

RESOLUTION 212

Elimination of Physician's "Appointment for Representative" Requirement in Medicare Prescription Drug Program Appeals

This resolution, very simply, asks CMS to eliminate the requirement for physicians to obtain permission and documentation from their Medicare patient before they can appeal a denial or other action taken in the Prescription Drug Program.

This requirement is particularly egregious process because it is both unnecessary and extremely time-consuming. More importantly, however, is that it appears to go beyond the bounds of CMS's regulatory authority. The requirement for a Power of Attorney, or documentation of the physician's legal right to represent the patient or by a signed statement from the patient, appears to be excessive and not commensurate with the legal issue in question.

Furthermore, this new twist in the appeals process is not in line with general practice standards for appeals, both historically and in its use within the broader private health care sector. The appeal generally relates to a decision made and recommended by the physician, who is medically in charge of the case and whose decisions and actions are consistent with the needs and desires of the patient.

In fact, the U.S. Government Accountability Office recently released a comprehensive report, in January 2008, recommending that CMS speed up the Part D appeals process and use a much less intrusive approach than in place.

Finally, it is already quite difficult for both the patient and the physician to navigate the very complex process now in place for Medicare's prescription drug program. It needs to be simplified and to eliminate any unnecessary step which the Appointment for Representative entails.