CMS Manual System	Department of Health & Human Services (DHHS)
Pub 100-02 Medicare Benefit Policy	Centers for Medicare & Medicaid Services (CMS)
Transmittal 95	**Date: October 3, 2008**
	Change Request 6217

SUBJECT: Shipboard Services Billed to the Carrier and Services Not Provided Within the United States

I. SUMMARY OF CHANGES: Pub. 100-04, chapter 1, section 10.1.4.7 of the Internet Only Manual currently states that services furnished by a physician or supplier in U.S. territorial waters must be furnished on board vessels of American registry and that the physician must be registered with the Coast Guard in order for Medicare to make payment. However, section 10.1.4.7 of the manual is not consistent with Medicare law. Therefore, because section 10.1.4.7 of the manual is not consistent with Medicare law, CMS is clarifying that manual section in order to make it consistent with current Medicare law by removing the language that states the vessels must be of American registry and the physician must be registered with the Coast Guard. CMS is also clarifying in Pub. 100-04, chapter 1, sections 10.1.4, and 10.1.4.1 and chapter 3, section 110.1 and in Pub. 100-02, chapter 16, section 60 that physician and ambulance services furnished in connection with a covered foreign hospitalization are covered.

New / Revised Material
Effective Date: January 5, 2009
Implementation Date: January 5, 2009

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)
R=REVISED, N=NEW, D=DELETED

R/N/D	CHAPTER/SECTION/SUBSECTION/TITLE
R	16/60/Services Not Provided Within the United States

III. FUNDING:
SECTION A: For Fiscal Intermediaries and Carriers:
No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

SECTION B: For Medicare Administrative Contractors (MACs):
The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

Business Requirements

Manual Instruction

Unless otherwise specified, the effective date is the date of service.

Attachment - Business Requirements

Pub. 100-02	Transmittal: 95	Date: October 3, 2008	Change Request: 6217

SUBJECT: Shipboard Services Billed to the Carrier and Services Not Provided Within the United States

Effective Date: January 5, 2009

Implementation Date: January 5, 2009

I. GENERAL INFORMATION

A. Background: Medicare law (i.e., Section 1862(a)(4) of the Social Security Act ("the Act")) prohibits payment for items and services furnished outside the United States except for certain limited services (see Section 1814(f) of the Act). The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa and, for purposes of services rendered on a ship, includes the territorial waters adjoining the land areas of the United States.

The law specifies the following exceptions to the "foreign" exclusion:

1. inpatient hospital services for treatment of an emergency in a foreign hospital that is closer to, or more accessible from, the place the emergency arose than the nearest U.S. hospital that is adequately equipped and available to deal with the emergency, provided either of the following conditions exist:

    a. the emergency arose within the U.S.; or

    b. the emergency arose in Canada while the individual was traveling, by the most direct route and without unreasonable delay between Alaska and another State

2. inpatient hospital services at a foreign hospital that is closer to, or more accessible from, the individual's residence within the U.S. than the nearest U.S. hospital that is adequately equipped and available to treat the individual's condition, whether or not an emergency exists.

3. physician and ambulance services in connection with, and during, a foreign inpatient hospital stay that is covered in accordance with (1) or (2) above.

B. Policy: Pub. 100-04, chapter 1, section 10.1.4.7 of the Internet Only Manual currently states that services furnished by a physician or supplier in U.S. territorial waters must be furnished on board vessels of American registry and that the physician must be registered with the Coast Guard in order for Medicare to make payment. However, section 10.1.4.7 of the manual is not consistent with Medicare law. Therefore, because section 10.1.4.7 of the manual is not consistent with Medicare law, CMS is clarifying that manual section in order to make it consistent with current Medicare law by removing the language that states the vessels must be of American registry and the physician must be registered with the Coast Guard.

CMS is also clarifying in Pub. 100-04, chapter 1, sections 10.1.4, and 10.1.4.1 and chapter 3, section 110.1 and in Pub. 100-02, chapter 16, section 60, that physician and ambulance services furnished in connection with a covered foreign hospitalization are covered. The term "and during a period of" covered foreign hospitalization implies that only physician and ambulance services that are furnished during the period of the covered foreign

hospitalization are covered (i.e., the period after the beneficiary has been admitted to the foreign hospital), when, in fact, the emergency physician and ambulance services are covered both during the time period immediately before the beneficiary is actually admitted to the foreign hospital and during the covered foreign hospitalization itself. In other words, if the foreign hospitalization is covered by Medicare, then the emergency physician and ambulance services that are furnished during the time period that immediately precedes the covered foreign hospitalization are also covered. Therefore, the term "and during a period of" covered foreign hospitalization was removed in order to clarify that policy in the manual.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
6217.1	Medicare contractors/carriers shall make payment for physician and ambulance services furnished in connection with a covered foreign hospitalization.	X		X	X						

