

Date: February 16, 2001

To: All Medicare+Choice Organizations that Currently Contract with HCFA

From: Gary A. Bailey, Acting Director, Medicare Managed Care Group

Re: Status of BIPA Implementation

As you know, the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) was enacted on December 21, 2000, and we have since been working to implement this new legislation. We wanted to update you on our progress and share with you our general timeline for future guidance and regulations. We have summarized below those BIPA provisions that are effective during contract year 2001 and directly impact Medicare+Choice organizations. We have identified those provisions that are largely self-implementing and for which we have already issued guidance, as well as those that require further policy development and regulations. We will continue to work closely with you to ensure that you and your members have an opportunity to comment on all BIPA guidance.

HCFA has issued guidance and instructions regarding the following BIPA provisions. Guidance for some of these provisions will be incorporated into regulations as appropriate.

- **Sections 601 and 602:** Increases payment rates for M+COs. HCFA calculated and announced the new payment rates on January 4, 2001. These rates are posted on the HCFA website at www.hcfa.gov/stats/hmorates/aapccpg.htm.
- **Section 604:** Permits M+COs to return to the M+C program or re-enter a previously reduced service area if they submitted a new ACRP by January 18, 2001. M+COs that currently contract with HCFA must have revised and resubmitted their ACRP by January 18, 2001. All M+COs were required to submit new or revised marketing materials at the same time that they submit their ACRPs. HCFA issued ACRP instructions, questions and answers, and model documents on January 4, 2001, with subsequent updates on January 12, 2001 and January 19, 2001. This information can be found on the HCFA website at www.hcfa.gov/medicare/cy2001.htm. HCFA also conducted an industry-wide conference call on January 8, 2001 and continues to respond to questions via e-mail. All ACRPs (a total of more than 650) were reviewed and approved by HCFA by February 1 and approval letters were mailed shortly thereafter. HCFA and the managed care industry worked together to

ensure that the guidance provided was timely, responsive, and accurate.

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- Section 605: Revision of payment rates for ESRD patients enrolled in M+C. HCFA is working to announce the proposed payment methodology in the Federal Register in time for M+COs to account for this adjustment in their ACRPs for CY 2002.
- Section 607: Full implementation of risk adjustment for congestive heart failure enrollees. HCFA posted questions and answers on this provision on its website on January 4, 2001. HCFA has also identified qualifying enrollees and is working towards implementation for May 1, 2001 payments, retroactive to January 1, 2001.
- Section 608: Expansion of application of M+C new entry bonus. HCFA posted questions and answers on these provisions on its website on January 12, 2001 and has made the required systems modifications to include this new bonus in payments to qualifying M+COs.
- Section 620: ESRD beneficiaries are allowed to enroll in another M+C plan if their plan terminates its contract with HCFA. This provision applies to terminations occurring on or after the date of BIPA's enactment (December 21, 2000) and retroactively to terminations on or after December 31, 1998. HCFA provided guidance to all M+COs on January 19, 2001 and later posted this information on its website. HCFA has made the necessary systems modifications to allow the re-enrollments effective with the April 1, 2001 payment. HCFA is currently identifying qualifying ESRD beneficiaries and plans to notify them of their eligibility for M+C. In the interim, M+COs and HCFA Regional Offices have been instructed to enroll these individuals in another M+C plan upon request. HCFA plans to issue additional guidance soon.
- Section 621: Providing choice for SNF services (Return to Home SNF Care). This provision is only effective for contracts entered into or renewed on or after December 21, 2000. M+C contracts signed before that date (e.g., in July 2000 for CY 2001) are unaffected. HCFA provided guidance regarding this provision on its website on January 12, 2001.

BIPA also included the following changes for CY2001. Model language regarding these benefits for the Evidence of Coverage was disseminated to M+COs and posted on the HCFA website in January.

- Section 101: Screening pap smears and pelvic exam every two years, effective July 1, 2001.
- Section 103: Screening colonoscopy for individuals with high or average risk, effective July 1, 2001.

- Section 112: Drugs and biologicals that are not usually self-administered, effective December 21, 2000.
- Section 113: No time limit on immunosuppressive drugs, effective December 21, 2000.

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- Section 428: Replacement of prosthetic devices and parts, effective April 1, 2001.
- Section 619: Elections/changes in elections (including enrollments and disenrollments) effective first day of the month following the month the election is made. This provision applies to enrollments and disenrollments and becomes effective for elections or changes in elections made on or after June 1, 2001. Thus, for example, elections received during the entire month of July 2001 will be effective August 1, 2001.
- Section 620: ESRD beneficiaries are allowed to enroll in another M+C plan if their plan terminates its contract with HCFA. This provision applies to terminations occurring on or after December 21, 2000 and retroactively to terminations on or after December 31, 1998.
- Section 621: Providing choice for SNF services (Return to Home SNF Care). This provision is only effective for contracts entered into or renewed on or after December 21, 2000. M+C contracts signed before that date (e.g., in July 2000 for CY 2001) are unaffected.
- Section 634: Permitting service area expansions for Medicare cost contracts. HCFA intends to post the Section 1876 application on its website as soon as possible; in the interim, a hard copy of the application can be obtained by contacting Marilyn Christian at (410) 786-9029.

Additional guidance will be issued in the future with respect to the following BIPA provisions. In some cases, regulations may be promulgated to implement these provisions.

- Section 611: Requires payment adjustments to M+C plans if a legislative change results in significant increased costs, similar to the current law requirements for adjusting payments due to significant increased costs resulting from national coverage determinations. Cost projections and payment adjustments are to be based on actuarial estimates provided by the HCFA Chief Actuary.
- Section 612: Restriction on significant new regulatory requirements mid-year. **Note:** HCFA notified M+COs of its intent to refrain from imposing significant new regulatory requirements mid-year in a letter to M+COs dated June 8, 2000. A similar restriction was already included in HCFA's contracts for CY 2001.

- Section 613: Current 45-day review period for marketing materials reduced to 10 days if M+CO uses, without modification, model materials provided by HCFA. **Note:** Since this provision applies to materials submitted for HCFA review under BIPA, HCFA provided initial guidance in the form of questions and answers on its website on January 4, 2001.

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- Section 614: Expands Federal preemption of State standards relating to benefits and marketing materials, including summaries of benefits. **Note:** Since this provision may impact the review and approval of the Evidence of Coverage for 2001, HCFA plans to issue guidance to M+COs soon, and has already shared its views with State regulators.
- Section 615: Election of uniform local coverage policy for M+COs.
- Section 616: Requires that M+COs include a separate focus on racial and ethnic minorities in all elements of their quality assurance programs, which are specified in sections 1852(e)(2)(A) and (B) of the Social Security Act.
- Section 617: Allows HCFA to waive or modify requirements that hinder design or offering of or enrollment in M+C plans under contracts between M+COs and employers/unions.
- Section 619: Elections and changes in elections are effective on the first day of the month following the month in which the election or change is made. This provision applies to enrollments and disenrollments and becomes effective for elections or changes in elections made on or after June 1, 2001.
- Section 622: Requires the HCFA Chief Actuary to review the actuarial assumptions and data used by M+COs in their ACRP submissions.
- Section 623: Increased civil money penalties for M+COs that terminate their contract with HCFA mid-year.

As you can see, we are working as quickly as possible to implement the BIPA provisions. We have had extensive discussions with the three industry associations with regard to this legislation in order to provide clear and responsive guidance to you. We will continue to work closely with you as we implement this new legislation.