Face to Face Meeting

5/28/14
<table>
<thead>
<tr>
<th>Topic</th>
<th>Presenter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Overview ACA Language</td>
<td>Asela</td>
</tr>
<tr>
<td>ACA Requirements Today</td>
<td>Kimberlie</td>
</tr>
<tr>
<td>Comparison ACA/MLN/DMEMACs</td>
<td>Kimberlie</td>
</tr>
<tr>
<td>Compliance Vs. Denial</td>
<td>Kimberlie</td>
</tr>
<tr>
<td>Education/Feedback</td>
<td>Laraine</td>
</tr>
<tr>
<td>Examples</td>
<td>Kim</td>
</tr>
<tr>
<td>Medicare/State Requirements</td>
<td>Laraine</td>
</tr>
<tr>
<td>Same Physician</td>
<td>Kim</td>
</tr>
<tr>
<td>Hospital/Physician EHR</td>
<td>Judy</td>
</tr>
<tr>
<td>Closing and Next Steps</td>
<td>Kim</td>
</tr>
</tbody>
</table>
§ 6407 (b) of the ACA requires documentation of a F2F encounter between a beneficiary and physician, NP, PA, or CNS and a written order prior to delivery (WOPD) of Specified Covered Items.

CMS published a final rule implementing the requirements of §6407 (b). The rule establishes that a WOPD must be a five element order.

Failure to follow the requirements of the statute and regulation has created a great deal of uncertainty and confusion.
The proposed rule would have required suppliers to obtain a seven element order similar to a detailed written order prior to delivery. The seven element order would have had to contain a detailed description of the Specified Covered Item and “necessary proper usage instructions” for the item.

According to the Preamble to the final F2F rule, CMS removed the additional elements including detailed necessary and proper usage instructions in order to limit the documentation burden on providers, suppliers and beneficiaries to ensure timely delivery of Specified Covered Items:

“Our goal is to limit provider and supplier burden while still preventing waste fraud and abuse. To that end, in response to comments we have removed the requirement that instructions for necessary and proper usage and the diagnosis be included in the order.”

77 Fed. Reg. 68892 at 69152 (November 15, 2012)
42 CFR § 410. 38 (g) (4) specifies the five elements. The regulation states:

- Written order [prior to delivery] issuance requirements.

  Written orders issued in accordance with paragraphs (g)(1) and (2) of this section must include all of the following:

  - Beneficiary's name
  - Item of DME ordered
  - Signature of the prescribing practitioner
  - Prescribing practitioner NPI
  - The date of the order
Overview of Statutory and Regulatory Language ACA

With the exception of the physician’s signature and NPI, the five element WOPD under 42 CFR § 410(g)(4) match the requirements for a dispensing order under PIM § 5.2.2.

<table>
<thead>
<tr>
<th>42 CFR § 410(g)(4)</th>
<th>PIM § 5.2.2</th>
</tr>
</thead>
<tbody>
<tr>
<td>A written order prior to delivery must contain:</td>
<td>A written dispensing order must contain:</td>
</tr>
<tr>
<td>- Beneficiary’s name</td>
<td>- Beneficiary’s name</td>
</tr>
<tr>
<td>- Item of DME ordered</td>
<td>- Description of the item</td>
</tr>
<tr>
<td>- Signature of the prescribing practitioner</td>
<td>- Physician’s name</td>
</tr>
<tr>
<td>- Prescribing practitioner NPI</td>
<td>- Start date of the order</td>
</tr>
<tr>
<td>- The date of the order</td>
<td></td>
</tr>
</tbody>
</table>
CMS considered but explicitly rejected requiring a seven element detailed written order prior to delivery of Specified Covered Items as is required under PIM §§ 5.2.3 & 5.2.3.1. In response to comments, CMS stated:

We appreciate the commenters’ recommendation. We agree that instructions that limit burden are important. We have removed the proposed requirement for orders to include: “necessary usage instructions” and the diagnosis. Due to the large number of covered DME items and the fact that there could be many diagnoses and usage instructions for each, we agree that these proposed requirements may be overly burdensome. While this information will not be required on the DME order under this regulation, we will still expect to see related diagnoses included in the beneficiary’s medical record.

