

NGC Trustees Adopt Amendments Relative to Pulmonary Function Testing

As of April 1, 2006, the Trustees, with the consent of the Legal Representative and the members of the Trustee Advisory Committee (the "TAC") have agreed to a two-year implementation of alternate means of satisfying the definition of Pulmonary Function Testing. Currently, that definition provides that pulmonary function testing ("PFT") be accepted only if it is performed in an accredited hospital (the "Hospital Presumption") or "substantially conforms to quality criteria established by the American Thoracic Society ("ATS") and is performed on equipment which substantially meets ATS standards for technical quality and calibration." These refinements are manifested in amendments to the CRP that provide additional means of satisfying the definitional standard.

The first amendment is the adoption of a "Pulmonologist Presumption." With this amendment, the Hospital Presumption would be joined by a presumption that (i) a diagnosis by a board-certified pulmonologist or (ii) a PFT administered or reported by a board-certified pulmonologist, when accompanied by the diagnosis of a Qualified Physician, will also satisfy the ATS standard (the "Pulmonologist Presumption"). Board certification is determined by reference to Board Certification Lists maintained by and available from the American Board of Medical Specialties.

The second amendment adopted by the Trustees is the establishment of a "Grandfather Exception." All claims with PFTs that were not performed at an accredited hospital or do not meet the "Pulmonologist Presumption must submit a full report, including all tracings to the Trust's claims facility. Pursuant to the Grandfather Exception, for claims diagnosed prior to May 1, 2006, a claimant may submit a summary report if the summary report is accompanied by a certification from the administering or reporting physician or the administering lab that (i) a full PFT report is not available and (ii) to the best knowledge of the physician or lab, the PFT for the claimant was conducted in material compliance with ATS standards, both as to the manner of the test and the testing equipment utilized in the test. The facility will provide the appropriate certification form upon request and it is available on the Trust's website at www.ngcbitrust.org (click on the "Documents" icon). For claims diagnosed after May 1, 2006, a full PFT report will be required if the Non-Malignant I claim does not meet the requirements of the Hospital Presumption or the Pulmonologist Presumption.

The Trustees have implemented the two-year test period in recognition of the possibility that these provisions may not operate as intended. While the Trustees do not believe these provisions will have unintended consequences, that possibility mandates the Trustees to reaffirm the provisions after reviewing almost two years of actual results.

The Trust will be working to identify those claims previously allowed as Non-Malignant II or Non-Malignant III claims that, by implementing the Trust's new CRP amendments, would qualify as Non-Malignant I claims. As these are identified, the Trust will send counsel a list of the firm's claimants who qualify for a higher disease category, together with a supplemental release that the law firm may sign without obtaining the signatures of the claimants. Upon receipt of these releases from counsel, the Trust will forward payments for the upgraded diseases (net of prior payments). If counsel is unwilling to sign releases for claimants whose claims qualify for upgrades, the Trust will provide new releases for those claimants and, as such executed releases are returned to the Trust, payments will follow.

The Trust will also identify and review again those claims that currently have deficiencies related to PFT, but whose reported PFT results (percentages) meet one or more of the PFT requirements. Claimants will be notified, through counsel, of any change related to the deficiency as the result of application of the new PFT provisions of the CRP.

Furthermore, the Trust will also provide a list of claims filed as Non-Malignant I claims but whose PFT results (percentages) do not meet the requirements of the CRP. The purpose of this notification is to provide a final reminder of Non-Malignant I claims that remain deficient.

If you have questions regarding any of the foregoing, please contact Vince Mouer, the Trust's Chief Legal Officer at 903.453.0156. He may also be reached via e-mail at vmouer@trustservices.org.