

March 6, 2024

The Honorable Xavier Becerra  
Secretary U.S. Department of Health and Human Services  
200 Independence Avenue, S.W.  
Washington, DC 20201

**RE: Requesting Targeted Claim Audit Relief Due to Ongoing Change Healthcare Outage's Effects on SNF Providers**

Secretary Becerra:

The American Health Care Association and National Center for Assisted Living (AHCA/NCAL) represent over 14,000 long-term and post-acute care (LTPAC) providers across the United States and aim to improve lives by delivering solutions for quality care. On behalf of our membership and those entrusted to their care, we would like to ask for your continued support in coordinating response activities related to the recent cyberattack affecting Change Healthcare. **Specifically, we are writing today to request limited audit and review timeline flexibility as detailed below.**

The nation's LTPAC providers are experiencing significant challenges with automated claims submissions, prompt payment for services provided, and reconciling remittances within standard workflows while Change Healthcare's services remain offline. Last week, we [requested](#) your assistance in leveraging Federal authorities in streamlining processes to obtain Medicare advanced payments for skilled nursing facility (SNF) providers that are affected by this crisis, and to encourage other Federal, State and commercial payers to implement similar flexibilities for impacted LTPAC providers. We greatly appreciate your office's March 5 [statement](#) regarding the cyberattack on Change Healthcare, which discussed several of our flexibility requests.

As this situation has evolved over the past two weeks, many of our members have reassigned numerous personnel, or have needed to hire additional temporary personnel, to manually process claims for multiple Federal, State, and commercial payers, including Medicare Advantage plans, using available workarounds. Notably, these are often the same individuals involved in responding to the claim additional documentation requests (ADR) issued by Centers for Medicare and Medicaid Services (CMS) contractors as part of the Agency's program integrity medical review processes.

This has created a perfect storm for those providers whose claims processing operations have been adversely impacted by the Change Healthcare cybersecurity crisis. **We request that you direct CMS to extend certain audit flexibilities to LTPAC providers who attest they are affected by the Change Healthcare cybersecurity incident and ongoing systems outage.**

**Below are our specific requests and our rationale:**

- 1. We request that CMS direct audit contractors to grant a 90-day extension for post-pay claim review ADR timelines beyond the currently available response timelines if the provider attests that their claims processing operations related to any payer have been adversely impacted by the Change Healthcare cybersecurity crisis.**

**Rationale:** Medicare Fee-for-Service (FFS) medical reviews are conducted by Medicare Administrative Contractors (MACs), the Supplemental Medical Review Contractor (SMRC), Recovery Audit Contractors (RACs), Unified Program Integrity Contractors (UPICs), and others. These audits may be performed on a pre-pay or post-pay basis depending on the reason for the audit and type of audit contractor and ADR response timelines may vary across contractor type.

Current authorities allow the auditors to extend ADR response timelines upon request, but there is no standardization or predictability regarding whether a request will be granted, or for how long the extension will be approved. The certainty of an added 90 days to respond to a post-pay ADR beyond current response timeframes will allow providers the necessary time to:

- Focus on activities necessary to comply with timely claims processing requirements;
- Address any system reconciliation activities as Change Healthcare systems may be restored; or
- Transition to other technology partners that perform the necessary claims transaction functions currently disrupted.

It is essential that providers be granted this flexibility regardless of type of payer affected, and not limited to Medicare FFS claims processing, as individual SNFs may have multiple other payer types, including Medicare Advantage and Medicaid. The Change Healthcare cybersecurity crisis has also affected these entities and commercial payers, and therefore, increased burden on SNF personnel to address workarounds for these various payers. This makes it extremely challenging to respond to a Medicare FFS claim audit ADR within the current timeframe. Therefore, we would greatly appreciate CMS granting a 90-day extension.

- 2. We request that CMS direct audit contractors to suspend any pre-pay claim review activities for no less than 90 days if the provider attests that their claims processing operations related to any payer have been adversely impacted by the Change Healthcare cybersecurity crisis.**

**Rationale:** Pre-pay claim review has an even more disruptive impact on SNFs. Providers who are already dealing with labor intensive work arounds to submit claims, would then be subject to having their claims suspended from payment for an extended period until they responded to an ADR. We are not requesting a blanket suspension of contractor pre-pay review activities. Rather, we are requesting that if a provider received a pre-pay ADR, they

be allowed to request that the specific pre-pay review ADR be cancelled and that they not be subject to any further pre-pay review ADRs for a period of at least 90 days if they attest that their claims processing operations related to any payer have been adversely impacted by the Change Healthcare cybersecurity crisis.

**NOTE:** We believe these two requests will have minimal impacts on the Agency's program integrity responsibilities as well as post-pay audit and pre-pay audit contractor review audit volume. They would only offer short-term relief to those providers impacted by this crisis. Contractors could readjust pre-pay audit queues to circle back to the providers selected after 90 days once they have been able to recover from this unfortunate situation.

**NOTE:** We believe that documentation supporting the attestations discussed in the two requests above could include messages from the providers' billing vendor, payer, or other health information technology partner that say the provider will have payments delayed or will have to perform workaround activities to complete those workflow functions disrupted by the Change Healthcare cybersecurity breach.

**3. Finally, we would appreciate you recommending Medicare Advantage (MA) Plans and State Medicaid Agencies to consider offering similar audit flexibilities for providers affected by the Change Healthcare cybersecurity crisis.**

**Rationale:** This is similar to our request last week, which asked your agency to consider encouraging MA plans and State Medicaid Agencies to offer some form of advanced payment option. LTPAC providers rely on multiple payers, and offering comparable audit flexibilities across these payers would help our providers who are currently stretched thin dealing with time-intensive and manual claim submission workarounds.

We greatly appreciate your support through this evolving and urgent situation, and we remain ready to collaborate. Our LTPAC communities across the country must have the necessary resources and be able to prioritize their personnel in a manner that permits them to maintain their focus on providing high quality care for those they serve. If AHCA/NCAL may be of any assistance, please feel free to have a member of your team contact [Dan Ciolek](#) on my team, and we will be glad to engage.

Respectfully submitted,

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Mark Parkinson  
President and Chief Executive Officer  
American Health Care Association/National Center for Assisted Living

CC: The Honorable Chiquita Brooks-LaSure, Administrator  
Centers for Medicare & Medicaid Services