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### *MMA - Competitive Acquisition Program (CAP) for Part B Drugs - Coding, Testing, and Implementation*

#### Key Words

CR4064, MM4064, MMA, R777CP, CAP, Competitive, Acquisition, Drugs, Vendors, Billing, ASP

#### Provider Types Affected

Physicians billing Medicare carriers for Part B drugs and approved CAP vendors billing the designated carrier

#### Key Points

- The effective date of the instruction is July 1, 2006.
- The implementation date is July 3, 2006.
- MLN Matters article MM4064 includes information from Change Request (CR) 4064, which provides instructions to Medicare carriers regarding the CAP program.
- This new CAP program applies to physician-injectable and infused drugs that are commonly provided incident to a physician's service and covered under Medicare's Supplemental Insurance (Part B) program.
- This program does not apply to drugs included in the new Prescription Drug Benefit under Part D, which goes into effect on January 1, 2006.
- Physicians (and other practitioners who provide physician services that include the authority to prescribe and order Medicare Part B drugs) that wish to participate in the CAP program in 2006 must elect to do so within 45 days of the date that the election information is posted on the CMS website.
- The election agreement is effective on July 1, 2006. Each subsequent year, the election period will be in the fall and physicians must make their participation decision within 45 days after CMS publishes the list of vendors and their drug list for the following year on the CMS website. Election decisions will take effect on the following January 1.
- Exact dates of the physician election period will be announced on the competitive bidding website and via a listserv notice.

### How Drugs Are Selected For CAP

- The CMS may exclude drugs from the CAP if competitive pricing will not result in significant savings, or is likely to have an adverse impact on access to such drugs. The Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) gives CMS the authority to:
  - Select drugs (or categories of drugs) that will be included in the CAP program,
  - Establish geographic competitive acquisition areas, and
  - Phase in these elements as appropriate.

### How Approved CAP Vendors Are Selected

- A three-year contract will be awarded to qualified approved CAP vendors in each geographic area who have and maintain:
  - Sufficient means to acquire and deliver competitively biddable drugs within the specified contract area;
  - Arrangements in effect for shipping at least 5 days each week for the competitively biddable drugs under the contract and means to ship drugs in emergency situations;
  - Quality, service, financial performance, and solvency standards; and
  - A grievance and appeals process for dispute resolution.
- Approved CAP vendors must qualify for enrollment as a Medicare supplier, and they will be enrolled as a new provider specialty type.
- After CAP drug prices are determined and vendor contracts are awarded, the information will be posted to a directory on the competitive bidding website <http://www.cms.hhs.gov/CompetitiveAcquisforBios> on the CMS website.

### Obtaining Drugs in the CAP

- The MMA requires the implementation of a CAP for Medicare Part B drugs and biologicals not paid on a cost or Prospective Payment System basis.
- Beginning with Part B drugs administered on or after July 1, 2006, incident to a physician service, Medicare 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 the CAP's competitive bidding process.
- Participating CAP physicians will receive all of their drugs from the approved CAP vendor for the drug categories they have selected, with only one exception:
  - The exception will be for "furnish as written" situations in which the participating CAP physician specifies that, because of medical necessity, the beneficiary must have a certain brand of a drug or a particular product defined by the product's National Drug Code; and
  - That drug is not available for the Healthcare Common Procedure Coding System (HCPCS) codes listed on the approved CAP vendor's drug list.

- In those cases, the participating CAP physician may:
  - Buy the drug;
  - Administer it to the beneficiary; and
  - Using the appropriate modifier (see below discussion of modifiers), bill Medicare using the ASP methodology.
- The CAP will allow a participating CAP physician to provide a drug to a Medicare beneficiary from his or her own stock and obtain the replacement drug from the approved CAP vendor under the emergency replacement provision when certain conditions are met as follows:
  - The drug was required immediately;
  - The need for the drug could not be anticipated;
  - The CAP vendor could not deliver the drug in time;
  - The drug was administered in an emergency situation; and
  - Documentation is maintained on file to validate these conditions.

**Note:** Physicians will still be able to continue to purchase and bill Medicare under the ASP system for drugs that are covered under Medicare Part B, but whose HCPCS codes are not provided by the chosen approved CAP vendor.

