



## The New ABN Form & What You Need to Know About It

On March 13, 2026, the Centers for Medicare and Medicaid Services (“CMS”) published an updated Advanced Beneficiary Notice (“ABN”), CMS Form-R-131. Fee for service providers must ensure that they transition to the new form of ABN no later than May 12, 2026.

### What is an ABN?

The ABN is a form issued by the Centers for Medicare and Medicaid Services and its full name is the Advanced Beneficiary Notice of Non-Coverage. The ABN is used by providers who participate in the Medicare program and accept fee for service for the professional services they render on behalf of Medicare Beneficiaries.

### When should a provider use an ABN?

The purpose of the ABN is to provide a Medicare Beneficiary with notice that the provider reasonably believes that particular healthcare services or supplies are not covered by Medicare and provides the Medicare beneficiary with the option to elect to pay out of pocket for the services rendered by a healthcare professional. Services and supplies are not covered by Medicare if they are not deemed reasonable or necessary under applicable reimbursement guidelines, the services or supplies are experimental or investigational or if the services or supplies exceed the number allowed in a specific period for the diagnosis as determined by the provider. An ABN must be presented to the Medicare beneficiary prior to providing the services or supplies. When the ABN is properly completed and signed by the Medicare beneficiary, the provider preserves the right to bill and collect from the Medicare beneficiary for the services or supplies provided to the Medicare beneficiary. Without an ABN, a Medicare beneficiary is not required to pay for services or supplies that are not covered.

### When should a provider not use an ABN?

The provider should only use the ABN as provided above. The ABN is not required for care that is statutorily excluded from coverage under the Medicare program. This includes but is not limited to things like personal comfort items, routine foot care, dental care, etc. Providers should beware that the ABN is not like a “get out of jail free card” and should not be routinely used to try to shift liability for payment for services that are bundled under Medicare payments or after Medicare has denied payment for particular services or supplies, and should not be used for payment of membership fees for concierge care. These examples are not comprehensive and providers should only use the ABN as allowed under the applicable law and guidelines promulgated by CMS.

What changed with the new form of ABN?

The new form of the ABN changed the following:

1. The notice is now written in “plain language” in an effort to make it clearer and easier for the Medicare beneficiary to understand;
2. The headers in the table of Medicare exclusions and Costs have been simplified to make it easier to identify the non-covered items and the reason that they may not be covered; and
3. The language used to describe the options available to the Medicare beneficiary have been simplified so that the Medicare beneficiary can (i) request Medicare billing and preserve their rights to appeal any denial of payment for the services or supplies; (ii) receive and pay for the services or supplies without billing Medicare; or (iii) decline the services.

What didn't change with the issuance of the new form of ABN?

The scope of the ABN and underlying rules related to ABN have not changed. Providers must make sure that any ABN they obtain is properly completed and signed. To properly complete an ABN, a provider must ensure that the ABN clearly explains why the provider believes that services or supplies ordered by the provider will not be covered by Medicare. The ABN must also include a good faith estimate of the cost of the services or supplies and the Medicare beneficiary must be afforded a reasonable time period to consider its options and to make an informed decision. A provider should be available to the Medicare beneficiary to discuss the ABN and answer any questions the Medicare beneficiary may have about the ABN before any services are rendered or supplies are provided. The failure to comply with these requirements may result in the provider bearing the financial risk of nonpayment.

What should you do now?

If your practice has been using the CMS ABN form, you should replace the old form with the new CMS Form-R-131. It would also be a good idea to retrain the staff on the correct use of the ABN and the processes for proper completion of the form. Proper use of the ABN is a matter of compliance and it is important that providers understand when and how to use the ABN. If you have any questions about your ABNs or the proper use of the ABN, please do not hesitate to contact us.

**Jay B. Silverman, Esq.**  
**516-663-6606**  
**jsilverman@rmfpc.com**

**Leora F. Ardizzone, Esq.**  
**516-663-6538**  
**lardizzone@rmfpc.com**