77 Fed Reg. at 69152
<table>
<thead>
<tr>
<th>Final Rule 42 CFR (g)(4): 5 Element WOPD</th>
<th>Proposed Rule: 7 Element Detailed WOPD</th>
<th>PIM §§ 5.2.3; 5.2.3.1 Detailed WOPD</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Beneficiary’s Name</strong></td>
<td><strong>Beneficiary’s name</strong></td>
<td><strong>Beneficiary’s name</strong></td>
</tr>
<tr>
<td><strong>Item of DME order</strong></td>
<td><strong>Item of DME Ordered</strong></td>
<td><strong>Detailed Description of DME ordered</strong></td>
</tr>
<tr>
<td><strong>Signature of Prescribing Practitioner</strong></td>
<td><strong>Signature of Prescribing Practitioner</strong></td>
<td><strong>Signature of Prescribing Practitioner</strong></td>
</tr>
<tr>
<td><strong>Date of the order</strong></td>
<td><strong>Date of the order</strong></td>
<td><strong>Date of the order</strong></td>
</tr>
<tr>
<td><strong>Prescribing Practitioner’s NPI</strong></td>
<td><strong>Prescribing Practitioner NPI</strong></td>
<td><strong>N/A</strong></td>
</tr>
<tr>
<td><strong>N/A</strong></td>
<td><strong>Necessary proper usage instructions e.g., duration of use, method of administration, utilization, and correct positioning. 77 Fed. Reg. at 45051-45052</strong></td>
<td><strong>Usage instructions: frequency, mode of administration, and duration all supplies and renewal frequency for supplies</strong></td>
</tr>
<tr>
<td><strong>N/A</strong></td>
<td><strong>Diagnosis</strong></td>
<td><strong>N/A</strong></td>
</tr>
<tr>
<td><strong>N/A</strong></td>
<td><strong>N/A</strong></td>
<td><strong>Signature Date</strong></td>
</tr>
</tbody>
</table>
All of the issues we have raised and which we will discuss today stem from the Agency’s or the contractors’ failure to implement the requirements of the ACA or the final rule as they are written:

- To require a WOPD that contains only the five elements specified under 42 CFR 410 (g)(4)
- Adding requirements to the WOPD such as date stamps and a physician signature date that are not required under the regulation
- To follow the language in the ACA which permits different physicians to perform the F2F encounter and sign the WOPD
- To follow the language of the ACA which requires a F2F encounter only prior to delivery of a Specified Covered Item
- To allow suppliers and prescribers to make technical corrections to a WOPD even though this is not prohibited under either the ACA or the final rule

The solution is for CMS to follow its own rule and the clear unambiguous language of the ACA and require its contractors to do so.
Section 6407 of the Affordable Care Act made significant changes to the DMEPOS industry with WOPD and Face-to-Face documentation requirements.

These changes were implemented July 1, 2013; however, enforcement of the regulation was delayed by CMS.

CMS did start enforcing the WOPD requirement on January 1, 2014.

CMS continued to delay enforcement of Face-to-Face requirements until a future date; however, there are items on the list that require a Face-to-Face today.

This resulted in lots of confusion in the industry.
Changes to WOPD and Face-to-Face documentation with different enforcement dates. 
Confusion with required elements of a WOPD.

Final Rule, 42 CFR 410(g)(4) requires:
1. Beneficiary’s Name
2. Item of DME ordered
3. Prescribing Practitioner’s NPI
4. Signature of Prescribing Practitioner
5. Date of the order

Failure to meet any of the above requirements will result in denial of the claim.

MLN Matters Number MM8304, issued 5/31/2013, requires:
1. The beneficiary’s name,
2. The item of DME ordered,
3. The prescribing practitioner’s National Provider Identifier (NPI),
4. The signature of the ordering practitioner, and
5. The date of the order.

DME MACs’ Dear Physician Letter, issued 02/2014, requires:
1. Physician’s Name
2. Date of the order and the start date, if start date is different from the date of the order
3. Detailed description of the item
4. The prescribing practitioner’s National Provider Identifier (NPI),
5. The signature of the ordering practitioner
6. Signature date
Three of the most common errors are:

- Missing the National Provider Identifier (NPI)
- Missing physician’s signature date
  - Why is a separate signature date required when there is a date on the WOPD?
    - These are technical issues. Nothing to do with medical necessity.
- Missing detailed description of item

- Survey of membership indicates 50-90% WOPDs are invalid

How can we correct these issues to avoid delayed discharge or billing patient privately?
Claims that require a “KX” modifier will not deny, so you cannot measure denials in this manner.

