

CMS Manual System

Department of Health &

Human Services (DHHS)

Pub 100-20 One-Time Notification

Centers for Medicare &

Medicaid Services (CMS)

Transmittal 312

Date: FEBRUARY 1, 2008

Change Request 5944

Subject: EMERGENCY -- Legislative Change Affecting the 2008 Medicare Physician Fee Schedule (MPFS), and Extension of the 2008 Participation Open Enrollment Period.

I. SUMMARY OF CHANGES: Congress has passed new legislation resulting in a change to the 2008

Medicare Physician Fee Schedule (MPFS) rates. The new MPFS rates are effective on January 1, 2008, through June 30, 2008. Effective for dates of service January 1, 2008, through June 30, 2008, the update to the conversion factor shall be 0.5 percent. Effective for dates of service July 1, 2008, and after the 0.5 percent update to the conversion factor will no longer apply and the (negative) -10.1 percent will go into effect. Since this new legislation changed the 2008 MPFS rates, the Centers for Medicare and Medicaid Services (CMS) has extending the 2008 Participation Open Enrollment period to February 15, 2008. Therefore, the Participation enrollment period runs from November 15, 2007, through February 15, 2008. The effective date for any Participation status change is January 1, 2008.

New / Revised Material

Effective Date: January 1, 2008

Implementation Date: January 7, 2008 (Provider education must begin immediately upon receipt of this instruction regarding the dates of the Participation Open Enrollment period. All other requirements are to be implemented on January 7, 2008, unless otherwise specified in the individual Business Requirement.)

Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.

II. CHANGES IN MANUAL INSTRUCTIONS: (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

R/N/D

Chapter / Section / Subsection / Title

N/A

III. FUNDING:

SECTION A: For Fiscal Intermediaries and Carriers:

No additional funding will be provided by CMS; Contractor activities are to be carried out within their operating budgets.

SECTION B: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to

be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

IV. ATTACHMENTS:

One-Time Notification

*Unless otherwise specified, the effective date is the date of service.

Attachment - One-Time Notification

Pub. 100-20

Transmittal: 312

Date: February 1, 2008

Change Request: 5944

SUBJECT: EMERGENCY -- Legislative Change Affecting the 2008 Medicare Physician Fee Schedule (MPFS), and Extension of the 2008 Participation Open Enrollment Period.

Effective Date: January 1, 2008

Implementation Date: January 7, 2008 (Provider education must begin immediately regarding the dates of the Participation Open Enrollment period. All other requirements are to be implemented on January 7, 2008, unless otherwise specified in the individual Business Requirement.)

I. GENERAL INFORMATION

A. Background: The "Medicare, Medicaid, and SCHIP Extension Act of 2007" was enacted on December 29, 2007. As a result, the 2008 Medicare Physician Fee Schedule (MPFS) rates have been changed. In addition, the legislation also extends the 1.0 floor on the work geographic practice cost index for six months, through June 30, 2008. The new MPFS rates are effective January 1, 2008, through June 30, 2008. Effective for dates of service January 1, 2008, through June 30, 2008, the update to the conversion factor shall be 0.5 percent. Effective for dates of service July 1, 2008, and after the 0.5 percent update to the conversion factor will no longer apply and the (negative) -10.1 percent will go into effect. Providers need to be educated that the MPFS rates will revert back to the -10.1 percent level beginning with services performed on and after July 1, 2008.

Since this new legislation changes the 2008 MPFS rates, the Centers for Medicare & Medicaid Services (CMS) has extended the 2008 Participation Open Enrollment period to February 15, 2008. Therefore, the Participation enrollment period runs from November 15, 2007, through February 15, 2008 (instead of November 15, through December 31, 2007). The effective date for any Participation status change is January 1, 2008. Physicians need to be aware that the MPFS rates will return to the -10.1 percent level beginning July 1, 2008, when they make their Participation decision for 2008.

B. Policy: This instruction was created to inform contractors of: the legislative change to the 2008 MPFS; the release of the new MPFS files for contractors to load; the need to be ready to process claims beginning January 7, 2008; and the extension of the Participation Open Enrollment period for 2008.

