN be Issued?

- Issue ABN prior to rendering service(s) when there is an expectation of Medicare denial
 - Must state the reason provider believes services will not be covered
 - Services not reasonable/medically necessary
 - ✓ Examples: Preventive service exceeding frequency limitation
 - Care considered custodial
 - Therapy services above cap that do not qualify for therapy cap exception
- Beneficiary must comprehend contents
 - Cannot be under duress
 - Cannot be coerced
 - Informed consumer choice

Routine ABN Notice Prohibition

- Routine use not effective
 - Routine – issue ABN when no specific identifiable reason to believe Medicare will not pay
- Provider must have some doubt that Medicare will make payment
- Routinely issued = defective notice

Routine ABN Prohibition – Exceptions

1. Services always denied for medical necessity – NCD provides service never reasonable and necessary
2. Experimental items and services
3. Services where Medicare established statutory or regulatory frequency limitation on coverage or frequency limitation on coverage based on NCD/LCD
4. DME/Medical equipment related

Delivery Requirements

- ABN considered to be effective when
 - Delivered to capable recipient by suitable notifier
 - Issued appropriate, fully completed ABN form
 - Delivered in person (if possible)
 - Provided far enough in advance – patient considers all options
 - Explained in full – patient questions answered
 - Signed by recipient

Liability

- Beneficiary
 - Issued properly written and delivered ABN and agrees to pay knowing he/she may be held liable
- Provider
 - Provider will be liable if knew or should have known that Medicare would not pay and fails to issue ABN when required or issues defective ABN
- Note: Beneficiary relieved of liability if did not receive proper notice when required

Liability Conditions for Bundled Services

- ABN has to apply to all of a bundled service or to none of it
 - Full bundled service must be billed as noncovered or none of it
- Can billing entire bundled service as covered as long as part of bundled service certain to be covered or medically necessary
 - If entire bundle certain to be noncovered, should be billed as noncovered

Obligation to Bill Medicare

- If ABN issued, patient has right to request claim submission to Medicare for official payment decision
- Patient must receive service described in ABN and choose option one in order to request Medicare claim submission

Emergency/Urgent Situation

- Must not issue ABN in medical emergency or when beneficiary is under duress
- ABN issued in ER may be appropriate in some cases
 - Is beneficiary medically stable with no emergent health issues?
- When EMTALA applies, no ABN should be issued
 - May reconsider if beneficiary is capable after completion of medical screening exam and stabilization of any emergency medical condition

Period of Effectiveness: Repetitive or Continuous Noncovered Care

- ABN may remain effective up to one year as long as no other triggering event occurs
 - New triggering event = new ABN must be issued
- Allegations of improper or incomplete notices will be investigated by MAC
 - If ABN is found to be improper or incomplete – patient will not be held liable

Claim for Mandatory ABN

- Report OC 32 with date mandatory ABN issued
 - Services related to ABN are billed with covered charges
 - If multiple ABNs were issued, bill multiple OC 32s
- Report GA modifier when applicable
 - GA modifier (Waiver of Liability Statement on file, as Required by Payer Policy) used when only some services on claim relate to mandatory ABN
 - ✓ Do not report the GA modifier with any other liability-related modifier
- Normal billing regulations apply

Claim for Mandatory ABN

- When billing for mandatory ABN-related services, other covered and noncovered services may be included on the claim
 - Use OC 32 and GA modifier (with covered charges) to identify services related to ABN but do not include any other liability-related modifier(s)
- Medicare systems automatically deny lines submitted with OC 32 and/or modifier GA (charges billed as covered)
- Medicare systems assign beneficiary liability to claims
 - CARC 50 - “These are noncovered services because this is not deemed a medical necessity”

Payment Liability Condition Three

Scenario	Payment Condition Three
Description	Items or service is presumed to be a Medicare benefit and can be paid
Notification (prior to billing)	Liability notices, mandatory or voluntary, are never used in advance of such billing
Billing	Items and services are billed as covered
Liability	If Medicare doesn't pay as expected, the specific reason for rejection or denial will determine liability according to established Medicare policy

Payment Liability Condition Three

- Condition occurs when providers billing for what they believe to be covered services
- No ABN requirements for this condition
- Noncovered charges are not involved
- Denials may result from processing



Liability Modifiers, Condition Codes 20 & 21, Additional Outpatient Beneficiary Notices

GA Modifier

- Used when both covered and non-covered service appear on an ABN-related claim
 - Occurrence code 32 must billed on claim along with GA modifier
 - Only line items billed with GA modifier are considered related to ABN
 - All ABN related charges are billed as covered charges
 - Beneficiary is liable for services billed with GA modifier/occurrence code 32
- Other line items on the same claims may be billed as covered or non-covered charges

GY Modifier

- Denotes an item or service statutorily excluded or does not meet the definition of any Medicare benefit
 - Submit applicable charges as noncovered
 - ABN is not required but may be voluntarily issued
- Claim line denied as beneficiary liable
- Medicare systems allow modifier GY to be reported on same claim as modifier GX

