

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](mailto:margaret.garikes@ama-assn.org) (202-789-7409) or Anders Gilberg at [agilberg@mgma.org](mailto: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