



May 14, 2014

Lawrence R. Huntoon, MD
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Chapel Park Villa
7008 Erie Road, Suite 6
Derby, NY 14047

Dear Dr. Huntoon:

This is in response to your most recent letter to our office dated April 10, 2014 concerning the implementation of the Centers for Medicare & Medicaid Services' (CMS) National Provider Identifier (NPI) prescriber requirements.

We have consulted with CMS' Central Office's subject matter expert for the NPI prescriber requirements to address your questions since the correspondence sent from the New York Regional office did not clarify this matter for you. Below you will find the answers to the questions you asked related to NPI prescriber requirements.

- 1) Q: Is a physician NPI number needed for pharmacy to fill a valid prescription in the case where a Medicare patient has no Medicare drug coverage and no pharmacy claim is filed?

A: As we mentioned to you previously 45 CFR 162.410 is the federal regulation that delineates when a prescriber must obtain and disclose an individual NPI. Since you have written that you are a self-employed physician, who does not engage in standard transactions with (i.e., bill) health insurance plans and who does not have a member, employee, or contractual relationship with an organization covered health care provider, you are correct that you are not required to obtain a NPI under this federal regulation.

The state government is responsible for regulating pharmacies. We direct you and your patients to the New York State Education Department (NYSED), Office of the Professions (OP) on issues having pharmacies dispense medication you prescribe.

- 2) Can a Medicare patient, who has drug coverage, choose not to use their Medicare drug coverage benefit and pay out of pocket for prescription medications?

A: Yes, Medicare beneficiaries may choose not to use their Medicare drug coverage; however, the Medicare Part D program encourages beneficiaries to use their Part D benefit. See sections 50.4.2 and 50.4.3 of Chapter 14 of the Prescription Drug Benefit Manual.

<http://www.cms.gov/Medicare/Prescription-Drug-Coverage/PrescriptionDrugCovContra/PartDManuals.html>

- 3) Do you agree that in the case where a Medicare patient has no Medicare drug coverage and no pharmacy claim is filed, the pharmacy is wrong to inform the patient that they “cannot fill” the prescription written by an opted out physician who has no NPI number and who meets the exception specified in FR 77 No. 172, 09-05-2012, pp. 54681-54682?

A: We refer you to the NYSED, OP since your question relates to the behaviors of New York pharmacies.

- 4) Do you acknowledge that, according to the exception specified in FR 77, N. 172, 09-05-2012, pp. 5481-54682, that physician who are self-employed, and who do not bill insurance plan, and do not have a member, employee or contractual relationship with an organization covered health care provider, and who only accept cash-paying patients, have no requirement to obtain and disclose an NPI number to pharmacies?

A: Please see our answer to your first question.

- 5) Do you agree that CMS has an obligation to educate pharmacies of the exception to the “NPI rule” as specified in FR 77 No. 172, 9-5-2012, 54681-54682?

A: NYSED, OP is responsible for educating New York pharmacies. Therefore, we refer you to the NYSED, OP.

Please note that when further guidance on this policy is prepared your concerns will be given full consideration. We appreciate your interest in this matter.

Sincerely,



Melissa Towns
Health Insurance Specialist