GX Modifier

- Denotes a voluntary notice of liability was issued
 - Submit applicable charges as noncovered
 - ABN is not required but may be voluntarily issued
- Medicare systems allow modifier GX to be reported on same claim as modifier GY
- Claim denied as beneficiary liable

GZ Modifier

- Provider expects denial due to lack of medical necessity
- Denotes that item or service is expected to be denied as not reasonable and medically necessary; however, the provider did not issue required ABN
 - Submit applicable charges as noncovered
- Provider will be liable for services billed with GZ modifier
 - NGS will not perform complex Medical Review and will automatically deny claim line(s) submitted with CARC 50/Group Code CO

FYI

- Applicable to all liability modifiers discussed today as well as those included in [CMS IOM 100-04, Chapter 1](#), Section 60.4.2 table “Definition of Modifiers Related to Non-covered Charges/ABNs for Institutional Billing”
 - Liability modifiers are required when noncovered services cannot be split into entirely non-covered claims
 - Provider liability modifiers cannot be used on entirely noncovered claims where there are some services that are beneficiary liable

Demand Bill: Condition Code 20

- Report CC 20 in situations where issuing ABN not appropriate and beneficiary demands Medicare determination
 - Charges related to CC 20 billed as noncovered
 - ✓ TOB frequency = 0 when all charges billed as noncovered
 - Unrelated covered charges are allowed
 - ✓ TOB as applicable
 - OC 32 and/or CC 21 cannot be billed with CC 20
- [CMS IOM Publication 100-04, Medicare Claims Processing Manual, Chapter 1, Section 60](#)

Insurance Denial: Condition Code 21

- Report CC 21 for Medicare denial to use when billing secondary or other insurances
 - Submit services on a claim with CC 21 showing all charges as noncovered (total charges = noncovered charges)
 - Report CC 21; no modifier; TOB frequency = 0
 - No services are in dispute by beneficiary
 - Billing for denial
- [CMS IOM Publication100-04, Medicare Claims Processing Manual, Chapter 1](#), Section 60
- NGS: [Billing Medicare for a Denial - Condition Code 21](#)
 - NGS Medicare.com > Part A > Education > Medicare Topics > Billing

Outpatient Beneficiary Notices

- [Beneficiary Notices Initiative \(BNI\)](#)

- ABN (Form CMS-R-131)
 - ✓ To deliver a valid ABN, a provider must use the most recent version of the CMS-R-131
 - ✓ [Additional information on ABN](#)
- [SNF ABN \(Form CMS-10055\)](#)
 - ✓ Used to transfer financial liability to beneficiary before providing Part A item/ service that is usually covered, but may not be covered due to being medically unnecessary or custodial care

Outpatient Beneficiary Notices

■ FFS and MA MOON

- Hospitals and CAHs are required to provide a MOON to Medicare beneficiaries informing them that they are outpatients receiving observation services and are not inpatients of a hospital or critical access hospital (CAH)
 - ✓ [CMS IOM Pub. 100-04, Medicare Claims Processing Manual, Chapter 30 Financial Liability Protections](#), Section 400 “Part A Medicare Outpatient Observation Notice”

■ SNF ABN (Form CMS-10055)

- Used to transfer financial liability to beneficiary before providing a Part A item/ service that is usually covered, but may not be covered due to being medically unnecessary or custodial care

Resources

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Resources

- [Beneficiary Notices Initiative \(BNI\)](#)
- [FFS ABN Form and Instructions](#)
- CMS Internet-Only Manuals
 - [Publication 100-04, Medicare Claims Processing Manual, Chapter 30 - Financial Liability Protections](#)
 - [Publication 100-04, Medicare Claims Processing Manual, Chapter 1, Section 60 - Provider Billing of Non-covered Charges on Institutional Claims](#)
 - [CMS IOM 100-02, Medicare Benefit Policy Manual, Chapter 16 - General Exclusions From Coverage](#)

Resources

- CMS MLN Booklet® [Medicare Advance Written Notices of Noncoverage \(MLN006266\)](#)
- MLN Booklet® [Items and Services Not Covered Under Medicare \(MLN906765\)](#)
- CMS MLN Educational Tool [Advance Beneficiary Notice of Noncoverage Interactive Tool](#)
- MLN Matters® Articles
 - [MM12242: “Section 50 in Chapter 30 of Publication \(Pub.\) 100-04 Manual Updates”](#), effective 10/14/2021
 - [MM10848: “Medicare Claims Processing Manual, Chapter 30 Revisions”](#), effective 4/15/2019

NGS Resources

- NGS article: [Capable Recipients for the Advance Beneficiary Notice of Noncoverage](#)
 - NGS Medicare.com > Part A > Education > Medicare Topics > Documentation
- NGS: [Billing Medicare for a Denial - Condition Code 21](#)
 - NGS Medicare.com > Part A > Education > Medicare Topics > Billing

Questions?

Thank you! A follow-up email will be sent to attendees with the Medicare University Course Code.



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