

## POLICY INFORMATION

**Policy Title:** Notice of Noncoverage Policy and Procedure

**Departmental Owner:** Chief Compliance, Audit, and Privacy Officer

**Version Effective Date:** 2/28/24

**Last Reviewed:** 2/28/24

## SCOPE

This policy applies to the following individuals and/or groups:

All of the below categories

All Employees  CT Employees  NY Employees  Remote Employees  Contractors  Volunteers  Students/Interns  Vendors

This policy applies to all above listed Nuvance Health workforce members including but not limited to the following locations:

All of the below entities

Nuvance Health Systems

Danbury Hospital (including New Milford Hospital Campus)

Northern Dutchess Hospital

Norwalk Hospital

Putnam Hospital

Sharon Hospital

Vassar Brothers Medical Center

Health Quest Systems, Inc. ("HQSI")

Health Quest Home Care, Inc

Hudson Valley Cardiovascular Practice, P.C. (aka The Heart Center) ("HVCP")

Other HQSI-affiliated Entities Not Listed

Western Connecticut Home Care, Inc ("WCHN")

Western Connecticut Health Network Physician Hospital Organization ACO, Inc.

Western Connecticut Home Care, Inc

Other WCHN-affiliated Entities Not Listed

Nuvance Health Medical Practices (NHMP PC, NHMP CT, ENYMS & HVCP)

## POLICY STATEMENT/PURPOSE

To comply with Medicare regulations<sup>1</sup> while billing Medicare patients and provide guidelines for the appropriate use of the:

- Advance Beneficiary Notice ("ABN") (Attachment A), and
- Home Health Change of Care Notice ("HHCCN") (Attachment B).

Collectively, these documents are known as "Notices", and individually as a "Notice".

## DEFINITIONS

**Ancillary Services:** Hospital or healthcare organization services other than room and board and professional services. Examples of ancillary services include diagnostic imaging, pharmacy, laboratory, and outpatient therapy services.

**Local Coverage Determination ("LCD"):** A determination made by a Medicare Administrative Contractor ("MAC") that specifies under what clinical circumstances a service is covered and considered reasonable, necessary, and appropriate.

**National Coverage Determination ("NCD"):** A determination made by a MAC that specifies under what clinical circumstances medical items, services, treatment, procedures, or technologies can be covered and paid for by the Medicare program.

## POLICY

Medicare will only pay for services that it determines to be reasonable and necessary under section 1862(a) (1) of the Social Security Act. As circumstances warrant, Nuvance Health and its affiliates' ("Nuvance") staff will ensure that the appropriate Notice is delivered to inform Medicare beneficiaries or their representatives, before services are provided, of their rights and responsibilities in the event that Medicare will not pay for services provided.<sup>2</sup>

A Notice may be used, but is not required, for services that are statutorily excluded<sup>3</sup> from coverage<sup>4</sup> under Medicare, such as tests associated with routine dental work and physicals, or that fail to meet benefit requirements.

A Notice must not be given to a beneficiary in any case in which the Emergency Medical Treatment and Active Labor Act ("EMTALA") applies until the hospital has met its obligations under EMTALA, which includes completion of a medical screening examination to determine the presence or absence of an emergency medical condition, or until an emergency medical condition has been stabilized.

While routine use of a Notice is generally prohibited, routine delivery of an ABN is appropriate when a service, such as screening mammography or screening PSAs<sup>5</sup>, has a statutory or regulatory frequency limitation on coverage based on National Coverage Determinations ("NCD") or Local Coverage Determinations ("LCD"). In these situations, the ABN must state that the service may only be paid for a limited number of times within a specified time period and that the visit may exceed that limit (i.e., "Medicare does not pay for this item or service more than \_\_\_\_\_").

## PROCEDURE

Except in situations in which EMTALA applies, all Medicare orders should be reviewed for medical necessity at the earliest opportunity prior to providing the service.

If medical necessity is not documented or there is reason to believe that the service will not be covered even if a patient would like the service(s) performed, a Notice must be issued. Delivery of a Notice occurs when the beneficiary or authorized representative has received the Notice, understands its contents, and signs for it. When the beneficiary has limited English proficiency, the Notice must be provided in the language of the beneficiary, or the content thereof delivered via an interpreter. Any insertions in a Notice must be typed, printed, or legibly handwritten.<sup>6</sup>

The beneficiary has three (3) choices when issued a Notice:

- Obtain some or all of the services and agree to be responsible for payment should Medicare deny payment,
- Obtain some or all of the services and request that Medicare not be billed and agree to be responsible for the payment, or
- Refuse to be responsible for payment and not obtain the service(s). The beneficiary must be told that he/she is responsible for notifying the provider who ordered the service(s) that the beneficiary did not receive the service(s).

If the beneficiary refuses to sign the Notice, the staff should annotate the Notice and have the annotation witnessed if possible, indicating the circumstances and persons involved. If the beneficiary demands the service after refusing to sign the Notice, staff should inform the beneficiary that he/she will be responsible for payment for the service, and that without a signed Notice, services will not be provided.

When the Notice is properly executed and given timely to a beneficiary who agrees to pay in the event of denial by Medicare and, in fact, Medicare denies payment on the claim, Nuvance will bill the patient for that service.

The original Notice must be kept by Nuvance and a copy given to the beneficiary.

The ABN must be on the most recently approved Form CMS-R-131.

The HHCCN must be on the most recently approved Form CMS-10280.<sup>7 8 9</sup>

## ENFORCEMENT

All individuals whose responsibilities are affected by this process are expected to be familiar with the basic procedures and responsibilities created by this process. Failure to comply with this process will be subject to appropriate remedial and/or disciplinary action, up to and including termination of any employment or other relationship, in accordance with this process.

