



**Wisconsin Chiropractic Association**  
2401 American Lane | Madison WI 53704

January 28, 2020

Bob Brinkman  
UnitedHealthcare

*RE: Process for billing UHC Medicare Advantage members for Non-Covered Services*

Dear Mr. Brinkman,

Thank you for taking the time to join a phone call with WCA Help Desk Manager Zach Kasun on January 24, 2020 to discuss ongoing claims processing issues specific to UHC Medicare Replacement policies. As a trade association representing over 2,000 licensed chiropractors across the state of Wisconsin, it is concerning to us when an undue administrative burden is placed upon chiropractors to receive payment for services rendered to patients. Such appears to be the case when it comes to the process for billing UHC Medicare Advantage members for **Non-Covered services**.

As you're well aware, for Original Medicare, Doctors of Chiropractic (DCs) are limited to billing three Current Procedural Terminology (CPT) codes: 98940 (chiropractic manipulative treatment; spinal, one to two regions), 98941 (three to four regions), and 98942 (five regions). When submitting manipulation claims, DCs must use an Acute Treatment (AT) modifier to identify services that are active/corrective treatment of an acute or chronic subluxation. All other services are non-covered by Original Medicare.

With limited exception, coverage of chiropractic services by Medicare Advantage plans mirrors that of Original Medicare. **Under Original Medicare guidelines, there are balance billing restrictions for Medicare beneficiaries for covered services only.** For chiropractic, the balance billing restrictions only apply to CPT 98940-98942.

**No balance billing restrictions apply to non-covered services.** This provision is contained within the Medicare Benefit Policy Manual, Chapter 15: *"Because Medicare's rules do not apply to items or services that are categorically not covered by Medicare, a private contract is not needed to furnish such items or services to Medicare beneficiaries, and Medicare's claims filing rules and limits on charges do not apply to such items or services,"* (40.19 - Opt-Out Relationship to Noncovered Services).

Therefore, when performing exams, x-rays or other non-covered services with Original Medicare beneficiaries, chiropractors do not need to complete an ABN (unless they voluntarily wish to do so), nor file a claim to Original Medicare, nor abide by the Medicare Fee Schedule. If a claim is filed to Original Medicare for these services, chiropractors must append the -GY modifier to indicate these are statutorily excluded services, which will result in a denial from CMS showing full patient responsibility.

The process becomes much more burdensome to chiropractic clinics when it comes to UHC Medicare Advantage policies. UHC Participating Providers are told they must follow Chapter 10 of the UHC Provider Manual to collect from members for non-covered services. Member EOBs are sent out showing no patient responsibility for non-covered services, even though under Original Medicare the patient would be responsible for payment in full for these services. This leads to patient confusion and the perception that chiropractors are not following the rules. UHC Participating Providers receive phone calls from UHC customer service representatives, informing them that they cannot balance bill members. UHC even sent the enclosed threatening letter to one such provider. Most recently, the guidance provided to Zach Kasun by you on 1/24/20 indicates that participating providers must submit documentation along with their claims showing that they have disclosed to members what services are non-covered, and then hope that this documentation is reviewed and claims are processed correctly showing member financial responsibility for the non-covered services. While the vast majority of chiropractic clinics do proactively inform patients about Medicare coverage of chiropractic services, it should be the patients' responsibility to know what services are covered under his/her plan. We are unaware of other provider types who are subjected to such burdensome requirements in order to collect from patients for non-covered services.

The issues outlined above impact Participating providers; however, Non-participating providers are also experiencing incorrectly processed claims which show no patient responsibility for non-covered services. This leads to upset patients and even complaints against the chiropractors.

We have had our lawyer review all of the relevant information surrounding this topic and are respectfully requesting that UHC provide any and all statutory and regulatory guidance relied upon to bar chiropractors from collecting payment they are rightfully owed for non-covered/policy excluded services provided to UHC Medicare Advantage members.

I look forward to receiving a response from you at your earliest convenience.

Best Regards,

A handwritten signature in blue ink that reads "John Murray". The signature is fluid and cursive, with a horizontal line extending from the end of the name.

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Enclosures:

Encl. 1 – Letter from UHC to a Participating provider in regards to billing a member for non-covered services