



PCS Form Compliance During the COVID-19 Public Health Emergency

For non-emergency ambulance transports of Medicare beneficiaries, CMS regulations require that a Physician Certification Statement (PCS) be obtained for most such transports. The PCS must be signed by a physician, or, in some cases (i.e., non-repetitive transports) it may be signed by certain individuals other than a physician. (When a PCS is signed by a non-physician, CMS refers to it as a “Non-Physician Certification Statement.” For ease of reference in this article, we will refer to all as “PCS” forms.)

CMS Guidance on PCS Forms During COVID-19 Pandemic

CMS recently issued guidance in a “Frequently Asked Questions” (FAQ) document, which can be found [HERE](#) on the CMS website. This guidance deals with PCS signatures during the COVID-19 public health emergency (PHE). The CMS guidance states, in its entirety:

Q. For ambulance services that require a physician, or, in lieu of that, certain non-physician personnel, to sign and certify that a non-emergency ambulance transport is medically necessary, are these signature requirements not required during the COVID-19 PHE?

A. We understand that in certain situations during the COVID-19 PHE it may not be feasible to obtain the practitioner signature. Therefore, for claims with dates of service during the COVID19 PHE (January 27, 2020 until expiration), CMS will not review for compliance with appropriate signature requirements for non-emergency ambulance transports during medical review, absent indication of fraud or abuse. Ambulance providers and suppliers should indicate in the documentation that a signature was not able to be obtained because of COVID-19. However, we note that Medicare Part B covers ambulance transport services only if they are furnished to a Medicare beneficiary whose medical condition is such that other means of transportation are contraindicated, and the beneficiary’s condition must require both the ambulance transportation itself and the level of service provided in order for the billed service to be considered medically necessary.

Shortcomings With the CMS Guidance on PCS Form Compliance

The PCS guidance from CMS contains some troublesome language, and we believe that ambulance services could face some potential unintended consequences if they follow it.

CMS is Leaving Itself “Wiggle Room.” First, as the guidance makes clear, CMS says it will not review PCS signature compliance during the PHE *unless* there is an “indication of fraud and abuse.” CMS gives no specific examples of the situations which might justify post-payment review of PCS signature compliance during the PHE. This is clearly not a blanket PCS signature exemption and CMS is giving itself – along with auditors, courts and federal prosecutors – plenty of “wiggle room” should an audit, investigation or legal action (such as a federal False Claims Act case) involving claims for non-emergency transports rendered during the PHE later be brought.

Medical Necessity Rules Are NOT Waived. Second, the guidance also makes clear that the customary requirements for medical necessity for ambulance transports are not being waived or relaxed in any manner. This means that transport documentation must still be sufficiently detailed to demonstrate that medical necessity is met.

“Infeasible” is a Troublesome Term. Third, the CMS guidance indicates that in certain cases, it may not be “feasible” to obtain PCS signatures during the pandemic. Although there may be cases when this is true, obtaining PCS signatures for non-emergency transports is handled vastly differently than obtaining signatures of patients – where there is a genuine risk of cross-contamination, or of receiving facility representatives, when PPE barriers and cross-contamination may also be concerns.

To the contrary, PCS forms are often obtained by dispatch centers or call intake personnel separate and apart from the actual time of service, and may also be received from facilities via fax and e-mail – which mean there are no contact or exposure concerns, and some of the individuals who are authorized to sign PCS forms (such as facility social workers) may not be as directly exposed to the COVID-19 virus as would be certain direct healthcare practitioners. And, for repetitive patient transports, a PCS is valid for 60 days, so there is less hardship in obtaining a PCS. It is not altogether clear how obtaining a PCS would not be “feasible” in these very common circumstances.

Our Advice for PCS Compliance

Because the PCS guidance could potentially create some compliance issues for ambulance services down the road, we recommend the following to best protect your agency from needless risk or liability.

