Requesting an Exception for an Untimely NOE

When the receipt date (REC DT) on your notice of election (NOE) is more than 5 days after the admit date (ADM DT), your NOE is considered untimely, and those days, from admission to the day before the NOE was received, are not payable by Medicare. However, there are some circumstances in which an exception may be granted for the untimely days.

Four Exceptions

Medicare guidelines allow for four exceptions if a hospice NOE is not filed timely. Hospices can provide sufficient information in the **REMARKS** field (FISS Page 04) that clearly indicates all the circumstances and time frames supporting the exception request. Refer to the "Requesting an Exception" information below.

1. Fires, flood, earthquakes, or other unusual events that inflict extensive damage to hospice's ability to operate
2. An event that produces a data filing problem due to CMS or contractor system issues, **beyond the control of the hospice**
3. Newly Medicare-certified hospice that is notified of certification after Medicare certification date, or awaiting user ID from Medicare contractor; or
4. Other circumstances determined by the Medicare contractor (i.e. CGS) or CMS to be **beyond hospice's control**
   - An exception will be granted in situations when supporting documentation shows that the NOTR was submitted with an incorrect discharge date, causing all previously submitted claims and the original NOE to canceled (backed out). Because of the limitation of the claims processing system, this situation is beyond t hospice's control. **Note:** If the original NOE was not timely-filed, the original payment liability will stand.
   - A retroactive Medicare entitlement qualifies as one of the exceptions if a hospice NOE is not filed timely. However, the exception will only be granted with the following supporting documentation.
     - Proof of retroactive Medicare entitlement;
     - Certification of terminal illness that meets the criteria set forth in the Medicare Benefit Policy Manual, Chapter 9 PDF↗ , section 20.1; and
     - Hospice election statement that meets the criteria set forth in the Medicare Benefit Policy Manual, Chapter 9 PDF↗ , section 20.2.1.
   - SE1633 indicates that inadvertent errors that cannot be immediately corrected due to the CMS system constraints qualify for an exception in the following circumstances. **These guidelines are effective with claims received with exception requests (KX modifier) on or after November 16, 2016**.
     - When an NOE is returned for correction (RTP), the NOE may be resubmitted within 2 business days.
     - When the NOE is posted to the Common Working File (CWF), and must be cancelled and resubmitted, 2 business days will be allowed to cancel the NOE and 2 business days will be allowed to submit a new NOE after the date the cancelled NOE finalizes.

Acceptable Exception Examples

- A hospice required to remove a timely filed NOE to allow a prior hospice to bill.
- A timely filed NOE that was returned (RTPd) due to an open prior hospice benefit period.

Refer to the Examples of Denied/Granted Exception Requests Web page for detailed examples.

Unacceptable Exception Examples

- Hospice personnel issues
- Internal IT system issues
- Lack of knowledge of requirements

Refer to the Examples of Denied/Granted Exception Requests Web page for detailed examples.

Note: All exception requests are considered on a case-by-case basis.

Requesting an Exception

If you believe the reason for your untimely NOE meets one of the exceptions above, submit your claim indicating the untimely NOE (see the Submitting Claims for Untimely NOEs webpage) and **include a 'KX' modifier on the noncovered level of care line.**

Important Point: The 'KX' modifier, alone, indicates you are requesting an exception for the untimely NOE.

```
MAP1712    PAGE 02            CGS J15 MAC - HHH REGION           ACMFA552 MM/DD/YY
   XXXXXXX    SC              INST CLAIM ENTRY                      C201843F HH:MM:SS
                                                       REV CD PAGE 01
   MID                 TOB      S/LOC S B0100            PROVIDER
   UTN                 PROG        REP PAYEE
                                TOT    COV                                  SERV    RED
   CL  REV  HCPC MODIFS    RATE UNIT  UNIT  TOT CHARGE NCOV CHARGE    DATE   IND
     0651 Q5001 KX           6            600.00      600.00          1010YY
     0651 Q5001             16    16   1600.00                        1016YY
```

Hospices can provide sufficient information in the **REMARKS** field (FISS Page 04) that clearly indicates all the circumstances and time frames supporting the exception request. When inadvertent errors occur that cannot be immediately corrected due to the CMS system constraints, the information in the REMARKS field must include:

1. When the original NOE was submitted;
2. When the NOE was returned to the hospice (RTPs) for correction or was accepted and available for correction; and
3. When the hospice resubmitted the NOE.

