

U.S. House and Senate Notification
Tuesday, March 30, 2010

To: Congressional Health Staff

From: Amy Hall
Director, Office of Legislation
Centers for Medicare & Medicaid Services

Subject: PPACA Implementation Notices for Certain Providers

On March 23, 2010, President Obama signed into law the *Patient Protection and Affordable Care Act* (PPACA). The Centers for Medicare & Medicaid Services (CMS) is working hard to expeditiously implement the new law. The law's Medicare fee-for-service provisions have varying effective dates and our first priority is to address provisions with the earliest effective dates.

CMS is committed to assuring Medicare providers are well informed as early as possible. To that end, CMS has released instructions to its contractors to begin implementation of the following provisions:

Extension of the Outpatient Hold-Harmless Provision

Section 3121 of the PPACA extends the Outpatient Hold Harmless provision, effective for dates of service on and after January 1, 2010, through December 31, 2010, to rural hospitals with 100 or fewer beds and to all sole community hospitals and Essential Access Community Hospitals regardless of bed size.

Extension of Reasonable Cost Payment for Clinical Lab Tests Performed by Hospitals with Fewer than 50 Beds in Qualified Rural Areas

Section 3122 of the PPACA re-institutes reasonable cost payment for clinical lab tests performed by hospitals with fewer than 50 beds in qualified rural areas as part of their outpatient services for cost reporting periods beginning on or after July 1, 2010, through June 30, 2011. This could affect services performed as late as June 30, 2012. Hospitals do not need to take further action. They will receive reasonable cost reimbursement for an entire year, starting with the cost reporting period beginning on or after July 1, 2010.

Extension of Moratorium That Allows Independent Laboratories to Bill for the Technical Component (TC) of Physician Pathology Services Furnished to Hospital Patients

Section 3104 of the PPACA extends the moratorium that allows independent laboratories to bill for the TC of physician pathology services furnished to patients in hospitals, effective for claims with dates of service on and after January 1, 2010, through December 31, 2010.

Although the previous extension of the moratorium expired at the end of 2009, PPACA restored the moratorium retroactive to January 1, 2010.

Independent laboratories may now submit claims to Medicare for the TC of physician pathology services furnished to patients of a hospital, regardless of the beneficiary's hospitalization status (inpatient or outpatient) on the date that the service was performed. If an independent laboratory previously submitted a claim for services covered by this provision and the claim was denied, the laboratory may contact its Medicare contractor for further instructions.

Extension of Exceptions Process for Therapy Caps

Section 3103 of the PPACA also extends the exceptions process for outpatient therapy caps. Outpatient therapy service providers may continue to submit claims with the appropriate modifier indicating an exception is appropriate, for services furnished on or after January 1, 2010, through December 31, 2010. The date established by PPACA supersedes the 3-month extension of the therapy cap exceptions process that was enacted in the *Temporary Extension Act of 2010*.

Since the therapy caps are determined on a calendar year basis, all patients began a new cap year on January 1, 2010. For physical therapy and speech language pathology services combined, the limit on incurred expenses is \$1,860. For occupational therapy services, the limit is \$1,860. Deductible and coinsurance amounts applied to therapy services count toward the amount accrued before a cap is reached.

Continuation of Payments to Indian Health Service (IHS) Providers, Suppliers, Physicians, and other Practitioners for Certain Part B Services

Section 630 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) allowed IHS facilities to bill for other Part B services, which were not previously covered under Section 1848 of the Act, and expanded the scope of items and services for which payment would be made to IHS providers, suppliers, physicians, and other practitioners for a 5-year period beginning January 1, 2005. Section 630 expired on December 31, 2009.

Section 2902 of the PPACA permanently extends Section 630 of the MMA, retroactive to January 1, 2010. Indian Health Service providers, suppliers, physicians and other practitioners may bill Medicare for the services covered by this provision. Further, these providers should contact their Medicare contractor for further guidance regarding IHS claims affected by the new law, for dates of service January 1, 2010 and after, that have been denied.

If you have questions about this notification, please contact the CMS Office of Legislation.

Thank you.