

## REMINDER

### Failure of Your Referral Sources to Enroll in Medicare's Provider Enrollment, Chain and Ownership System (PECOS) May Affect Your Ability to Bill

In response to, among other things, the Patient Protection and Affordable Care Act that was signed into law earlier this year, the Centers for Medicare and Medicaid Services (CMS) issued an interim final rule on May 5, 2010 that requires all:

- Physicians<sup>1</sup> and non-physician practitioners<sup>2</sup> who order or refer Medicare beneficiaries for, or furnish Medicare beneficiaries with, Part B covered items and services; and
- Physicians who certify home health services

be enrolled in PECOS **as of July 6, 2010** in order for the billing provider to receive payment for the ordered, referred, or furnished items or services under Medicare Part B (and, in the case of home health services, Part A). Some of the types of claims that will be affected by this new rule include:

- Claims from laboratories for ordered tests;
- Claims from imaging centers for ordered imaging procedures;
- Claims from suppliers of DMEPOS for ordered DMEPOS;
- Certification for Part A and Part B covered home health services; and
- Claims from specialists or specialty groups for referred services (including, but not limited to, physical therapy services).

In addition to prohibiting payment for these services, the interim final rule also requires that the teaching physician -- **NOT** the intern or resident -- be identified on the claim for Part B services as the referring or ordering physician whenever an intern or resident orders or refers. This is also effective as of July 6, 2010.

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<sup>1</sup> This includes a doctor of medicine or osteopathy, doctor of dental medicine, doctor of dental surgery, doctor of podiatric medicine, doctor of optometry, and doctor of chiropractic medicine.

<sup>2</sup> This includes physician assistants, certified clinical nurse specialists, nurse practitioners, clinical psychologists, certified nurse midwives, and clinical social workers.

*continued...*

Therefore, all providers who bill for ordered, referred, or furnished items or services that are payable under Medicare Part B (and home health care providers who bill for Part A and/or Part B covered services) should check the "Ordering and Referring Report" maintained by CMS to confirm whether the ordering or referring provider has an enrollment record in PECOS before submitting a claim as of July 6, 2010. This Report can be viewed at [www.cms.gov/MedicareProviderSupEnroll/06\\_MedicareOrderingandReferring.asp](http://www.cms.gov/MedicareProviderSupEnroll/06_MedicareOrderingandReferring.asp).

If the ordering or referring provider is not listed on the Report, there is confusion as to whether billing providers are entitled to submit claims for items and services ordered or referred by such providers. While CMS has acknowledged that some providers have encountered problems getting their information into PECOS and announced that, for the time being, it will not implement changes that would automatically reject claims based on orders, certifications, and referrals made by providers that have not yet had their applications approved by July 6, 2010, CMS has expressly declined to delay implementation of the interim final rule as of the date of this Alert.

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If you have any questions regarding this issue and/or what steps should be taken as of July 6, 2010 if you receive an order or referral for items or services by a provider who is not enrolled in PECOS, please contact the GW attorney with whom you regularly consult.

## About Garfunkel Wild, P.C.

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If you have any questions regarding this Legal Alert, please contact Patrick J. Monahan II, Esq. at (203) 316-0483.

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