The new legislation has an impact on the MPFS rates and, therefore, CMS has released new MPFS files to the contractors (carriers, A/B Medicare Administrative Contractors, and fiscal intermediaries). In addition, several other fee schedule files, for which the rates are derived from the MPFS, are impacted by the changes made to the MPFS. These include the anesthesia conversion factors, purchased diagnostic file, and ambulatory surgical center (ASC) facility rates. New files have been released for these fee schedules as well. Contractors were informed of the availability of all files and file names on December 21, 2007, via e-mail notification. However, the new legislation will only impact the MPFS rates during the first half of 2008--claims with dates of service January 1, 2008, through June 30, 2008. Claims with dates of service July 1, 2008, and after will revert back to the previous payment methodology outlined in the Final Rule, published in the Federal Register on November 27, 2007 (i.e. the -10.1 percent update). Providers must be made aware of this fact when they make their Participation decision for 2008.

Contractors should load the new payment files and be ready to process claims with 2008 dates of service beginning January 7, 2008. Contractors will have to disclose the new fees on their Web sites as soon as possible. Services not paid under the MPFS (e.g., DME, clinical lab, etc.) are not impacted by this instruction.

Due to the change in the 2008 MPFS rates, CMS is extending the 2008 Participation Open Enrollment period to February 15, 2008. Therefore, the Participation enrollment period runs from November 15, 2007, through February 15, 2008. The effective date for any Participation status change during the extension will remain January 1, 2008. Providers should make their Participation decision for 2008 based on the two new fee rates (i.e., the 0.5 percent update that is effective January through June, and the -10.1 percent update that is effective July through December). Contractors shall educate the provider community via the MLN Matters article that the MPFS rates will return to the -10.1 percent update for claims with dates of service on or after July 1, 2008. There will be no automatic adjustments for providers who change their Participation status after January 1, 2008. Providers are to begin billing their claims according to the Participation decision that they have made. However, contractors will adjust claims based on Participation status changes if brought to their attention.

Contractors shall perform provider outreach announcing the 2008 MPFS rate changes and the extension of the Participation enrollment period for 2008 via a MLN Matters Article and any other viable means the contractor deems necessary. There will not be a "mass-mailing" of CD-ROMs with Participation Agreements (Form CMS-460) to providers for this extension. Instead, contractors shall make the Participation Agreement available to providers by placing it on their Web sites with Participation enrollment (and termination) instructions.

Also, the annual due dates for the Contractor Reporting of Workload Data (CROWD) for Participation data, contractor submission of Participation data to the Railroad Retirement Board (RRB), and each contractor's placement of their local Medicare Participating Physicians and Suppliers Directory (MEDPARD) on their Web site has been altered for 2008 only. The regularly scheduled due dates for these annual activities have been pushed back to accommodate the new legislation.

II. BUSINESS REQUIREMENTS TABLE

Use "Shall" to denote a mandatory requirement

Number

Requirement

Responsibility (place an "X" in each applicable column)

A/
B

MAC

DME

MAC

FI

CARRIER

RHHI

Shared-System
Maintainers

OTHER

FISS

MCS

VMS

CWF

5944.1

Contractors shall retrieve the new payment files,
including the anesthesia file, and use the files to

process services paid under the MPFS for claims with dates of service on and after January 1, 2008.

NOTE: Contactors were informed of the availability of these files for downloading, and the filenames, via e-mail notification on December 21, 2007. CMS informed contractors on December 31, 2007, via e-mail notification that the legislation was enacted on December 29, 2007.

X

X

X

X

X

X

5944.2

Contractors shall begin processing claims with 2008

X

X

X

X

dates of service with the new fees beginning January 7, 2008.

5944.2.1

Any contractor that is unable to meet the January 7, 2008, date is permitted to hold affected claims for up to 14 calendar days after receipt; however, CMS must be notified and all held claims must be released for payment no later than January 15, 2008.

X

X

X

X

5944.3

Contractors shall post the new fees that are effective January 1, 2008, on their Web sites as early as possible.

X

X

5944.4

Contractors shall mail hard copies of the new 2008 MPFS, on request, to any physicians/practitioners who do not have Internet access and are unable to view the new fees on the contractor Web site.

