

## **Advance Notice of Non-coverage (ABN), Form CMS-R-131**

### **FAQs**

#### **Q1: What is the ABN and when should we use the form?**

**A1:** The ABN is a liability notice that informs Original Medicare (fee for service) beneficiaries of their potential financial obligation of otherwise Medicare covered items or services which may be denied by Medicare based on certain statutory provisions (e.g. Items and services found to be not reasonable and necessary (§1862(a)(1)(A) of the Social Security Act (SSA), Custodial care (§1862(a)(9) of the SSA)). Healthcare providers and suppliers must issue ABNs to Medicare beneficiaries in order to transfer financial liability to the beneficiary. This may occur at any one of three points during a course of treatment also known as “triggering events:”

- **Initiations** - An initiation is the beginning of a new beneficiary encounter, start of a plan of care, or beginning of treatment. An ABN must be issued prior to the beneficiary receiving certain otherwise Medicare covered items or services, if a healthcare provider or supplier believes that those items or services will be non-covered (e.g. not reasonable and necessary) at initiation.
- **Reductions** - A reduction occurs when there is a decrease in a component of care (i.e. frequency, duration, etc.). The ABN is not issued every time an item or service is reduced. But, if a reduction occurs and the beneficiary wants to receive care that is no longer considered medically reasonable and necessary, the ABN must be issued prior to delivery of this non-covered care.
- **Terminations** – A termination is the discontinuation of certain items or services. The ABN is only issued at termination if the beneficiary wants to continue receiving care that is believed to be no longer covered by Medicare.

#### **Q2: Who issues an ABN?**

**A2:** Entities who issue ABNs are collectively known as “notifiers”. These entities can include healthcare providers (including laboratories, hospital outpatient services, and certain care furnished under Part A (hospice and religious non-medical healthcare institutes only), HHAs and suppliers, and/or utilization review committees for the healthcare provider.

With the exception of durable medical equipment (DME) suppliers, healthcare providers and suppliers who are not enrolled in Medicare cannot issue the ABN to original Medicare FFS beneficiaries.

Skilled Nursing Facilities (SNFs) issue the ABN for Part B services only. The Skilled Nursing Facility Advance Beneficiary Notice of Non-coverage (SNF ABN), CMS Form 10055, is issued for Part A SNF items and services. More information on the SNF ABN may be found at:

<https://www.cms.gov/Medicare/Medicare-General-Information/BNI/FFS-SNF-ABN-.html>

**Q3: Can the ABN also be given, but is not necessary to transfer financial liability to the beneficiary? When would we issue the ABN in this instance?**

**A3:** ABNs are not required for care that is either statutorily excluded from coverage under Medicare or most care that fails to meet a technical benefit requirement (i.e. fails to meet a condition of payment). However, the ABN can be issued voluntarily for items or services that are never covered by Medicare such as:

- Care that fails to meet the definition of a Medicare benefit as defined in §1861 of the Social Security Act;
- Care that is explicitly excluded from coverage under §1862 of the Social Security Act (e.g. Services for which there is no legal obligation to pay, Services paid for by a government entity other than Medicare (this exclusion does not include services paid for by Medicaid on behalf of dual-eligibles), Services required as a result of war, Personal comfort items, Routine eye care, Dental care, and Routine foot care); or
- Payment for a medically unreasonable or unnecessary item or service that is also barred because of failure to meet a condition of payment required by regulations (e.g. Drugs and biologicals which are usually self-administered by the patient, or Ambulance services denied because transportation by other means is not contraindicated or because regulatory criteria specified in 42 CFR 410.40, such as those relating to destination or nearest appropriate facility, are not met).

**Q4: What do we do if a beneficiary refuses to sign or select an option on the ABN?**

**A4:** If the beneficiary refuses to choose an option and/or refuses to sign the ABN when required, the notifier should:

- Annotate the original copy of the ABN indicating the refusal to sign or choose an option and may list witness(es) to the refusal on the notice although this is not required.
- Consider not furnishing the item/service, unless the consequences (health and safety of the patient, or civil liability in case of harm) are such that this is not an option.

**Q5: How long does an ABN last? Do we need to have a new ABN filled out for recurring services?**

**A5:** An ABN can remain effective after valid delivery so long as there has been **no** change in:

- Care from what is described on the original ABN;
- The beneficiary's health status which would require a change in the subsequent treatment for the non-covered condition; and/or
- The Medicare coverage guidelines for the items or services in question (i.e., updates or changes to the policy of an item or service).

For items or services that are repetitive or continuous in nature, notifiers may issue another ABN to a beneficiary after one year for subsequent treatment for the non-covered condition. However, this is not required unless any of the conditions described above apply to the given situation.

**Q6: Can the ABN be given electronically? Are there other ways to deliver the ABN besides in-person?**

**A6:** Electronic issuance of ABNs is not prohibited. If a healthcare provider or supplier elects to issue an ABN that is viewed on an electronic screen before signing, the beneficiary must be given the option of requesting paper issuance over electronic if that is what s/he prefers.

ABNs should be delivered in-person and prior to the delivery of items or services which are presumed to be non-covered. In circumstances when in-person delivery is not possible, notifiers may deliver an ABN by other means (e.g. Direct telephone contact, Mail, Secure fax machine, or Internet e-mail).

All methods of delivery require adherence to all statutory privacy requirements under the Health Insurance Portability and Accountability Act of 1996.

**Q7: Where can I get more information on the ABN?**

**A7:** Information on the ABN, the form and the form instructions can be downloaded from

<https://www.cms.gov/Medicare/Medicare-General-Information/BNI/ABN.html>.