III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A/B MAC	DME MAC	FI	CARRIER	RHHI	Shared-System Maintainers				OTHER
							FISS	MCS	VMS	CWF	
6217.2	A provider education article related to this instruction will be available at http://www.cms.hhs.gov/MLNMattersArticles/ shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv. Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within 1 week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.	X		X	X						

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below:
Use "Should" to denote a recommendation.

X-Ref Requirement Number	Recommendations or other supporting information:

Section B: For all other recommendations and supporting information, use this space:

V. CONTACTS

Pre-Implementation Contact(s): Fred Grabau 410-786-0206

Post-Implementation Contact(s): Fred Grabau 410-786-0206

VI. FUNDING

Section A: For *Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs),* and/or *Carriers*:

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: *For Medicare Administrative Contractors (MACs)*:

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the contracting officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the contracting officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

60 - Services Not Provided Within United States

(Rev.95, Issued: 10-03-08, Effective: 01-05-09, Implementation: 01-05-09)

Items and services furnished outside the United States are excluded from coverage except for the following services, and certain services rendered on board a ship:

- Emergency inpatient hospital services where the emergency occurred:
    - While the beneficiary was physically present in the United States; or
    - In Canada while the beneficiary was traveling without reasonable delay and by the most direct route between Alaska and another State. See *Pub. 100-04,* Medicare Claims Processing Manual Chapter 3, Inpatient *Hospital Billing*, Section 110 for a description of claims processing procedures.
- Emergency or nonemergency inpatient hospital services furnished by a hospital located outside the United States, if the hospital was closer to, or substantially more accessible from, the beneficiary's United States residence than the nearest participating United States hospital which was adequately equipped to deal with and available to provide treatment of the illness or injury (see *Pub. 100-04,* Medicare Claims Processing Manual Chapter 3, Inpatient *Hospital Billing*, Section 110 for a description of claims processing procedures);
- Physician and ambulance services furnished in connection with *a* covered foreign hospitalization. Program payment may not be made for any other Part B medical and other health services, including outpatient services furnished outside the United States (see *Pub. 100-04,* Medicare Claims Processing Manual Chapter 1, General *Billing Requirements*, Section 10.1.4.1 for a description of claims processing procedures);
- Services rendered on board a ship in a United States port, or within 6 hours of when the ship arrived at, or departed from, a United States port, are considered to have been furnished in United States territorial waters. Services not furnished in a United States port, or within 6 hours of when the ship arrived at, or departed from, a United States port, are considered to have been furnished outside United States territorial waters, even if the ship is of United States registry (see *Pub. 100-04,* Medicare Claims Processing Manual Chapter 1, General *Billing Requirements*, Section 10.1.4.7 for a description of claims processing procedures); and

The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Northern Mariana Islands, American Samoa and, for purposes of services rendered on a ship, includes the territorial waters adjoining the land areas of the United States.

A hospital that is not physically situated in one of the above jurisdictions is considered to be outside the United States, even if it is owned or operated by the United States Government.

Payment may not be made for any item provided or delivered to the beneficiary outside the United States, even though the beneficiary may have contracted to purchase the item while they were within the United States or purchased the item from an American firm.

Payment may not be made for a medical service (or a portion of it) that was subcontracted to another provider or supplier located outside the United States. For example, if a radiologist who practices in India analyzes imaging tests that were performed on a beneficiary in the United States, Medicare would not pay the radiologist or the U.S. facility that performed the imaging test for any of the services that were performed by the radiologist in India.

Under the Railroad Retirement Act, payment is made to Qualified Railroad Retirement beneficiaries (QRRBs) by the RRB for covered hospital services furnished in Canadian hospitals as well as in the U.S. Physician and ambulance services are not covered by the Railroad Retirement Act; however, under an agreement between CMS and RRB, if the QRRB claims payment for Part B services in connection with Canadian hospitalization, RRB processes the Part B claim. In such cases the RRB determines:

- Whether the requirements are met for the inpatient services; and

- Whether the physician and/or ambulance services were furnished in connection with the services.

Services for an individual who has elected religious nonmedical health care status may be covered if the above requirements are met but this revokes the religious nonmedical health care institution election.