X

X

5944.4.1

Contractors shall not charge providers that request a hard copy of the 2008 MPFS who do not have Internet access.

X

X

5944.5

Contractors shall charge a reasonable fee for mailing hard copy of the 2008 MPFS to providers that do have

Internet access, but who want a hard copy for convenience.

X

X

5944.6

Contractors shall handle requests from physicians/practitioners for copies of the 2008 MPFS as customer services matters, and not as Freedom of Information Act (FOIA) requests.

X

X

5944.7

Contractors shall handle requests for copies of the 2008 MPFS from other members of the public as FOIA requests.

X

X

5944.8

Contractors shall perform provider outreach via their Web site and any other appropriate means, such as, linking to the MLN Matters article announcing the new 2008 MPFS rates and extension of the Participation enrollment period to February 15, 2008.

NOTE: Provider education/outreach must begin immediately.

X

X

5944.8.1

Contractors shall educate providers via the MLN Matters Article, and any other viable means, that the MPFS rates will return to the -10.1 percent update for

claims with dates of service on or after July 1, 2008.
The provider's Participation decision for 2008 will be
for the entire year.

X

X

5944.9

Contractors shall accept and process any Participation
elections or withdraws made during the extended

X

X

enrollment period that are received or post-marked on or before February 15, 2008. All Participation status changes are still effective January 1, 2008.

NOTE: This requirement revises the date in business requirement 5732.17 in Change Request 5732 (Transmittal 1356, dated October 19, 2007) from January 1, 2008, to February 15, 2008.

5944.9.1

Contractors shall not automatically adjust claims based on Participation status changes unless brought to your attention.

X

X

5944.10

Contractors shall report the data from the Participation enrollment period (November 15, 2007, through February 15, 2008) to CMS via the CROWD system by March 31, 2008.

NOTE: Per Pub 100-6, Chapter 6, Section 390.2, the annual due date for all contractors to report their Participation data to CMS through CROWD is 45 days after the close of the Participation enrollment period. Since the Participation enrollment period for 2008 has been extended, this due date has been moved from February 14 to March 31 for 2008 only.

X

X

5944.11

Following the close of the extended Participation enrollment period, contractors shall furnish the RRB with their Participation data by March 17, 2008.

NOTE: Per Pub 100-4, Chapter 1, Section 30.3.12, the annual due date for all contractors to report their Participation data to the RRB is 30 days after the close of the Participation enrollment period. Since the Participation enrollment period for 2008 has been extended, this due date has been moved from January 30 to March 17 for 2008 only.

X

X

5944.12

Following the close of the extended Participation

enrollment period, contractors shall load their updated local MEDPARDs to their Web sites by March 17, 2008.

NOTE: This requirement revises the due date in business requirement 5732.20 in Change Request 5732, Transmittal 1356, dated October 19, 2007.

X

X

III. PROVIDER EDUCATION TABLE

Number

Requirement

Responsibility (place an "X" in each applicable column)

A/
B

MAC

DME

MAC

FI

CARRIER

RHHI

Shared-System
Maintainers

OTHER

FISS

MCS

VMS

CWF

5944.13

A provider education article related to this instruction will be available at <http://www.cms.hhs.gov/MLNMattersArticles/> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters"

listserv.

Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within one week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin.

Contractors are free to supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.

X

X

X

IV. SUPPORTING INFORMATION

Section A: For any recommendations and supporting information associated with listed requirements, use the box below: N/A

Use "Should" to denote a recommendation.

X-Ref

Requirement

Number

Recommendations or other supporting information:

Section B: For all other recommendations and supporting information, use this space: N/A

V. CONTACTS

Pre-Implementation Contact(s): For Part B issues, contact Kathy Kersell at 410-786-2033, or via e-mail at kathleen.kersell@cms.hhs.gov

For Part A issues, contact Will Gehne at 410-786-6148, or via e-mail at Wilfried.gehne@cms.hhs.gov

Post-Implementation Contact(s): Appropriate Regional Offices

VI. FUNDING

Section A: For Fiscal Intermediaries (FIs), Carriers, and Regional Home Health Carriers (RHHIs):

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

Section B: For Medicare Administrative Contractors (MACs):

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