To ensure compliance, the contractors should be following the ACA requirements and not requiring additional items to be included on the WOPD and/or Face-to-Face. Compliance requirements are not clear.

Requiring multiple dates on a WOPD is only going to impact the patient with delayed discharge or having to pay privately.
Face-to-Face Evaluation

New DWO and Face-to-Face Requirements – Feb. 2014
Presented by Noridian Provider Outreach and Education

*Orders are submitted electronically. Why would CMS want us to print paper to date stamp the document? The order has already been dated by the physician.
Feedback from DME MACs

- Contractors have made the following statements:
  - They are not concerned about the format, but that the date MUST BE the date of the signature.
  - They indicated a signature date is not required if the prescriber completed the WOPD personally.
  - They indicated a signature date is required if anyone other than the prescriber completed the WOPD.
Examples:

- **Date when Physician signed**: The date when the physician signed the document is not clearly marked.
- **Physician ordered**: The document shows the physician ordered a CPAP at 7 cm with patient preference on Mask with heated Humidification.
- **Electronic signature, but no space for date**: The electronic signature appears without a specific date field.
- **No signature date**: The document lacks a signature date.

American Association for Homecare
Caring that Feels Right at Home
Examples:
Examples:

Tri State Neurological & Sleep
3013 N 99th, 109
Bullhead City, AZ, 85327-4233
Tel: 928-783-5055 Fax: 928-758-1340

Date ordered: 03/03/2014

345611KPS KANSAS PUL SLEEP SPEC
10550 QUIVIRA RD STE 335 OVERLAND PARK, KS, 662152378
Tel: 913-599-3800 Fax: 913-599-3854
Trans id: 2014030316194575207896615

Date ordered: 03/03/2014

Kim

American Association for Homecare
Caring that Feels Right at Home
Medicare vs. State Order Requirements

CMS should not confuse the issue of when a F2F exam is needed based on the various state regulations.

• Was the intent of the ACA to tie the F2F exam to an order required by Medicare?

• **NO.** The ACA statutory language requires a F2F encounter and written order **PRIOR TO DELIVERY** of the Specified covered item. **A F2F encounter is not an ongoing requirement under the ACA.**

• **When a prescription is renewed to meet state law requirements,** the ACA F2F requirement is not triggered. **In this case, there is no delivery of a Specified Covered Item because the beneficiary already has the item in home.**

How can we avoid unnecessary administrative burdens that have nothing to do with the intent of the ACA?
CMS should not further confuse the issue of when a F2F exam is needed based on the various state regulations.

- Problems with requiring a F2F when prescriptions are renewed to meet state requirements:
  - The state rules are vague and unclear.
  - Who is going to interpret the various state laws?
  - Some states generically say that prescriptions are good for a year. Does that mean if a physician orders a hospital bed that a new prescription is needed after a year. Most times no because a prescription is not required by the state for a hospital bed.
  - If regulated by the pharmacy board their concern is prescription drugs not oxygen or DME.

How can we avoid unnecessary administrative burdens that have nothing to do with the intent of the ACA?
The ACA Does Not Require That The Doctor Who Performs The F2F Must Be The Doctor Who Signs WOPD:

The statute clearly requires a physician to sign a WOPD when another physician performed the F2F:

(II) Requirements for a face-to-face encounter

The Secretary shall require that such an order be written pursuant to the physician documenting that a physician, a physician assistant, a nurse practitioner, or a clinical nurse specialist ( . . . ) has had a face-to-face encounter ( . . . ) with the individual involved . . . []

CMS and the contractors must follow the language of the ACA.
Difficulties In Requiring The Same Physician To Perform the F2F And Sign The WOPD

• According to JD A, a TDL has been received and this is no longer an issue.

• Need official notification from CMS
Hospital/Physician Office EHR Systems

- Experience with physician practices and hospitals
- Examples of typical documentation
- Impact to patients
- Why clarification is needed
• Plan for each item and timing

• Review of handouts

MM 8304
Dear Physician Letter
Letter to Melanie
Letters to Janice Hoffman
Letter Hart Medical
PIM Language
Examples of DME MAC education
Examples WOPD/written orders