

Policy

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TITLE: Advanced Beneficiary Notice	VERSION: 1.0
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DEPENDENCIES:	

Table of Contents

Purpose	2
Definitions, Abbreviations, and Acronyms	2
Policy	2
ABN Scope	3
ABN Uses	3
Optional ABN Uses	3
ABN Standards	4
Options for Delivery of ABNs Other than In Person	4
Change Log	5
Appendices	5

Purpose

An Advanced Beneficiary Notice, ABN, also known as a waiver of liability or Medicare Waiver, is issued by medical providers to Medicare recipients, alerting that services might not be covered. This policy outlines Longevity Health policy regarding the issuance of an ABN.

Definitions, Abbreviations, and Acronyms

Acronym	Meaning
LHP	Longevity Health Plan, the Plan
MC	Medicare
ABN	Advanced Beneficiary Notice

Policy

The Advanced Beneficiary Notice of Noncoverage, ABN, Form CMS-R-131, is issued by providers including independent laboratories, home health agencies, and hospice agencies, physicians, practitioners, and suppliers to Medicare beneficiaries in situations where Medicare payment is expected to be denied. The ABN is issued in order to transfer potential financial liability to the Medicare beneficiary in certain instances.

Health care providers or suppliers are required to notify a beneficiary in advance of furnishing an item or service where they believe the items or services may be denied by Medicare. For example, advanced notice is required if the item or service may be denied as not reasonable or necessary or because the item or service constitutes custodial care. Notice is a way for the health care provider or supplier to establish beneficiary knowledge of non-coverage and shift financial liability should Medicare deny the claim.

Failure to comply with an ABN results in risk of financial liability and/or sanctions by the provider or supplier.

ABN - Quick Glance Guide ³			
Notice Name: Advance Beneficiary Notice of Non-coverage (ABN) Notice Number: Form CMS-R-131 Issued by: Healthcare providers and suppliers of Medicare Part B items and services; Hospice and Religious Non-medical HealthCare Institute (RNHCI) providing Medicare Part A items and services; and home health agencies(HHAs) for Part A and Part B items and services Recipient: Original Medicare FFS (fee for service) beneficiary;			
Type of notice:	Must be issued:	Timing of notice:	Optional use:
Financial liability notice	Prior to providing an item or service that is usually paid for by Medicare under Part B (or under Part A for hospice, HHA, and RNHCI providers only) but may not be paid for in this particular case because it is not considered medically reasonable and necessary Prior to providing custodial care For hospice providers, prior to caring for a patient who is not terminally ill For Durable Medicare Equipment (DME) suppliers For HHA providers, prior to providing care when the individual is not confined to the home or does not need intermittent skilled nursing care.	Prior to delivery of the item or service in question. Provide enough time for the beneficiary to make an informed decision on whether or not to receive the service or item in question and accept potential financial liability.	Yes. Prior to providing an item or service that is never covered by Medicare (i.e. not a Medicare benefit).

ABN Scope

The ABN is an Office of Management and Budget (OMB)-approved written notice issued by healthcare providers and suppliers for items and services provided under Medicare Part B. With the exception of DME suppliers, only healthcare providers and suppliers who are enrolled in Medicare can issue the ABN to beneficiaries.

The ABN is given to beneficiaries enrolled in the Medicare FFS program. It is not used for items or services provided under the Medicare Advantage (MA) Program or for prescription drugs provided under the Medicare Prescription Drug Program (Part D).

Skilled Nursing Facilities (SNFs) issue the ABN for Part B services only. The Skilled Nursing Facility Advance Beneficiary Notice of Non-coverage (SNF ABN), CMS Form 10055, is issued for Part A SNF items and services.

ABN Uses

The following provisions necessitate the delivery of the ABN:

- Not reasonable and necessary
- Violation of the prohibition on unsolicited telephone contacts
- Medical equipment and supplies supplier number requirements not met
- Medical equipment and/or supplies denied in advance
- Custodial care
- Hospice patient who is not terminal
- Home health services requirements are not met – not confined to the home or no need for intermittent skilled nursing care
- Medicare covered personalized prevention plan services that are performed more frequently than indicated per coverage guidelines are not reasonable and necessary for the diagnosis and treatment of illness or injury or to improve the functioning of a malformed body member
- When a noncontract supplier furnishes an item included in the Durable Medical Equipment, Prosthetic, Orthotics, and Supplies Competitive Bidding Program for a Competitive Bidding Area.
- When Medicare considers an item or service experimental

Optional ABN Uses

ABNs are not required for care that is either statutorily excluded from coverage under Medicare (i.e. care that is never covered) or most care that fails to meet a technical benefit requirement (i.e. lacks required certification). However, CMS strongly encourage healthcare providers and suppliers to issue the ABN for care that is never covered such as:

- Care that fails to meet the definition of a Medicare benefit as defined in §1861 of the Social Security Act
- Care that is explicitly excluded from coverage under §1862 of the Social Security Act.
Examples include:
 - a. Services for which there is no legal obligation to pay
 - b. Services paid for by a government entity other than Medicare (this exclusion does not include services paid for by Medicaid on behalf of dualeligibles)
 - c. Services required as a result of war
 - d. Personal comfort items
 - e. Routine eye care
 - f. Dental care
 - g. Routine foot care

When the ABN is used in this way it serves as a courtesy to the beneficiary in forewarning him/her of impending financial obligation. The beneficiary should not be asked to choose an option box or sign the notice. The healthcare provider or supplier is not required to adhere to the issuance guidelines for the ABN.

NOTE: Certain DME items/services that fail to meet a technical requirement may require an ABN as outlined in the mandatory use section above.

ABN Standards

The ABN, Form CMS-R-131, is the OMB approved standard written notice. Failure to use this notice as mandated could result in the notice being invalidated and/or the notifier being held liable for the items or services in question.

The online replicable copies of the OMB approved ABN (CMS-R-131) and instructions for notice completion are available on the CMS website at: <http://www.cms.gov/Medicare/Medicare-General-Information/BNI/ABN.html>

Options for Delivery of ABNs Other than In Person

ABNs should be delivered in-person and prior to the delivery of medical care which is presumed to be non-covered. In circumstances when in-person delivery is not possible, notifiers may deliver an ABN using another method. Examples include:

- Direct telephone contact
- Mail
- Secure fax
- Internet e-mail

All methods of delivery require adherence to all statutory privacy requirements under HIPAA. The notifier must receive a response from the beneficiary or his/her representative in order to validate delivery.







When delivery is not in-person, the notifier must verify that contact was made in his/her records. In order to be considered effective, the beneficiary should not dispute such contact. Telephone contacts should be followed immediately by either a hand-delivered, mailed, emailed, or a faxed notice. The beneficiary should sign and retain the notice and send a copy of this signed notice to the notifier for retention in the patient's record.

The notifier must keep a copy of the unsigned notice on file while awaiting receipt of the signed notice. If the beneficiary does not return a signed copy, the notifier should document the initial contact and subsequent attempts to obtain a signature in appropriate records or on the notice itself.

Change Log

Document Version	Major or Minor Revision?	Date	Name	Comments
New		9/1/2022	Courtney Gonzales	New

Appendices

					
Chapter 30 Financial Liability Pr	ns2023v508_0.pdf	ABNEnglish2023v50 8.pdf	ABNEnglish2023v50 8 LARGEPRINT.pdf	ABNSpanish2023v5 08 LARGEPRINT.pdf	ABNSpanish2023v5 08(70820).pdf