Obtain PCS Forms Whenever Possible. Certainly the best way for an ambulance service to protect itself regarding compliance with PCS rules is, well, to comply. That is, obtain a PCS whenever humanly possible, and make sure it is signed by one of the individuals who is authorized to sign a PCS (for non-repetitive transports, that includes a physician, RN, nurse practitioner, clinical nurse specialist, physician assistant, discharge planner, social worker, LPN or case manager. For scheduled/repetitive transports, only a physician may sign, and the PCS form is valid for transports within 60 days of the date signed). A key benefit to obtaining a PCS is that it provides independent assessment of medical necessity, which is one of the reasons for

the regulation in the first place. Very often the clinical statements about the patient's condition contained in the PCS can be used to support medical necessity, especially where the patient care report is weak or not complete. While the PCS itself is not determinative of medical necessity, Medicare auditors and DOJ investigators do consider those statements when determining if an ambulance claim was properly paid.

Use the "21 Day" Rule. Existing CMS regulations already allow for situations where an ambulance service is not able to obtain a PCS for a non-repetitive transport – for whatever reason. The ambulance service is permitted to bill the claim (if it otherwise meets medical necessity, of course) if it has attempted to obtain a PCS but could not, provided it has on file proof of mailing the PCS to the practitioner and 21 calendar days have elapsed since the date of service. This rule is not limited to the current COVID-19 PHE and represents an option that is expressly permitted by the regulations and poses less compliance risk to the ambulance service down the road after all this is over.

Use the New CMS Guidance Only When Absolutely Necessary. If, in fact, your ambulance service cannot due to the COVID-19 pandemic obtain a PCS and needs one, we recommend documenting this fact in one – or more – of the following ways. Remember, if the transport is non-repetitive, it is better to use the 21-day rule, as noted above. But, for a scheduled, repetitive transport, the 21-day rule is not an option, and one or more of the following options could be used if absolutely necessary (though again, we think obtaining a PCS is always the better option):

- Dispatch Documentation. Since PCS forms in some agencies are obtained by dispatch or call intake staff, sometimes via fax or e-mail, and not at the time of transport, the dispatcher could make a note that a signed PCS could not be obtained despite making efforts to do so. The CMS guidance does not indicate that the inability to obtain a PCS is something that *must* be documented on a PCS itself, or on a patient care report, and nothing indicates that the transport crew must sign any statement or attestation to that effect. So, we believe that documentation from your dispatch or call intake personnel who normally fulfill the role of obtaining the PCS for your organization would satisfy the CMS guidance.
- PCR Documentation. The crew handling the non-emergency transport could also document those instances where no PCS was available on the ambulance patient care report (PCR). This would also appear to meet the CMS guidance. A statement such as “no PCS form could be obtained at the time of service” or words to that effect would help meet that purpose.
- PCS Forms. If an ambulance service wishes, it could use a PCS form for this purpose as well. The ambulance service could indicate the patient's name and transport date on the PCS, and then could simply document that “no authorized PCS signer was available or willing to sign” or words to that effect. We do not recommend that the

ambulance service or any members of the ambulance crew fill out any of the clinical or medical necessity-related information on the PCS – only the patient’s name and transport date should be completed if a PCS is going to be used for this purpose.

We believe that the CMS guidance on PCS form signature compliance during the PHE can pose unintended risks for unwary ambulance services. For this reason, we believe it is prudent for ambulance services to protect themselves by obtaining PCS forms whenever possible, completed and signed by authorized signers, or using the existing “21-day rule” whenever applicable.

Also, as noted above, the medical necessity rules are not waived during the PHE. While the presence or absence of a PCS form is not determinative in establishing medical necessity, they do help to support the need for ambulance transport. Therefore, securing properly completed PCS forms is preferred, even with CMS’s new guidance.

The new CMS PCS signature guidance should be used only in rare, extreme circumstances – as the exception and not the rule – and ambulance services may use one or more types of documentation to fulfill this guidance whenever it is absolutely necessary to use it.