Clearing Up the Confusion about Medicare and Dentistry

Dentists have until December to properly enroll in Medicare to satisfy regulatory changes to the system.

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Most dental practices that treat patients over 65 years of age will be affected by a significant change to the Medicare regulations. Medicare recipients who purchase supplemental Medicare insurance policies (that is, Part D drug plans) will be eligible for benefits from those plans only when the ordering doctor has enrolled in Medicare by opting in, opting out or enrolled using the 8550. The Centers for Medicare and Medicaid Services (CMS) has delayed enforcement of this regulation until Dec. 1.

It is advisable for dentists to enroll now as Medicare providers or to submit affidavits indicating that they wish to opt out of the program. Because enrollment is not immediate, dentists should file the necessary documentation—or register online—to opt in, opt out or submit an 8550 form with Medicare as soon as possible. If a dentist takes no action, patients with Part D coverage will not receive benefits when their dentist writes a prescription for them. The important things to note are:

1. Regardless of your decision (to opt in, opt out or submit an 8550), your patients with Medicare Part D plans will have coverage for any prescriptions covered by their Part D plans.
2. Dentists who elect to opt out are not required to provide individual notification to patients in their practices, as dentistry is not included in the Medicare program.[1] However, dentists who have opted out of Medicare are required to enter into a written agreement with a patient advising the patient that they are not Medicare providers only when and if they are performing a procedure covered by Medicare Part B.

Dentistry is excluded from the Medicare benefit package with limited exceptions. Opting out of Medicare has no real impact for most dentists because they do not perform medical treatment services covered by Medicare Part B. The only drawback to opting out is that it is in force for only two years.

Recently, in addition to opting in or out, CMS has established a third option that would enable patients with Medicare Part D Supplemental Drug Plans to receive coverage for their dentists' prescriptions. Dentists now may choose to submit the Form 8550 to be placed on the Medicare Ordering and Referring Registry, which will deem them eligible to order and refer patients to Medicare enrolled providers and suppliers and for prescribing. The ability to utilize the 8550 is a desirable alternative for most dentists, given that Medicare does not cover dental treatment and resubmitting opt out affidavits biannually is inconvenient. Submitting the 8550 is not a form of opting in, because it does not allow the practitioner to bill Medicare. But it is also not opting out, because it does not trigger any other obligations in that regard.

The new regulations do not change anything with respect to the relationship between dental specialists who do perform medical services covered by Medicare Part B and Medicare. Dentists who bill Medicare can simply continue to do what they have always done with respect to enrolling. That is, if they opt in, they are compelled to accept Medicare reimbursement when they perform a medical service covered by Medicare Part B. If they opt out, they can bill their patients and collect their usual fees.

1. It is advisable that dentists inform their patients that Medicare does not cover dental treatment. They may wish to include this information with instructions given to patients about the practice and its billing policies. Example: "Medicare does not cover dentistry. Our practice does not participate in Medicare. Nonetheless, if you have a Part D supplemental drug plan, your plan will cover your prescriptions because we have registered with the Medicare program."

Medicare and Dentistry

Again, Medicare does not include coverage for routine dental treatment. Nonetheless, to refer or order services for a Medicare patient (where the service provider expects to be paid by Medicare), practitioners must be on record as known to the Medicare program. Medicare will not pay a second provider if the referring provider is not enrolled as a Medicare provider or has opted out. Do not be confused by the terminology. Opting out is different from completely ignoring Medicare by doing nothing. Opting out is a status that Medicare recognizes even though it means a doctor will not be billing and will not be reimbursed by Medicare.

Dentists are not required to provide written notification to their patients that they do not participate as Medicare providers unless they are providing services that are covered by Medicare Part A or B. Because dental care is excluded from Medicare generally, it is exempt from the advance beneficiary notice of noncoverage requirements.

Section 1862 (a)(12) of the Social Security Act states:

"where such expenses are for services in connection with the care, treatment, filling, removal, or replacement of teeth or structures directly supporting teeth, except that payment may be made under part A in the case of inpatient hospital services in connection with the provision of such dental services if the individual, because of his underlying medical condition and clinical status or because of the severity of the dental procedure, requires hospitalization in connection with the provision of such services."

Most of the procedures performed by dentists who do qualify for Medicare reimbursement typically are performed by specialists—biopsies, including brush biopsies, for example. Medicare Part B excludes the following two categories of services from coverage:

1. A primary service (regardless of cause or complexity) provided for the care, treatment, removal or replacement of teeth or structures directly supporting teeth—for example, preparation of the mouth for dentures or removal of diseased teeth in an infected jaw.
2. A secondary service that is related to the teeth or structures directly supporting the teeth unless it is incidental to and an integral part of a covered primary service that is necessary to treat a non-dental condition (for example, tumor removal) and it is performed at the same time as the covered primary service and by the same physician/dentist.

In cases where these requirements are met and the secondary services are covered, Medicare does not make payment for the cost of dental appliances, such as dentures, even though the covered service resulted in the need for the teeth to be replaced; the cost of preparing the mouth for dentures; or the cost of directly repairing teeth or structures directly supporting teeth (for example, alveolar process).

