Statement on Assignment of Benefits Signatures Under 42 CFR Sec. 424.36 During COVID-19 Pandemic

Considerations for EMS Billing Personnel

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With the National Health Emergency declared for COVID-19, we are receiving many questions on patient signature requirements. We asked CMS if they will consider relaxing or modifying the signature requirements during this crisis and are currently awaiting a response. As soon as we obtain any information from CMS, we will promptly pass it along. In the meantime, here are some reminders, considerations and best practice recommendations:

Signature Rules Remain in Effect

The Medicare regulations have **not** been suspended or relaxed for obtaining a patient's signature for claim submission purposes. A patient must sign the assignment of benefits statement UNLESS the patient is "*physically* or *mentally* incapable of signing" or the patient is deceased prior to submission of a claim for the service.

A Patient with Confirmed or Suspected COVID-19 ***May*** Be Incapable of Signing

In light of possible or confirmed COVID-19 infections, if there are legitimate *infection control procedures* in place (e.g., infection control barriers) *and the PCR documentation supports the reason for those procedures*, then the patient ***may*** be physically incapable of signing under the Medicare signature rules. Likewise, a patient ***may*** be mentally incapable of signing under the Medicare signature rules if the patient was exposed to a COVID-19 patient or is suspected of having COVID-19. For example, some case reports suggest that patients with an active COVID-19 infection could be hypoxic, in respiratory distress, and be disoriented with related mental status changes.

Patients with a high fever may also experience delirium or similar symptoms. Of course, the EMS practitioner must fully and accurately document the presence of such clinical findings. If a patient is under mental duress, or otherwise lacks mental capacity, such findings should be part of the clinical documentation to support the inability of the patient to sign. In all cases, the circumstances explaining this exposure and the mental or physical limitations to signing must be documented to meet the Medicare signature rule exceptions.

"P.U.T.S. – COVID" by Itself is **Not** Sufficient Documentation

Simply putting "patient unable to sign due to "COVID" or "PUTS COVID" is not good enough. The PCR documentation (and/or statements in the signature capture area) *must* contain documentation that clearly explain the *physical or mental* reason *why* the patient is incapable of signing. Just as "weakness" or "pain" or "fever" alone might not be sufficient to support medical necessity, "COVID" alone is not sufficient to indicate the reason the patient is unable to sign. It's all about the documentation. Here are some examples of statements that may support a patient being physically or mentally incapable of signing. Please note that the sample *conditions below should only be documented when they are actually present* and they must be clearly explained in the supporting documentation:

a. "Pt. is being transported with infection control barrier/procedures in place to be tested and/or further treated for COVID-19."
b. "Per infection control procedures and suspected COVID-19, direct patient contact with EMS equipment is to be limited."
c. "Pt. is transported in isolation unit and transferred with patient barrier protection and full infection control procedures in place."
d. "Pt. unable to sign due to barrier protections and other infectious disease/contact isolation precautions in place."
e. "Pt. is lethargic with altered mental status secondary to fever and/or COVID-19 infection and related symptoms."
f. "Pt. is having difficulty breathing and is very anxious and in emotional distress."

If the Patient is Incapable of Signing, Representatives May Sign

If the *patient* is physically or mentally incapable of signing, other representatives of the patient may sign on behalf of the patient. To meet this exception, the reason that the patient is incapable of signing must be clearly documented. The types of representatives that may sign are outlined in the signature regulation at 42 CFR 424.36(b)(1)-(b)(5).

If the Patient is Incapable of Signing, and No Representatives Are Available or Willing to Sign the (b)(6) Exception Can Still Apply

This section of the regulations, 42 CFR 424.36(b)(6), only applies if it is documented that the patient is incapable of signing and there are no representatives available or willing to sign on the patient's behalf. This exception requires that an ambulance crew member who is present during the transport and *at the time the service is provided* signs a

statement verifying that: 1) the patient was physically or mentally incapable of signing; and 2) that none of the representatives were available or willing to sign.

In addition, there must be additional documentation with the date and time the patient was transported and the name and location of the facility that received the patient. This requirement can be met by getting a hospital or facility representative to sign a separate statement noting these points, OR by having a receiving facility representative sign the PCR, obtaining a copy of the facility registration or face sheet, facility log, or other internal facility or hospital records that verify that the patient was transported to that destination.

Special Considerations for Billing Personnel

- Ambulance crew members must NEVER sign the patient's name. Doing so could be considered forgery and any suspicions of this occurring should be brought to management's attention immediately.

- If the patient can only make a "mark" due to infection control procedures or other difficulty in signing, that mark should be witnessed by an ambulance crew member. Signature by mark is permitted to satisfy the patient signature requirement.

- If the patient is incapable of signing and no representatives are available or willing to sign, then the ambulance crew may sign an attestation statement verifying those two facts. Billers should look for these attestations if there is no patient or representative signature. If the attestation by the crew member is present, but the signature of the receiving facility representative is missing, a face sheet from the receiving facility may be obtained after the fact, to satisfy the (b)(6) signature requirements. NOTE: If the attestation by the crew is missing, the (b)(6) "window" has closed, and the ambulance service must now obtain the signature of the patient or other authorized signer as described in 42 CFR §424.36 (b)(1) – (b)(5).

- Lifetime Signatures May Suffice. A previously obtained assignment of benefits (AOB) signature signed by the patient from a previous transport may also suffice for meeting the signature requirements for the present transport, as long as the statement signed by the patient/representative contains "lifetime" language. An example of "lifetime" language is: "for all transports now and in the future." Only a couple of Medicare Administrative Contractors (MACs) do not accept lifetime signatures, even though the regulations clearly permit lifetime signatures – *See,* 42 CFR § 424.40(d). In those MAC jurisdictions, CMS has deferred to the MAC and you should consult the MAC's guidance. It is usually best to obtain a signature for every transport, which is our general "best practice" guidance in all situations, to ensure a valid AOB signature is obtained.