## EDUCATION

Management personnel responsible for staff involved in the notification process (Registration, Scheduling, Ordering, Billing, etc.) are expected to provide education on this and other relevant Nuvance or departmental policies and procedures. The National Government Services, in partnership with federal government agencies, issued a five-minute and twenty-six second (5:26) video titled, The Usage of an Advance Beneficiary Notice of Noncoverage, explaining how to properly use an ABN.

## REFERENCES

<sup>1</sup>Medicare Claims Processing Manual (Pub 100-4), Chapter 30, Section 50.2.1 – Applicability to Limitation On Liability (LOL)

<sup>2</sup>Medicare Claims Processing Manual (Pub 100-4), Chapter 1, Section 60 – noncovered charges.

<sup>3</sup>42 CFR §411.404 and §411.408.

<sup>4</sup>Social Security Act Section 1862.

<sup>5</sup>Medicare Program Integrity Manual (Pub 100-8), Chapter 13, Sections 1.1 and 1.3 NCD LCD.


<sup>6</sup>Medicare Claims Processing Manual (Pub 100-4), Chapter 30 – Financial Liability Protections, Sections 40 – 50.7.8.

<sup>7</sup>CMS-R-131 Form Instructions OMB Approval Number: 0938-0566. 4CMS Revised ABN Frequently Asked Questions.

<sup>8</sup>Medicare Claims Processing Manual (Pub 100-4), Chapter 30, Section 50 – Form CMS-R-131, Advance Beneficiary Notice of Noncoverage.

<sup>9</sup>CMS10280 Home Health Change of Care Notice, OMB Approval Number: 0938-1196.

## APPROVAL

DocuSigned by:  
  
 6D04982F5DB24D1...

2/28/2024

**Signature**

**Date**

**A. Notifier:****B. Patient Name:****C. Identification Number:**

## Advance Beneficiary Notice of Non-coverage (ABN)

**NOTE:** If Medicare doesn't pay for D. \_\_\_\_\_ below, you may have to pay.

Medicare does not pay for everything, even some care that you or your health care provider have good reason to think you need. We expect Medicare may not pay for the D. \_\_\_\_\_ below.

D.	E. Reason Medicare May Not Pay:	F. Estimated Cost

### WHAT YOU NEED TO DO NOW:

- Read this notice, so you can make an informed decision about your care.
- Ask us any questions that you may have after you finish reading.
- Choose an option below about whether to receive the D. \_\_\_\_\_ listed above.

**Note:** If you choose Option 1 or 2, we may help you to use any other insurance that you might have, but Medicare cannot require us to do this.

### G. OPTIONS: Check only one box. We cannot choose a box for you.

- OPTION 1.** I want the D. \_\_\_\_\_ listed above. You may ask to be paid now, but I also want Medicare billed for an official decision on payment, which is sent to me on a Medicare Summary Notice (MSN). I understand that if Medicare doesn't pay, I am responsible for payment, but I can appeal to Medicare by following the directions on the MSN. If Medicare does pay, you will refund any payments I made to you, less co-pays or deductibles.
- OPTION 2.** I want the D. \_\_\_\_\_ listed above, but do not bill Medicare. You may ask to be paid now as I am responsible for payment. I cannot appeal if Medicare is not billed.
- OPTION 3.** I don't want the D. \_\_\_\_\_ listed above. I understand with this choice I am **not** responsible for payment, and I cannot appeal to see if Medicare would pay.

### H. Additional Information:

**This notice gives our opinion, not an official Medicare decision.** If you have other questions on this notice or Medicare billing, call **1-800-MEDICARE** (1-800-633-4227/TTY: 1-877-486-2048).

Signing below means that you have received and understand this notice. You may ask to receive a copy.

<b>I. Signature:</b>	<b>J. Date:</b>
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**You have the right to get Medicare information in an accessible format, like large print, Braille, or audio. You also have the right to file a complaint if you feel you've been discriminated against. Visit [Medicare.gov/about-us/accessibility-nondiscrimination-notice](https://www.medicare.gov/about-us/accessibility-nondiscrimination-notice).**

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0566. The time required to complete this information collection is estimated to average 7 minutes per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

**Home Health Agency:****Patient Name:****Address:****Patient Identification:****Phone:****Home Health Change of Care Notice (HHCCN)**

**Your home health care is going to change.** Starting on     [date]    , your home health agency will change the following items and/or services for the reasons listed below.

Items/services:	Reason for change:

**Read the information next to the checked box below.** Your home health agency is giving you this information because:

<input type="checkbox"/>	<p style="text-align: center;"><b>Your physician/provider's orders for your home care have changed.</b></p> <p>The home health agency must follow physician/provider orders to give you care. The home health agency can't give you home care without a physician/provider's order. If you don't agree with this change, discuss it with your home health agency or the physician/provider who orders your home care.</p>
<input type="checkbox"/>	<p style="text-align: center;"><b>Your home health agency has decided to stop giving you the home care listed above.</b></p> <p>You can look for care from a different home health agency if you have a valid order for home care and still think you need home care. If you need help finding a different home health agency to give you this care, contact the physician/provider who ordered your home care. If you get care from a different home health agency, you can ask it to bill Medicare.</p>

**If you have questions about these changes, you can contact your home health agency and/or the physician/provider who orders your home care.**

You cannot appeal to Medicare about payment for the items/services listed above unless you both receive them and a Medicare claim is filed.

**Additional Information:**

**Please sign and date below** to show that you received and understand this notice. Return this signed notice to your home health agency in person or by mailing it to them at the address listed at the top of this notice.

Signature of the Patient or of the Authorized Representative*	Date
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\*If a representative signs for the beneficiary, write "(rep)" or "(representative)" next to the signature. If the representative's signature is not clearly legible, the representative's name must be printed.

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