NYAHSA | New York Association of Homes & Services for the Aging

150 State Street, Suite 301 Albany, New York 12207-1698 Telephone (518) 449-2707 Fax (518) 455-8908 Web www.nyahsa.org

M E M O R A N D U M

TO: RHCF and Community Services Members

FROM: Patrick Cucinelli, Senior Financial Policy Analyst

DATE: February 6, 2009

SUBJECT: **New Medicare ABN**

ROUTE TO: Administrator, CFO

ABSTRACT: March 1, 2009 deadline for Medicare Part B advance beneficiary notices.

Introduction

In March of 2008, the Centers for Medicare and Medicaid Services (CMS) revised the advance beneficiary notices (ABNs) for Medicare Part B fee-for-service (FFS) determinations by combining the general ABN-G (form # CMS R-131-G) and the laboratory ABN-L (form # CMS R-131-L) into a single form number CMS R-131. Effective March 1, 2009, CMS is discontinuing the use of the ABN-G and the ABN-L, and requiring that only the new combined CMS R-131 be used.

Please note that the revised CMS-R-131 may also be used to provide voluntary notification of financial liability. Therefore, this version of the ABN should eliminate any widespread need for the Notice of Exclusion from Medicare Benefits (NEMB) in relevant voluntary notification situations.

CMS Guidance

The revised ABN is the new CMS-approved written notice that physicians, providers, practitioners, suppliers, and laboratories issue to beneficiaries enrolled in the Medicare FFS program for items and services that they provide under Medicare Part A (hospice and religious non-medical health care institutions only) and Part B. It may not be used for items or services

provided under the Medicare Advantage (MA) Program, or for prescription drugs provided under the Medicare Prescription Drug Program (Part D).

Providers should refer to MLN Matters article # MM6136 for official CMS instructions on the new form. Also, Medicare manual Publication 100-04 Chapter 30 has been extensively revised to reflect changes in the form and usage of CMS R-131.

The recent implementation of the new home health agency (HHA) ABN (CMS-R 296) eliminates the need for HHAs to issue the CMS R-131 and the HHA NEMB. Therefore, HHAs will continue to use the CMS R-296 for both Part A and Part B claims. If a HHA, however, has a subsidiary supplier who continues to use either the ABN-G or the ABN-L, that subsidiary will have to switch to the new form.

CMS is currently in the process of revising the skilled nursing facility (SNF) ABN to mirror the recent changes in the HHA ABN. Once the revised SNF ABN is implemented, nursing homes will use the new SNF ABN for all items and services billed to both Part A and Part B. In the meantime, however, nursing homes will continue to use the current SNF ABN (CMS-10055) for Part A covered services and will need to temporarily implement the revised CMS R-131 for Part B services.

For SNF member convenience, please note the following excerpt reproduced from the Medicare manual referenced above:

> ***70.2.2.3 - Services Not Under SNF PPS***
> ***(Rev. 1, 10-01-03)***
>
> *SNFABNs are for use with Part A covered extended care services provided in the SNF setting. If Medicare is expected to deny payment for Part B covered medical and other health services which the SNF furnishes, either directly or under arrangements with others, to an inpatient of the SNF, where payment for these services cannot be made under Part A (e.g., the beneficiary has exhausted his/her allowed days of inpatient SNF coverage under Part A in his/her current spell of illness or was determined to be receiving a noncovered level of care), a SNFABN should not be given. For Part B services, a CMS R-131 ABN may be used, if appropriate.*

Providers should also refer to the CMS Beneficiary Notices Initiative Web page (http://www.cms.hhs.gov/BNI) for more information and CMS-approved versions of the required forms.

Please contact me with any questions at pcucinelli@nyahsa.org or call 518-449-2707 ext. 145.