
Program Memorandum Intermediaries/Carriers

Department of Health and
Human Services (DHHS)
HEALTH CARE FINANCING
ADMINISTRATION (HCFA)

Transmittal AB-01-66

Date: MAY 3, 2001

CHANGE REQUEST 1653

SUBJECT: Implementation of Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA) Requirements for Payment Allowance of Drugs and Biologicals Covered by Medicare

The purpose of this Program Memorandum (PM) is to provide implementing instructions for PM AB-01-16, Change Request 1514 with respect to the requirements in §429(c) of the BIPA. Section 429 requires the General Accounting Office (GAO) to study and report to Congress and the Secretary of the Department of Health and Human Services on the reimbursement for drugs and biologicals under Medicare, including specific recommendations for revised payment methodologies. Section 429 also provides a moratorium on decreasing the payment rates in effect as of January 1, 2001, for drugs and biologicals under the current Medicare payment methodology. The moratorium applies until HCFA has reviewed the GAO report. See the discussion below for a description of the scope of this moratorium.

Scope of Moratorium

The moratorium imposes a prohibition against lowering the payment allowance based on a change in methodology. Under certain circumstances, following the established methodology (see PMs AB-00-110, Change Request 745, and AB-00-115, Change Request 1447) and using a carrier's usual source of Average Wholesale Price (AWP) may lead to a lower payment allowance for a particular product. For example, if the payment allowance for a drug was based on 95 percent of the AWP for a single-source brand name product, and a new generic form of the product became available at a lower AWP, then following PM AB-00-110 would result in a new, lower payment allowance based on 95 percent of the AWP of the lower priced generic form. This is appropriate. Another example is if a drug manufacturer lowers its AWP for a product as reflected in a subsequent issue of the carrier's usual source of AWP. However carriers may not reduce the payment allowance from 95 percent of the AWP to, for example, 90 percent of the AWP. Nor may carriers use an alternative source for average wholesale prices.

Instructions

Continue to follow the rules in PMs AB-00-110 and AB-00-115. Use the established methodology in AB-00-110 for determining the payment allowances for drugs and biologicals. Also, per PM AB-00-115 use your usual source for AWP. Do not use any alternative sources of data for average wholesale prices for these items.

The *effective date* for this PM is for items furnished on or after January 1, 2001.

The *implementation date* for this PM is May 3, 2001.

These instructions should be implemented within your current operating budget.

This PM may be discarded after June 30, 2002.

If you have any questions, contact Robert Niemann at (410) 786-4531.

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