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# Program Memorandum Intermediaries/Carriers

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Department of Health &  
Human Services (DHHS)  
Centers for Medicare &  
Medicaid Services (CMS)

Transmittal AB-03-039

Date: MARCH, 28, 2003

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## CHANGE REQUEST 2492

**SUBJECT: Procedure for Granting Extensions to File Requests for Appeal Under the New 120-day Timeframe Created by §521 of the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) of 2000**

On July 31, 2002, CMS issued Program Memorandum (PM) AB-02-111 (with effective dates of October 1, 2002, and January 1, 2003) implementing certain provisions of the Medicare, Medicaid and SCHIP BIPA of 2000. Subsequently, we issued a CMS Ruling and a **Federal Register** notice addressing implementation of the BIPA provisions. Among the provisions that we are implementing is the uniform 120-day timeframe for requesting an appeal (or redetermination) of an initial determination for Part A and Part B. Under the pre-BIPA procedures, requests for Part B reviews had to be filed within 6 months, and requests for Part A reconsiderations had to be filed within 60 days of an initial determination.

Thus, under the BIPA provisions, providers and beneficiaries would have additional time to appeal a Part A claim (120 days versus 60 days), while physicians and other suppliers, as well as beneficiaries, would have less time to request an appeal of a Part B claim (120 days versus 180 days). The physician and supplier communities have argued that it is unfair for CMS to implement the shorter timeframe for Part B appeal requests absent full BIPA implementation (e.g., the shorter timeframes for conducting appeals.)

The CMS has made various efforts to educate providers, physicians and other suppliers, as well as the beneficiary community, about the new filing timeframe. The CMS released PM AB-02-111 on the Quarterly Provider Update, posted the PM on our Web site, issued a CMS Ruling in the **Federal Register**, posted updated Remittance Advice codes on the Internet, and instructed contractors to educate providers, physicians, suppliers and beneficiaries through provider bulletins, newsletters and contractor Web sites. However, we recognize that making the transition to the shorter filing timeframe may prove difficult in situations where appellants need to obtain documentation from other sources in order to file an appeal.

In order to alleviate any hardship associated with the possible need to gather documentation faster than in the past, we are instructing all contractors to grant extensions of up to 60 days in the 120-day filing deadline for appeals of Part B claims, provided that the appeal request includes a credible explanation from the beneficiary, physician, or supplier that the time was needed to gather the necessary supporting records. The extension should be granted for appeals of initial determinations made on or after October 1, 2002. Once a final regulation to implement all BIPA provisions is released, we will issue further instructions in this regard.

**The *effective* date for this PM is April 1, 2003.**

**The *implementation* date for this PM is April 15, 2003.**

**These instructions should be implemented within your current operating budget.**

**This PM may be discarded April 1, 2004.**

**If you have any questions, contact Jen Collins at (410) 786-1404, e-mail [jcollins2@cms.hhs.gov](mailto:jcollins2@cms.hhs.gov).**

**CMS-Pub. 60AB**