Physicians Who Order Items or Services Required to be Medicare Enrolled Physicians or Eligible Physicians

Summary: Requires durable medical equipment (DME) to be ordered by a Medicare eligible professional or physician enrolled in the Medicare program, and home health services to be ordered by a physician enrolled in the Medicare program. The Secretary would have the authority to extend these requirements to other Medicare items and services to reduce fraud, waste, and abuse.

Next steps:
- July 1, 2010 – Provision goes into effect
- October 4, 2010 – (Phase I) Centers for Medicare and Medicaid Services begins reviewing home health care claims to determine compliance with this section. Entities not in compliance receive payment but also a notice that future claims will not be paid.
- To be announced – (Phase II) CMS stops paying for home health claims that are not in compliance with this section.

Additional information:
- Centers for Medicare and Medicaid Services (CMS) information on Medicare enrollment of certain physicians or practitioners who have unique enrollment issues and will need to enroll in the Medicare program for the sole purpose of ordering or referring items or services for Medicare beneficiaries -- http://www.cms.gov/transmittals/downloads/R355PI.pdf
- CMS May 5, 2010 Interim final rule with comment period regarding home health – http://edocket.access.gpo.gov/2010/2010-10505.htm (Note: Final rule has not been issued.)
Long summary:
Sec. 6405. Physicians who order items or services required to be Medicare enrolled physicians or eligible professionals (as modified by Sec. 10604).
Effective as of July 1, 2010, only a Medicare-enrolled physician can order Medicare-covered home health services, and only a Medicare-enrolled physician or health professional can order Medicare-covered durable medical equipment. The Secretary may expand this requirement to other categories of items or services, including Part D drugs.

Legislative text:
SEC. 6405. PHYSICIANS WHO ORDER ITEMS OR SERVICES REQUIRED TO BE MEDICARE ENROLLED PHYSICIANS OR ELIGIBLE PROFESSIONALS.
(a) DME.—Section 1834(a)(11)(B) of the Social Security Act (42 U.S.C. 1395m(a)(11)(B)) is amended by striking “physician” and inserting “physician enrolled under section 1866(j) or an eligible professional under section 1848(k)(3)(B) that is enrolled under section 1866(j)”.
(b) HOME HEALTH SERVICES.—Replaced by section 10603;
(1) PART A.—Section 1814(a)(2) of the Social Security Act (42 U.S.C. 1395(a)(2)) is amended in the matter preceding subparagraph (A) by inserting “, or, in the case of services described in subparagraph (C), a physician enrolled under section 1866(j),” after “in collaboration with a physician,”.
(2) PART B.—Section 1835(a)(2) of the Social Security Act (42 U.S.C. 1395n(a)(2)) is amended in the matter preceding subparagraph (A) by inserting “[, or, in the case of services described in subparagraph (A), a physician enrolled under section 1866(j),]” after “a physician”.
(c) APPLICATION TO OTHER ITEMS OR SERVICES.—The Secretary may extend the requirement applied by the amendments made by subsections (a) and (b) to durable medical equipment and home health services (relating to requiring certifications and written orders to be made by enrolled physicians and health professions) to all other categories of items or services under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), including covered part D drugs as defined in section 1860D–2(e) of such Act (42 U.S.C. 1395w–102), that are ordered, prescribed, or referred by a physician enrolled under section 1866(j) of such Act (42 U.S.C. 1395cc(j)) or an eligible professional under section 1848(k)(3)(B) of such Act (42 U.S.C. 1395w–4(k)(3)(B)).
(d) EFFECTIVE DATE.—The amendments made by this section shall apply to written orders and certifications made on or after July 1, 2010.