If the information in the REMARKS field is not clear, CGS will request documentation by generating a non-medical review additional development request (non-MR ADR). The hospice will need to submit documentation supporting the exception request (e.g., printouts or screen prints of Medicare systems) for the untimely NOE. For information about supporting documentation, refer to the "**Submitting Documentation for Exception Requests" section further down on this page.**

For an exception request for an individual who receives retroactive Medicare entitlement, the following documentation must be submitted:

- Proof of retroactive Medicare entitlement;
- Certification of terminal illness that meets the criteria set forth in the Medicare Benefit Policy Manual, Chapter 9 **PDF↗** , section 20.1; and
- Hospice election statement that meets the criteria set forth in the Medicare Benefit Policy Manual, Chapter 9 **PDF↗** , section 20.2.1.

Identifying a non-MR ADR for an Exception Request

If the information in the REMARKS field is not clear, a non-MR ADR will be generated and the exception request claim will move to a status/location S B6001, and include a reason code 39701 (see screenprint below). Providers are responsible for checking for the ADR'd claim – no other notification will be sent to the provider.

For detailed instructions on how to check for ADRs using the FISS system, refer to the 'Accessing Additional Development Request (ADR) Information' section in the FISS Guide Chapter 3: Inquiry Menu **PDF** .

```
MAP1741                        CGS J15 MAC - HHH REGION           ACPFA052 MM/DD/YY
  XXXXXXX    SC                 CLAIM SUMMARY INQUIRY              C201513F HH:MM:SS
                                    NPI ##########
       MID                   PROVIDER                 S/LOC S B6001   TOB
   OPERATOR ID XXXXXXX       FROM DATE         TO DATE              DDE SORT
   MEDICAL REVIEW SELECT
       MID                PROV/MRN    S/LOC       TOB    ADM DT FRM DT THRU DT  REC DT
  SEL   LAST NAME    FIRST INIT   TOT CHG    PROV REIMB PD DT   CAN DT REAS NPC #DAYS
  S  ##########    ######          S B6001    811   1010YY 1010YY  1031YY    11111YY
     PAT          A     ####.##                                         39701
```

Select the claim, and review the information found on FISS Pages 07 and 08.

FISS Page 07 (below) provides the DUE DATE by which the documentation must be received. However, **CGS recommends submitting your documentation as soon as possible** which will assist with the prompt processing of your claim to avoiding unnecessary delays. If your documentation is not received by the DUE DATE indicated, your claim will be released to process as it was submitted, with the noncovered days due to the untimely NOE.

Feedback

```
REPORT: 001                  MEDICARE PART A 15004        PVDR NO  : XXXXXXXXXX
 DATE : MM/DD/CCYY    ADDITIONAL DOCUMENTATION REQUEST     BILL TYPE: XXX
 CASE ID: 15004XXXXXXXXXXXXXXXXXXXPR      MAC JURIS:    NPI:
                     A HOSPICE AGENCY
                     123 MAIN ST
                     ANYTOWN               IA 52001 1111

 WE HAVE REVIEWED THIS CLAIM RECORDS AND FOUND THAT ADDITIONAL DEVELOPMENT
 WILL BE NECESSARY BEFORE PROCESSING CAN BE FINALIZED.  TO ASSIST YOU IN
 PROVIDING THE REQUIRED INFORMATION, WE HAVE ASSIGNED REASON CODES TO THE
 AFFECTED CLAIM RECORD (SEE BELOW) FOR YOUR REVIEW.  PLESAE REFER TO THE
 ACCOMPANYING LIST FOR EXPLANATION OF THE ASSIGNED CODES.  SOLICITED LETTERS
 CAN BE ANY ADR LETTERS AT CONTRACTORS' DISCRETION, AND NOT SOLEY FOR
                     CGS J15 MAC
                     J15 - HHH CORRESPONDENCE
                     P O BOX 20014
                     NASHVILLE               TN 37202
 PATIENT CNTRL NBR: XXXXXXX-XXXXXXX       DUE DATE: MM/DD/CCYY
 MEDICAL REC NO:                    DCN: XXXXXXXXXXXXXXXX
 MEDICARE ID: XXXXXXXXXX    PATIENT NAME: AVERY    PATIENT
 FROM DATE: 12/01/20XX  THRU DATE: 12/31/20XX  OPR/MED ANALYST:
 TOTAL CHARGES:    ####.##    ORIG REQ DT: MM/DD/CCYY  CLM RCPT DT: MM/DD/CCYY
       PRESS PF3-EXIT  PF5-SCROLL BKWD  PF6-SCROLL FWD  PF8-NEXT  PF9-UPDT
```

FISS Page 08 (below) indicates the ADR edit code '78877'. This code is specific to claims where documentation is being requested due to an exception request for an untimely NOE. Page 08 provides:

