

EMS LAW BULLETIN

MAKING SENSE OF MEDICAL NECESSITY

[NOTE: This article was originally published as a Newsletter Bulletin by Page, Wolfberg & Wirth, LLC in November 2000. Because of its continued relevance and importance to the EMS industry, it has been updated and slightly revised to be consistent with current requirements and language.]

The rules regarding medical necessity for ambulance transportation of Medicare patients have become confusing because of the numerous regulations, bulletins, interpretations and Program Memoranda issued on the subject by the Centers for Medicare and Medicaid Services (“CMS”, formerly called the Health Care Financing Administration (“HCFA”)). This EMS Law Bulletin from PAGE, WOLFBERG & WIRTH, LLC, a national EMS, ambulance and medical transportation industry law firm, pulls together all the major rules on medical necessity for ambulance transportation in one convenient publication. Keep in mind that coverage rules on origins, destinations, equipment and personnel also affect Medicare payment, but medical necessity is a key issue and the sole subject of this publication. The simple, basic requirement of Medical Necessity is that ambulance transportation is required because all other types of transport (cab, bus, wheelchair van) is contraindicated.

EMERGENCIES

Let’s start with the easiest case. **Emergency ambulance transportation does not require a Physician’s Certification Statement (“PCS”)** (formerly called a Certification of Medical Necessity (CMN) or Physician’s Medical Necessity Certification (“PMNC”)). An emergency is defined as “the sudden onset of a medical condition manifesting itself by acute symptoms of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in placing the beneficiary’s health in serious jeopardy; serious impairment to bodily functions; or serious dysfunction of any bodily organ or part.” An emergency response is defined by Medicare as “a BLS or ALS1 level of service that has been provided in immediate response to a 911 call or the equivalent. An immediate response is one in which the ambulance provider/supplier begins as quickly as possible to take the steps necessary to respond to the call.” CMS has also agreed that an ambulance which responds in good faith to a call dispatched as an emergency, such as a 911 call, and the Medicare carrier subsequently downgrades the call to a non-emergency, would not require the ambulance provider to obtain a PCS for payment.

NONEMERGENCIES

Medical Necessity Rules. One criterion that Medicare will look to with a non-emergency transport is whether the patient is “bed confined” at the time of transport, but this is not the sole criterion in which to rely upon to determine whether ambulance transport is medically necessary. “Bed confined” means that the patient must be unable to get up from bed without assistance and be unable to ambulate and be unable to sit in a chair or wheelchair. However, conditions other than “bed confinement” might meet medical necessity requirements if the medical condition of the patient at the time of transport contraindicates transportation by other means. It is the responsibility of the ambulance provider to furnish complete and accurate documentation to Medicare to demonstrate that the ambulance services being furnished meet medical necessity criteria.

For example, a patient who requires restraints to prevent harm to himself or others or a patient who requires infectious disease precautions might qualify.

Documentation Rules. If the condition of the patient at the time of transport satisfies medical necessity criteria, you must also have appropriate documentation for the non-emergency claim to be paid. Although the claim form is the primary document submitted to the Medicare carrier, ambulance providers must also maintain on file a copy of the patient care report (“PCR” also known as a “trip sheet” or “run report”) and a PCS form documenting the need for the ambulance transport. Sometimes the Medicare Carrier will request copies of the PCS documentation to justify the claim and may even request information from the nursing facility, hospital or other source to determine if the information submitted by the ambulance provider is accurate.

The PCS Requirement. In order to have your non-emergency transport claims paid, you ordinarily must have a PCS on file. You must obtain a PCS within the required timeframes. The time for obtaining a PCS depends on whether the non-emergency transport is scheduled or unscheduled. “Scheduled” transports are ones in which you have at least 24 hours advance notice of the transport. “Unscheduled” transports are ones in which the ambulance provider has less than 24 hours advance notice.

1. **Scheduled, Repetitive Non-Emergency Transports.** For scheduled non-emergency, repetitive transports, the ambulance service must obtain, prior to rendering services, a signed PCS from the beneficiary's attending physician. The PCS may be dated up to 60 days prior to the date of service (in other words, the PCS for scheduled, non-emergency transports is good for up to 60 days). This enables a single PCS to cover repetitive transports over a 60-day period. However, the 60-day PCS is good only if the scheduled, non-emergency transport is related to the same condition for which the PCS was signed in the first place. For example, if a physician signs a PCS indicating medical necessity for repeat dialysis transports, a new PCS would be required for the patient to be transported for a covered orthopedic problem.

2. **Unscheduled Non-Emergency Transports & Scheduled Non-Repetitive Non-Emergency Transports.** For these types of transports, the general rule embodied in CMS's regulations is that ambulance providers may obtain a PCS signed by the attending physician (who can also be an emergency department physician discharging the patient), within 48 hours of an unscheduled, non-emergency transport and scheduled non-repetitive non-emergency transports. As part of the final ambulance regulations, CMS also outlined some additional requirements concerning how a PCS must be obtained.

[Note that the original article included options for obtaining physician certification statements for services rendered between August 30, 1999 and January 30, 2000. To avoid confusion, and in the interest of removing outdated information, this portion of the original article has been removed.]

