



JAN - 6 2006

The Honorable Bill Thomas
House of Representatives
Washington, DC 20515

Dear Mr. Thomas:

As you know, a delay in final Congressional action on the House- and Senate-passed Deficit Reduction Act (DRA) has resulted, effective January 1, 2006, in a 4.4 percent reduction in physician payments under the Medicare program. Based on the pending legislation that would amend the 2006 physician update from negative 4.4 percent to zero percent with an effective date of January 1, 2006, we plan to take the following actions upon enactment of the DRA, to implement this provision of the legislation in a timely and efficient manner with the least disruption to providers and beneficiaries.

Rapid Implementation of New Rates After Enactment

Upon enactment of the legislation, we will issue instructions to Medicare's contractors (both carriers and fiscal intermediaries) concerning the processing and reprocessing of claims for services beginning on the effective date in order to reflect the revised update of zero percent. We expect that the contractors will implement the revised update and begin paying claims received after the legislation takes effect within two business days following enactment of the legislation.

Reprocessing Claims Submitted Before the Updated Rates are Implemented

Medicare's contractors will also be instructed to automatically reprocess claims that were already processed reflecting the negative 4.4 percent update that took effect January 1, 2006. Physicians and other providers will not need to resubmit their claims.

Since contractors currently process approximately 20 million claims a week, a large number of claims will need to be reprocessed. Therefore, reprocessing of the claims will be phased in depending on the volume of claims at each contractor. For example, if final enactment of the legislation occurs around February 1, 2006 and the effective date is January 1, 2006, approximately 80 million claims could potentially need to be reprocessed. We expect that this reprocessing of claims would be completed by all contractors no later than July 1, 2006; the exact date would depend on the number of claims a contractor must reprocess. These payment revisions would be aggregated so that physicians and other providers receive one lump sum payment for the differential between payment based on the negative 4.4 percent update and the zero percent update.

Beneficiary Copayments and Deductibles

We recognize that this change in the physician update would also impact the copayments and deductibles for beneficiaries as well as Medigap and secondary insurers, since copayment amounts may be greater than the amount originally billed. We also recognize the potential implication of Federal fraud and abuse law related to improper beneficiary inducements when the waivers of cost sharing amounts are likely to induce beneficiaries to choose particular providers, practitioners, or suppliers of Medicare payable items and services. Because the Office of the Inspector General (OIG) is responsible for enforcement of these laws, we consulted the OIG on the issue of collecting the additional copayments resulting from the change to the update. Although we cannot speak for the OIG, we believe that where a beneficiary has already been charged for the appropriate cost-sharing amount under an existing physician fee schedule, and an additional cost-sharing amount is subsequently due because of a retroactive application of a statutory fee schedule adjustment, a waiver of the additional cost-sharing amount would be unlikely to serve as an inducement to the beneficiary. Accordingly, standing alone, short-term routine waivers of the additional, retroactive cost-sharing amount would not seem to constitute an improper beneficiary inducement. For more specific guidance, the OIG would need to be consulted.

Medigap and Payers Secondary to Medicare

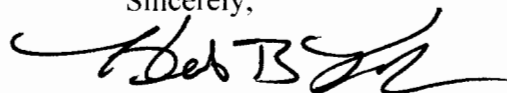
We will instruct our contractors to forward adjusted claims to Medigap and secondary insurers, if their agreements accept adjustments. However, providers may need to bill secondary insurers separately in order to obtain the balance of payment due.

Reopening Physician Participation Process for 2006

As a final point, we realize that this change to the physician update could also affect a physician's decision regarding his or her participation status for 2006. Because some physicians may have made certain decisions regarding their participation status during the November 15-December 31, 2005 enrollment period based upon the negative 4.4 percent update, we plan to offer a second enrollment period for physicians to reconsider their decisions in light of the revised zero percent update. This enrollment period will run for an additional 45 days and will begin on or shortly after enactment of the legislation. Should the physician decide to revise his or her participation election during this new enrollment period, the participation election will be retroactive to January 1, 2006.

The Centers for Medicare & Medicaid Services is doing, and will do, everything we can, to implement any revised physician update and to provide retroactive payment adjustments as quickly as possible upon enactment. We look forward to working with you and your colleagues to implement the DRA and its improvements to the Medicare program.

Sincerely,



Herb B. Kuhn

Director

Center for Medicare Management