TO: All Hospitals Served by Maryland Medicare – Part A

FROM: Medicare Fraud Unit
Maryland Medicare Part A

DATE: September 1, 2000

SUBJECT: Non-discrimination of Post-Hospital Referral to Home Health Agencies and Other Entities

The purpose of this notice is to inform providers of procedures to be used when a Medicare beneficiary needs services of a Home Health Care Agency or other post-hospital care, such as Home Oxygen Services.

Maryland Medicare Part A has received numerous allegations of violations of the Medicare regulations regarding discharge planning and anti-kickback laws. Specifically, the allegations involve home care referrals from local hospitals to a home health agency and/or other entity affiliated with the hospital. Some problems are related to those Home Health Care Agencies who have on-site liaison nurses where it is alleged that the liaison nurses are inappropriately reviewing admissions and discharges for potential clients.

The Medicare law provides the patient with the freedom to choose to obtain health services from any provider qualified under the Medicare program to furnish such services. In addition, Congress recently enacted a law (part of the Balanced Budget Act) that changes the hospital discharge planning process to ensure more equitable referral practices. The law requires, among other things, (i) that the discharge plan not specify or otherwise limit the home health agency that will provide post-hospital service, and (ii) that the hospital include in a patient's discharge planning evaluation a list of available Medicare-certified home health agencies in the patient's geographic area if those agencies request to be listed. The patient can then select a provider of their choice. The Health Care Financing Administration began requiring these procedures as of November 3, 1997, the law's effective date.

Section 4321 (Non-discrimination in Post-Hospital Referral to Home Health Agencies and Other Entities) of the Balanced Budget Act of 1997 (Public Law 105-33) reads, in part, "Hospitals with a financial relationship with a Home Health Agency would be required to report to the Secretary (1) the nature of the financial interest; (2) the number of individuals discharged from the hospital requiring home health services; and (3) the percentage of those individuals receiving services from the HHA. This information must be made available to the public." Section 4321 also indicates "The financial interest and referral pattern provision would become effective upon the Secretary's issuance of regulations, which is to occur no later than one year after enactment."

Should you have any questions regarding this bulletin, please contact Donna Blaschak, Medicare Fraud Coordinator, at (410) 561-4111, or via email at donna.blaschak@carefirst.com.