



Advancing Access to Medicare and Health Care

January 17, 2020

**VIA ELECTRONIC SUBMISSION to *OIRA\_submission@omb.eop.gov*.**

Centers for Medicare & Medicaid Services  
Department of Health and Human Services  
Attention: CMS-9115-P, Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

**RE: CMS-10108, CMS-10243, CMS-10383, CMS-10609, CMS-R-131 and CMS-10662**

Dear Administrator Verma

The Center for Medicare Advocacy (Center) is pleased to provide the Centers for Medicare & Medicaid Services (CMS) comments regarding the use of written Advance Beneficiary Notice of Noncoverage (ABN). Here we reiterate our previous comments on the ABN submitted on October 21, 2019.<sup>i</sup>

The Center, founded in 1986, is a national, non-partisan education and advocacy organization that works to ensure fair access to Medicare and to quality healthcare. At the Center, we educate older people and people with disabilities to help secure fair access to necessary health care services. We draw upon our direct experience with thousands of individuals to educate policy makers about how their decisions affect the lives of real people. Additionally, we provide legal representation to ensure that people receive the health care benefits to which they are legally entitled, and to the quality health care they need.

The Center would like to express support for the modifications to the instructions to the ABN that would be explicit in stating that providers may not bill dually eligible beneficiaries before their claim has gone through both Medicare and Medicaid.

It is our understanding that ABNs can be confusing for beneficiaries, especially those dually eligible for Medicare and Medicaid. It is with this in mind that we express support for this consumer friendly change that will increase transparency and allow consumers to be more informed about their liability.

As providers are prohibited from billing dually eligible beneficiaries until their claims are adjudicated by both Medicare and Medicaid, this change in the instructions simply reflects what is required by federal law. The current phrasing is misleading and confusing for dually eligible beneficiaries.

We appreciate the CMS's continued focus on consumer transparency; we strongly support these changes to the instructions to the ABN.

### **Conclusion**

The Center appreciates the opportunity to submit these comments. For additional information, please contact Kata Kertesz, Policy Attorney, [kkertesz@MedicareAdvocacy.org](mailto:kkertesz@MedicareAdvocacy.org), at 202-293-5760.

 1/17/2020

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<sup>1</sup> Center for Medicare Advocacy Comments, October 21, 2019, available at <https://www.medicareadvocacy.org/center-comments-on-use-of-written-advance-beneficiary-notice-of-noncoverage-abn/>