Certain dental services are always covered, including the extraction of teeth to prepare the jaw for radiation treatment of neoplastic disease, and an oral or dental examination performed on an inpatient basis as part of a comprehensive workup prior to renal transplant surgery or performed in a rural health center/federally qualified health center prior to a heart valve replacement. Dentists should contact Medicare directly with questions about whether a service will or will not be covered. A key thing to remember is that Medicare is not really paying for a dental service but, rather, is either paying for a covered medical service that a dentist can perform or is paying for a dental service that is a necessary adjunct to a covered medical service.

Understanding Medicare Part B and Supplemental Plan Coverage

There are two key issues to understand with respect to Medicare in deciding which enrollment option is best for an individual dentist. The first issue pertains to the scope of coverage of Medicare Part B. The second is the impact of the regulatory changes to the Part D supplemental plans taking effect this year.

Billing for Medicare Part B Covered Services

If a dentist has not opted out of the Medicare program and that dentist performs Medicare-covered services for patients eligible for Medicare, the dentist has only three options:

1. Enroll as a Medicare provider and submit a claim for the treatment in accordance with the Medicare fee schedule.
2. Refer the patient for services covered by Medicare to a dentist who is a Medicare provider.
3. Not charge the patient for the treatment provided.

Unless the dentist has opted out, the dentist legally cannot

charge a Medicare recipient for a treatment service covered under the Medicare Part B schedule.

Coverage for Prescription Drugs under Medicare Part D Supplemental Coverage

As a result of new CMS regulations, in December, patients who purchase Medicare Part D prescription drug coverage will only receive benefits for prescriptions issued by prescribers who have enrolled with Medicare by opting in, opting out or submitting an 8550 enrollment application. Thus, it is beneficial for dentists to enroll with CMS to assure that their patients will be eligible for benefits when the dentist prescribes a covered drug.

Medicare Dental Advantage Plans

Medicare Advantage plans are part of Medicare. They are issued by private insurers contracted to administer Medicare benefits. A provider who opts out cannot be paid any Medicare dollars for Part B Medicare services. This does not affect dentists who contract with Medicare supplemental dental plans because Medicare Part B does not pay for dental services.

As with Part B, Medicare Advantage plans are prohibited from paying anyone who is opted out of Medicare for services that Medicare Part B otherwise pays for. Since Medicare Part B basically does not pay for dental services, these dentists are not affected directly by this.[2] However, it is important for anyone contracted as a Medicare Advantage provider to review whether he or she is contracted to provide medical services and consider this in making any enrollment decision. Nonetheless, it would be virtually anomalous for this to make any difference with a supplemental dental plan under Medicare Advantage.

Sleep Apnea Devices

There is one other type of service for which dentists are eligible for Medicare reimbursement. Dentists who fabricate sleep apnea/snoring devices for patients over 65 years of age must enroll with CMS as providers of durable medical equipment (CMS form 855S). This is unrelated to the dentist's status as a Medicare provider for the purpose of billing for medical/dental treatment. It is completely unrelated to the doctor's status as a practitioner. A dentist who enrolls using form 855S would still need to opt in or opt out as a dentist provider.

Treatment for sleep apnea is outside of the scope of practice for dentistry in New York State. Because dentists do not treat sleep apnea, they cannot submit claims to Medicare for such treatment. Nevertheless, dentists can fabricate sleep apnea appliances on the order of a physician. Dentists who fabricate such appliances must be registered with Medicare as a DME (durable medical equipment) provider to bill Medicare or Medicare Advantage for any sleep apnea device. Medicare is billed for the DME service, not for the dental/medical service by the DME provider—in this instance, the DME provider just coincidentally happens to also be a dentist. Dentists who fabricate sleep apnea appliances can enroll as DME providers on the CMS website.

A dentist may enroll as a Medicare DME provider and opt out of Medicare Part B. DME suppliers cannot opt out of Medicare with respect to payment for durable medical equipment, that is, sleep apnea devices. No Medicare dollars can be paid by anyone to a DME supplier who is not registered with Medicare. A dentist who makes sleep apnea devices cannot be paid with Medicare monies if the person is not registered as a DME provider.

How to Enroll or Opt Out

Patients' ability to obtain benefits from the program and supplemental insurers is not affected—as long as the dentist opts in or out (or completes the 8550). In order to opt out, the dentist must notify the contractor handling Medicare claims for New York State that he or she intends to contract privately with Medicare patients. This is done by filing an affidavit in which the dentist attests to certain specific terms. Affidavits must be filed within 10 days of entering the first private contract and are valid for two years. Non-Medicare enrolled dentists wanting to opt out must obtain and use a Unique Physician Identifier Number (UPIN) provided by the Medicare carrier.

Information and forms to enroll are available at:

http://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/MedicareProviderSupEnroll/EnrollmentApplications.html.

Alternately, practitioners can file an opt out affidavit with the contractor for New York State, National Government Services, Inc. To opt out of Medicare, you must file a Medicare Opt Out Affidavit. The required form is available on the NYSDA website, www.nysdental.org, in the "members only" section.

Contact information for National Government Services, Inc., is as follows:

National Government Services, Inc., (888) 379-3807, http://www.ngsmedicare.com.

For additional information regarding opting out, log onto:

http://www.cms.gov/Outreach-and-Education/Medicare-Learning-Network-MLN/MLNMattersArticles/downloads/SE1311.pdf.

For general information, call the Medicare provider customer service number, 1 (866) 837-0241.

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2. If a dentist opts out of Medicare, then he/she cannot get paid by a Medicare Advantage plan for any service that Medicare Part B might pay for. Since payment for any dental service is rare, the net effect is virtually zero.