The medical necessity documentation rules are more stringent for scheduled repetitive transports than unscheduled transports

FOR SERVICES RENDERED ON OR AFTER JANUARY 31, 2000, YOU HAVE THREE OPTIONS FOR MEETING MEDICAL NECESSITY DOCUMENTATION REQUIREMENTS FOR UNSCHEDULED, NONEMERGENCY TRANSPORTS:

OPTION 1. Anytime before submitting the claim, obtain a PCS signed by the beneficiary's attending physician; OR

OPTION 2. In the event you are *actually unable* to obtain a PCS from the attending physician, you may obtain a PCS signed by a physician assistant (PA), clinical nurse specialist (CNS), nurse practitioner (NP), registered nurse (RN) or discharge planner who is employed by the hospital or facility where the beneficiary is being treated, with knowledge of the beneficiary's condition at the time the transport was ordered or the service was furnished; OR

OPTION 3. In the event you are *actually unable* to obtain a PCS from the attending physician within 21 days following the date of service, you may submit the claim if you have attempted to obtain the PCS from the physician and have documented your attempt with, at minimum, a signed return receipt from the U.S. Postal Service or similar delivery service.

3. **What PCS Form Must Be Used?** There is no mandatory PCS form issued by CMS and any form will suffice under the regulations so long as it demonstrates bed confinement or other indications of medical necessity and is signed by the appropriate health care provider. However, some Medicare Carriers have issued "recommended" forms and it is wise for ambulance providers to check with their Carriers and utilize these forms.

4. **Exceptions to PCS Requirements.** PCS forms are not required for emergencies or for non-emergency transports of patients not residing in a facility or not under the direct care of a physician.

5. **Important Notes About Reducing the Likelihood of Medicare Audits.** Carriers will target for audit those providers who have a disproportionate number of unsuccessful attempts to obtain PCSs signed by attending physicians. Therefore, it is strongly recommended that all ambulance providers obtain a PCS signed by the attending physician prior to transport for scheduled, repetitive non-emergency transports and obtain a PCS signed by the attending physician within 48 hours of an unscheduled, non-emergency transport. In addition, we recommend that providers obtain signatures from PAs, CRNPs, CNSs, RNs or discharge planners only as a last resort, and even in those cases it would be wise to obtain the countersignature of the attending physician as soon as possible. In addition, submitting a significant number of claims indicating that you have been unable to obtain a physician-signed PCS is potentially "audit bait."

EMS providers can reduce their likelihood of a Medicare audit by obtaining a signed physician certification statement prior to all non-emergency transports

5010 E. Trindle Road
Suite 202
Mechanicsburg, PA 17050

Phone: (717) 691-0100
Fax: (717) 691-1226

Page, Wolfberg & Wirth,
LLC is a Pennsylvania
Limited Liability Company.

Visit Our Web Site!
www.pwwemslaw.com
m

Products available for
purchase on our website:

The Ambulance Service
Guide to HIPAA
Compliance Third Edition

Better Billing The
Ambulance Service Model
Compliance Plan

The Ambulance Service
HIPAA Privacy and
Security Training Video

The Ambulance Service
Model Personnel Handbook

EMS Law Lines— Free
Monthly Bulletin
Publication

EMS Law Monthly “Tip of
the Week” — Free

**PAGE, WOLFBERG &
WIRTH, LLC**

**Your patients count on
you when they need
your help —
Count on us when you
need practical legal
advice.**

ABOUT PAGE, WOLFBERG & WIRTH, LLC

Page, Wolfberg & Wirth, LLC (PWW) is the nation’s leading ambulance, EMS and medical transportation industry law firm, representing all sectors of the industry. The firm serves a broad range of clients throughout the United States. These clients include private, public and nonprofit ambulance services, EMS third-party billing companies, EMS consulting firms, industry associations, councils and trade groups, and other ambulance and fire service agencies. The firm’s practice is concentrated solely in the representation of ambulance, EMS, and other public safety agencies. The firm’s practice addresses all of the important legal issues facing ambulance services today. Our main practice areas include compliance, billing and reimbursement (including the representation of ambulance services in Medicare hearings and appeals), contracting, labor and employment (including paid and volunteer workplace issues), corporate law concerns (including nonprofit organization and bylaws issues) and other areas of law. We have designed and implemented comprehensive compliance programs for ambulance services across the United States.

DISCLAIMER

While this Bulletin reflects the latest national medical necessity rules as of November, 2005, readers are urged to consult with their local Medicare carriers for any additional policies which may affect their claims practices. In addition, these rules are subject to change by CMS and it is your responsibility to keep current on the latest rules. Finally, your receipt of this Bulletin does not create an attorney-client relationship with Page, Wolfberg & Wirth, LLC and readers are urged to consult a qualified attorney for advice regarding their own legal matters. This Bulletin is © Copyright, 2005, Page, Wolfberg & Wirth, LLC. You are permitted to copy and share this Bulletin with other EMS, ambulance or medical transportation providers but no portion may be copied for any other publication or document without the express, written consent of Page, Wolfberg & Wirth, LLC.