

MLN Matters Number: MM5207

Related Change Request (CR) #: 5207

Related CR Release Date: October 13, 2006

Effective Date: July 1, 2006

Related CR Transmittal #: R1076CP

Implementation Date: November 13, 2006



Do you have your NPI? National Provider Identifiers (NPIs) will be required on claims sent on or after May 23, 2007. Every health care provider needs to get an NPI. Learn more about the NPI and how to apply for an NPI by visiting <http://www.cms.hhs.gov/NationalProvIdentStand/> on the CMS web site.

MMA - Competitive Acquisition Program (CAP) for Part B Drug - Appeals

Provider Types Affected

Physicians billing Medicare carriers for Part B drugs and biologicals under the Medicare CAP program

Provider Action Needed



STOP – Impact to You

This article is based on Change Request (CR) 5207, which instructs local Medicare carriers and the CAP designated carrier how to execute the appeals process within the unique requirements of CAP. Please note that the CAP claims processing arrangement is **not the same** as the standard Part B claims processing routine.



CAUTION – What You Need to Know

CR5207 provides additional information and instructions for the implementation of the CAP pertaining to the CAP appeals and dispute resolution process. This is not a stand-alone CR. It builds on previously published related CAP CRs which include: CRs 4064, 4306, 4309, and 4404. The links to those CRs and the related Medicare Learning Network (MLN) articles are provided in the *Additional Information* section below.

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This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.



GO – What You Need to Do

See the *Background* section of this article and the information in CR5207 for further details regarding these special CAP appeals requirements and delivery of dispute resolution services.

Background

Section 303 (d) of the Medicare Prescription Drug Improvement and Modernization Act (MMA) of 2003, requires the implementation of a competitive acquisition program (CAP) for Medicare Part B drugs and biologicals (“drugs”) not paid on a cost or prospective payment system basis. Beginning with drugs administered on or after July 1, 2006, physicians will be given a choice between buying and billing these drugs under the average sales price (ASP) system, or obtaining these drugs from vendors selected in a competitive bidding process. A participating CAP physician will submit a claim for drug administration to the Medicare local carrier. An approved CAP vendor will submit a claim for the drug product to the CAP Medicare designated carrier.

Appeal Process for CAP Drug Claims

As mentioned above, the CAP claims processing arrangement departs from the standard Part B claims processing routine. Specifically, the CAP uses a local carrier’s determination about the physician’s drug administration claim that is associated with a CAP drug’s claim as an indicator of whether a CAP vendor’s matching drug claim should be paid. Therefore, if a local carrier denies the physician’s drug administration claim that is to be matched to a CAP vendor’s drug claim and causes the vendor’s CAP drug claim to deny, the appeals process for the vendor’s drug claim’s denial must begin with the local carrier that denied the claim. In this situation, in order to pursue an appeal of a denied CAP drug claim, the approved CAP vendor becomes a party to the appeal of a denied drug administration claim filed by a participating CAP physician with the local carrier.

If a CAP vendor’s drug claim has been denied because there is no matching participating CAP physician claim on file with the local carrier, the Medicare designated carrier will deny the claim and will suppress appeal rights if there is still no matching drug administration claim after 90 days. The remittance notice will instruct the approved CAP vendor that it may request a reopening. In this case, if the approved CAP vendor accepts the designated Medicare carrier’s offer and requests a reopening, the designated carrier will call the participating CAP physician to encourage the physician to file the drug administration claim. If the participating CAP physician does not file the claim, the designated Medicare carrier will engage in dispute resolution activities which may result in a

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recommendation to terminate the participating CAP physician's involvement in CAP.

The Medicare designated carrier will use group code **CO** for claims that are denied because the participating CAP physician has not filed his/her claim, will return the following messages:

- Medicare Summary Notice (MSN) – 16.34 – “You should not be billed for this service. You do not have to pay this amount.”
- Remark code N211 – “You may not appeal this decision.”
- These messages are provided in addition to MSN message 21.21 and Remittance Advice (RA) reason code 107 for these claim denials. (See CR4064, Business Requirement (BR) 4064.9.2.1, link provided below.)

Additional Information

CR5207 adds sections 100.9-100.94 to Publication 100-04, the *Medicare Claims Processing Manual*, Chapter 17, “Drugs and Biologicals for CAP.” CR5207 is the official instruction issued to your Medicare carrier regarding changes mentioned in this article. CR 5207 may be found at

<http://www.cms.hhs.gov/Transmittals/downloads/R1076CP.pdf> on the CMS website.

CR4064, dated December, 9 2005, “Competitive Acquisition Program (CAP) for Part B Drugs” is located at

<http://www.cms.hhs.gov/transmittals/downloads/R777CP.pdf> on the CMS website. The related MLN article, MM4064 “Competitive Acquisition Program (CAP) for Part B Drugs” can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4064.pdf> on the CMS website.

CR4306, dated February 6, 2006, “MCS Screen Expansion for the Prescription Order Number for the Competitive Acquisition Program (CAP) for Part B Drugs to be Developed Over the July 2006 and October 2006 Release, With Final Implementation on October 2, 2006” is available at the following link

<http://www.cms.hhs.gov/transmittals/downloads/R841CP.pdf> on the CMS website.

CR 4309, dated February 17, 2006, “Additional Requirements for the Competitive Acquisition Program (CAP) for Part B Drugs” can be found at the following link

<http://www.cms.hhs.gov/transmittals/downloads/R866CP.pdf> on the CMS website.

The related MLN article, MM4309 “Additional Requirements for the Competitive Acquisition Program (CAP) for Part B Drugs” can be reached at

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<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4309.pdf> on the CMS website.

CR4404, dated April 28, 2006 "Competitive Acquisition Program (CAP) for Part B Drugs Physician Election" is located at

<http://www.cms.hhs.gov/transmittals/downloads/R932CP.pdf> on the CMS website. MM4404, "Competitive Acquisition Program (CAP) for Part B Drugs Physician Election" the related MLN article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4404.pdf> on the CMS website.

If you have questions, please contact your Medicare carrier at their toll-free number, which may be found at

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.

Flu Shot Reminder

Flu season is here! Medicare patients give many reasons for not getting their flu shot, including—"It causes the flu; I don't need it; it has side effects; it's not effective; I didn't think about it; I don't like needles!" The fact is that out of the average 36,000 people in the U.S. who die each year from influenza and complications of the virus, greater than 90 percent of deaths occur in persons 65 years of age and older. You can help your Medicare patients overcome these odds and their personal barriers through patient education. Talk to your Medicare patients about the importance of getting their annual flu shot--and don't forget to immunize yourself and your staff. **Protect yourself, your patients, and your family and friends. Get Your Flu Shot.** Remember - Influenza vaccination is a covered Part B benefit. Note that influenza vaccine is NOT a Part D covered drug. For more information about Medicare's coverage of adult immunizations and educational resources, go to CMS's website:

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/SE0667.pdf>

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