that the physician service is covered consistent with the requirements of section 1862(a)(1)(A) of the Act relating to medical necessity.

(*2*) *Noncoverage.* If the contractor makes the determination described in paragraph (d)(5)(ii)(A)(*2*) of this section, the contractor will include in the notice a brief explanation of the basis for the determination, including on what national or local coverage or noncoverage determination (if any) the determination is based, and a description of any applicable rights under section 1869(a) of the Act.

(*3*) *Insufficient information.* If the contractor makes the determination described in paragraph (d)(5)(ii)(A)(*3*) of this section, the contractor will include in the notice a description of the additional information required to make the coverage determination.

(C) *Deadline to respond.* The notice described in paragraphs (d)(5)(ii)(A)(1) through (d)(5)(ii)(A)(3) of this section will be provided by the contractor within 45 days of the date the request for a prior determination is received by the contractor.

(D) *Informing beneficiary in case of physician request.* In the case of a request by a participating physician or a physician accepting assignment, the process will provide that the individual to whom the physician's service is to be furnished will be informed of any determination described in paragraph (d)(5)(ii)(A)(*2*) of this section (relating to a determination of non-coverage). The beneficiary will also be notified that, notwithstanding the determination of non-coverage, the beneficiary has the right to obtain the physician's service in question and have a claim submitted for the physician's service.

(iii) *Binding nature of positive determination.* If the contractor makes the determination described in paragraph (d)(5)(ii)(A)(*1*) of this section, that determination will be binding on the contractor in the absence of fraud or evidence of misrepresentation of facts presented to the contractor.

(iv) *Limitation on further review*—(A) *General rule.* Contractor determinations described in paragraph (d)(5)(ii)(A)(*2*) of this section or paragraph (d)(5)(ii)(A)(*3*) of this section (relating to pre-service claims) are not subject to administrative appeal or judicial review.

(B) *Decision not to seek prior determination or negative determination does not impact the right to obtain services, seek reimbursement, or appeal rights.* Nothing in this paragraph will be construed as affecting the right of an individual who—

(*1*) Decides not to seek a prior determination under this paragraph with respect to physicians' services; or

(*2*) Seeks such a determination and has received a determination described in paragraph (d)(5)(ii)(A)(*2*) of this section, from receiving (and submitting a claim for) those physicians' services and from obtaining administrative or judicial review respecting that claim under the other applicable provisions of this part 405 subpart I of this chapter. Failure to seek a prior determination under this paragraph with respect to physicians' services will not be taken into account in that administrative or judicial review.

(C) *No prior determination after receipt of services.* Once an individual is provided physicians' services, there will be no prior determination under this paragraph with respect to those physicians' services.

[51 FR 41339, Nov. 14, 1986, as amended at 73 FR 9678, Feb. 22, 2008]

§ 410.21 Limitations on services of a chiropractor.

(a) *Qualifications for chiropractors.* (1) A chiropractor licensed or authorized to practice before July 1, 1974, and an individual who began studies in a chiropractic college before that date, must have—

(i) Had preliminary education equal to the requirements for graduation from an accredited high school or other secondary school;

(ii) Graduated from a college of chiropractic approved by the State's chiropractic examiners after completing a course of study covering a period of not less than 3 school years of 6 months each year in actual continuous attendance and covering adequate courses of study in the subjects of anatomy, physiology, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, and principles and practice of chiropractic,

including clinical instruction in vertebral palpation, nerve tracing and adjusting; and

(iii) Passed an examination prescribed by the State's chiropractic examiners covering the subjects specified in paragraph (a)(1)(ii) of this section.

(2) A chiropractor first licensed or authorized to practice after June 30, 1974, and an individual who begins studies in a chiropractic college after that date, must have—

(i) Had preliminary education equal to the requirements for graduation from an accredited high school or other secondary school;

(ii) Satisfactorily completed 2 years of pre-chiropractic study at the college level;

(iii) Satisfactorily completed a 4-year course of 8 months each year offered by a college or school of chiropractic approved by the State's chiropractic examiners and including at least 4,000 hours in courses in anatomy, physiology, symptomatology and diagnosis, hygiene and sanitation, chemistry, histology, pathology, principles and practice of chiropractic, and clinical instruction in vertebral palpation, nerve tracing and adjusting, plus courses in the use and effect of X-ray and chiropractic analysis;

(iv) Passed an examination prescribed by the State's chiropractic examiners covering the subjects specified in paragraph (a)(2)(iii) of this section; and

(v) Attained 21 years of age.

(b) *Limitations on services.* (1) Medicare Part B pays only for a chiropractor's manual manipulation of the spine to correct a subluxation if the subluxation has resulted in a neuromusculoskeletal condition for which manual manipulation is appropriate treatment.

(2) Medicare Part B does not pay for X-rays or other diagnostic or therapeutic services furnished or ordered by a chiropractor.

[51 FR 41339, Nov. 14, 1986, as amended at 64 FR 59439, Nov. 2, 1999. Redesignated at 66 FR 55328, Nov. 1, 2001]

§ 410.22 Limitations on services of an optometrist.

Medicare Part B pays for the services of a doctor of optometry, which he or she is legally authorized to perform in the State in which he or she performs them, if the services are among those described in section 1861(s) of the Act and § 410.10 of this part.

[64 FR 59439, Nov. 2, 1999. Redesignated at 66 FR 55328, Nov. 1, 2001]

§ 410.23 Screening for glaucoma: Conditions for and limitations on coverage.

(a) *Definitions*: As used in this section, the following definitions apply:

(1) *Direct supervision in the office setting* means the optometrist or the ophthalmologist must be present in the office suite and be immediately available to furnish assistance and direction throughout the performance of the procedure. It does not mean the physician must be present in the room when the procedure is performed.

(2) *Eligible beneficiary* means individuals in the following high risk categories:

(i) Individual with diabetes mellitus.

(ii) Individual with a family history of glaucoma.

(iii) African-Americans age 50 and over.

(iv) Hispanic-Americans age 65 and over.

(3) *Screening for glaucoma* means the following procedures furnished to an individual for the early detection of glaucoma:

(i) A dilated eye examination with an intraocular pressure measurement.

(ii) A direct ophthalmoscopy examination, or a slit-lamp biomicroscopic examination.

(b) *Condition for coverage of screening for glaucoma.* Medicare Part B pays for glaucoma screening examinations provided to eligible beneficiaries as described in paragraph (a)(2) of this section if they are furnished by or under the direct supervision in the office setting of an optometrist or ophthalmologist who is legally authorized to perform these services under State law (or the State regulatory mechanism provided by State law) of the State in which the services are furnished, as would otherwise be covered if furnished by a physician or incident to a physician's professional service.

(c) *Limitations on coverage of glaucoma screening examinations.* (1) Payment