



National Uniform Billing Committee

January 21, 2014

TO : Centers for Medicare & Medicaid Services
c/o Ann Marshall
John McInnes, MD
Fred Rooke

I am writing on behalf of the members of the National Uniform Billing Committee (NUBC) to express our concern about a recent Centers for Medicare & Medicaid (CMS) action that alters the official definition and purpose of an NUBC data element (as indicated in the Official UB-04 Data Specifications Manual (UB-04 Data Set)). More specifically, CMS indicated in the most recent Outpatient PPS rule that they intend to instruct hospitals to utilize Type of Bill code 014x for reporting any unrelated outpatient laboratory tests performed on the same day as other outpatient services irrespective of whether the lab services are for a patient or a non-patient. The NUBC definition for TOB 014x which was approved in 2005, is intended to represent billing for laboratory services when these services are provided only to "Non-Patients". A non-patient means that the hospital laboratory receives a specimen and does not see the patient or draws the sample. Should the patient present themselves at the laboratory of the hospital for a lab test, that patient will be registered as an outpatient and billed using TOB 013x Hospital Outpatient.

Unless the situation is corrected, the NUBC plans on filing a HIPAA complaint with CMS OESS for failure to adhere to the HIPAA standards. At the NUBC meeting last week, the NUBC offered CMS recommendation(s) on to proceed with handling unrelated lab services performed on the same day as other services. The preferred solution was for CMS to assign a status indicator code for these lab services to indicate that they are unrelated and billed using TOB 013x. Another option was to have the hospital report a modifier. CMS would need to implement a new HCPCS Level II modifier, to indicate that the lab services are unrelated to other services perform on the same day. Again, in both approaches, the unrelated lab services would be billed on a separate TOB 013x claim

We recently learned that CMS intends to move forward with its original approach despite our objections. CMS' failure to notify the NUBC of its intention to change our definition is extremely troublesome. We also reviewed the language in the proposed rule and found no indication that clearly stated that comments were being solicited on changing the interpretation and use of NUBC Type of Bill Code 014x. Even if CMS had done so, the rule making process is not applicable to an external code list that is not within the purview of CMS to arbitrarily change. The NUBC has a change request process that CMS, in this instance, did not follow. Unless we hear within the end of the week that CMS will not alter the current meaning and definition of 014x we have no choice but to file a complaint.

Sincerely

George Arges
Chair, National Uniform Billing Committee



February 18, 2014

George Arges
Chair, National Uniform Billing Committee
American Hospital Association
155 N. Wacker Dr. Suite 400
Chicago, IL 60606

Dear Mr. Arges:

We received your letter dated January 21, 2014 voicing concerns of members of the National Uniform Billing Committee (NUBC) regarding our billing policy for certain clinical laboratory services furnished by hospitals in Calendar Year (CY) 2014.

In the CY 2014 Hospital Outpatient Prospective Payment System (OPPS) final rule released in December 2013, the Centers for Medicare & Medicaid Services (CMS) instructed hospitals beginning in CY 2014 to utilize Type of Bill (TOB) 014x (*Hospital- Laboratory Services Provided to Non-Patients*) to obtain separate payment under the clinical laboratory fee schedule (CLFS) for certain hospital outpatient laboratory tests. Specifically, CMS provided that hospitals could continue receiving separate payment under the CLFS rather than OPPS packaged payment by submitting a 014x TOB for hospital laboratory tests that are unrelated to other hospital outpatient services furnished the same day, or if a hospital collects a specimen and furnishes only laboratory tests on a given day. In developing and finalizing this policy to use the 014x TOB, CMS believed that hospitals function as independent laboratories in the circumstances described above, and therefore use of the 014x bill was appropriate. In the absence of public comments indicating otherwise, CMS finalized this proposed policy

We understand that since publication of the final rule, hospitals are expressing concern that submitting a 014x TOB in this manner may violate the Health Insurance Portability and Accountability Act of 1996. The NUBC has also explained its intent to limit the definition approved in 2005 for the 014x TOB to billing of laboratory services provided to "Non-Patients," meaning referred specimen where the patient is not present at the hospital.

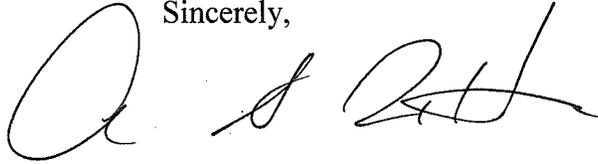
To alleviate these concerns, CMS is requesting that the Health Care Common Procedure Coding System (HCPCS) Committee create a new modifier that would be used on the 013x hospital outpatient TOB when a hospital seeks separate payment of unrelated outpatient laboratory tests or when only laboratory tests are provided under the CY 2014 OPPS final rule. The 014x TOB would then only be used for non-referred laboratory specimens. The modifier would be effective retroactive to January 1, 2014, and CMS will issue the related stakeholder instructions, including those related to claims already submitted using the 14X TOB, in the earliest possible systems

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update (likely our quarterly July release). Please note that we view this modifier as an immediate solution to NUBC's concern for CY 2014 and that we may evaluate better means to bill for laboratory services next year.

We appreciate you bringing this issue to our attention.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Ritter", written in a cursive style.

Chris Smith Ritter, Ph.D.
Deputy Director
Hospital and Ambulatory Policy Group