- The ADR narrative, indicating the need to submit documentation to support exceptional circumstance **NOTE: Only documentation related to the exceptional circumstance should be submitted.**
- The methods to submit supporting documentation to CGS.

```
REASONS: 78877

REASON CODE NARRATIVES FOR MID/DCN: XXXXXXXXXX    XXXXXXXXXXXXXXIAR

78877 MEDICARE NEEDS TO RECEIVE THE RETURNED ADR INFORMATION BY THE 30TH DAY.
THIS ALLOWS FOR MAIL TIME AND FOR US TO MOVE THE CLAIM INTO STATUS/LOCATION
SM87DR ONCE THE DOCUMENTATION HAS BEEN RECEIVED.  IF DOCUMENTATION IS NOT
RECEIVED WITHIN 45 DAYS, IT WILL BE RELEASED ON DAY 46 AND PROCESS WITH
PROVIDER SUBMITTED NONCOVERED CHARGES. TO SUPPORT YOUR REQUEST FOR AN
EXCEPTIONAL CIRCUMSTANCE, SEND THE FOLLOWING INFORMATION.
* DOCUMENTATION TO SUPPORT A FIRE, FLOOD, EARTHQUAKE OR OTHER UNUSUAL EVENT
WHICH CAUSED EXTENSIVE DAMAGE TO YOUR AGENCY'S ABILITY TO OPERATE.
* DOCUMENTATION OF AN EVENT THAT PRODUCED A CMS OR CGS DATA FILING PROBLEM
WHICH WAS BEYOND YOUR AGENCY'S CONTROL.
* DOCUMENTATION TO SUPPORT YOUR AGENCY WAS NEWLY CERTIFIED AND THAT YOU WERE
NOTIFIED AFTER THE MEDICARE EFFECTIVE DATE.  THIS MAY INCLUDE THE MEDICARE
TIE-IN NOTICE THAT YOU RECEIVE FROM CMS.
* DOCUMENTATION TO SUPPORT RETROACTIVE MEDICARE ENTITLEMENT.  THIS MUST
INCLUDE:
PROOF OF RETROACTIVE MEDICARE ENTITLEMENT;
CERTIFICATION OF TERMINAL ILLNESS THAT MEETS THE CRITERIA SET FORTH IN THE
MEDICARE BENEFIT POLICY ... PTER 9 SECTION 20.1; AND
HOSPICE ELECTI...
MEDICARE BENEF...
```

Press F6 to view instructions for submitting your documentation.

You will need to press the 'F6' key to view additional instructions for submitting your documentation, including the fax number and mailing address. **Faxes are preferred**, as that will reduce the amount of time your claim is held, pending receipt of the documentation.

Submitting Documentation for Exception Requests

If the information in the REMARKS field is not clear, and you need to submit documentation to CGS, we suggest that you include a screen print of FISS Page 08, so the documentation can be associated with the exception request for the specific patient and claim. **If CGS is unable to match the documentation to a specific claim, the exception request will be denied.** Documentation may be submitted one of the following ways:

- Fax to: 1.615.660.5982 (Preferred)
- Mailed to:

  CGS J15 MAC

  J15 - HHH CLAIMS

  PO BOX 20019

  NASHVILLE, TN 37202

- esMD
- myCGS: Refer to the [Responding to Requests for Additional Documentation through myCGS](#) job aid, or the Forms section of the [myCGS User Manual](#).

Note: The mailing address and fax number are different than those typically used for sending documentation to the CGS Medical Review department. Sending exception request documentation to the incorrect fax number or address will cause delays in the review process.

Important points when submitting your documentation:

- **Do** send the necessary documentation (screenprints, notes, documented phone calls, etc.) that supports the exception request, and the reason this is beyond the hospice's control.
- **Do** include a contact name and phone number in case CGS needs to contact your agency.
- **Do send only** the documentation related to the untimely NOE.
- **Do not** submit all medical record documentation related to the services provided.
- **Do not** submit your documentation to CGS more than once. Sending your documentation via multiple methods causes a duplication of effort by CGS staff, and can result in unnecessary delays in reviewing your documentation.
- **Do** include the following information in the REMARKS field (Claim Page 04) when an inadvertent error occurs that could not be immediately corrected due to the CMS system constraints.
  - When the original NOE was submitted;
  - When the NOE was returned to the hospice (RTPs) for correction or was accepted and available for correction; and
  - When the hospice resubmitted the NOE.

If your documentation is not received within 30 days of the initial request, it will be moved to a holding location, S M8877, until day 45 or until your documentation is received. If your documentation is not received by day 46, the claim will be released to process as billed, with the untimely days as noncovered.

Acknowledgement of Documentation Receipt

Once your documentation is received by CGS:

- The claim will be moved to status/location 'S M87DR'
- The documentation will be reviewed
- A payment/non-payment determination will be made based on the documentation received, and the claim will be released to continue processing

Rights for Unfavorable Exception Requests

If the review of your documentation does not support the exception request, the days impacted by the untimely NOE will process as noncovered. These noncovered days can be appealed by submitting a 1st Level of Appeal – Redetermination.

Updated: 04.09.21

Feedback