### Physician Billing

- Physicians will be given the opportunity to participate in the CAP on an annual basis.
- Physicians who elect to participate in CAP will continue to bill their local carrier for the drug's administration, and will agree to submit a claim to Medicare within 14 days of the administration of the CAP drug.
- CAP has three modifier codes that will need to be used when physicians submit claims to their carriers for the administration of CAP drugs.
- The carrier will deny any physician Part B claims for drugs included in the CAP, unless the CAP modifier codes are appropriately included as follows:
  - J1 – Competitive Acquisition Program (CAP), no-pay submission for a prescription number
  - J2 – Competitive Acquisition Program (CAP), restocking of emergency drugs after emergency administration, and a prescription number
  - J3 – Competitive Acquisition Program (CAP), drug not available through CAP as written, reimbursed under ASP methodology.
- Participating CAP physicians will also use a prescription/order number to identify each CAP drug administered.
- When physicians submit claims for the administration of CAP drug (s) to their carriers, they should include:
  - A prescription/order number for each CAP drug administered;

- The HCPCS code for each CAP drug administered along with the new “J1” nopay modifier; and
- The HCPCS code(s) that include the administration of each CAP drug on separate lines.

**Note:** On paper claims, the prescription numbers will be in Item 19.

- When physicians submit claims for the administration of CAP drug(s) that have been administered in an emergency situation and required “emergency restocking” from the approved CAP vendor, the claim should be submitted with the:
  - Prescription/order number for each CAP drug administered;
  - HCPCS code for each administered CAP drug along with the new “J1” no-pay modifier and on that same line, the new “J2” modifier denoting “Competitive Acquisition Program (CAP) restocking of emergency drugs after emergency administration; and
  - HCPCS code(s) that include the administration of each CAP drug on separate lines.
- When physicians submit claims for “furnish as written” drugs to be paid outside the CAP program:
  - Physicians should use only the new “J3” modifier, denoting “Competitive Acquisition Program (CAP) drug not available through CAP as written, reimbursed under the ASP methodology.”
- Physicians who elect CAP should note the following:
  - The administration services and the no-pay lines must be on the same claim, or the carrier will return the claim as unprocessable. The provider will see a remittance advice reason code of 16, denoting claim lacks information which is needed for adjudication.
  - The Medicare carrier will identify them as physicians who elected to participate in CAP and who will not be paid for the drugs obtained from the approved CAP vendor.
  - Additionally, unless claims for CAP administration do not include the CAP drug no-pay, restocking, or “furnish as written” modifier, the claim will be denied and the physician will see a remittance advice, N348, stating that “You chose that this service/supply/drug be rendered/supplied and billed by a different practitioner/supplier.”
  - The physician’s local carrier will monitor drugs that are:
    - Obtained using the “furnish as written” provision to ensure that the participating CAP physician is complying with Medicare payment rules; and
    - Ordered under the replacement provision to ensure that the participating CAP physician is complying with Medicare payment rules.

### Vendor Billing

- The vendor billing process published in MM4064 has been changed effective April 1, 2007.
- Providers should refer to CR5546 for the new rules effective April 1, 2007. CR5546 may be viewed at <http://www.cms.hhs.gov/Transmittals/downloads/R1207CP.pdf> on the CMS website. The related MLN Matters article can be viewed at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5546.pdf> on the CMS website. All other information remains the same.

- The following vendor billing process was used prior to April 1, 2007:
  - The approved CAP vendor will bill the:
    - Medicare designated carrier for the drug; and
    - Beneficiary for any applicable coinsurance and deductible.
  - The approved CAP vendor will also include a prescription order number on the claim to identify each CAP drug administered.
  - Payment to the approved CAP vendor for the drug is conditioned on verification that the drug was administered to the Medicare beneficiary.
  - Proof that the drug was administered shall be established by matching the participating CAP physician's claim for drug administration with the approved CAP vendor's claim for the drug in the Medicare claims processing system by means of a prescription number on both claims. When they are matched in the claims processing system, the approved CAP vendor will be paid in full.
  - Until drug administration is verified, the approved CAP vendor may not bill the beneficiary and/or his third party insurance for any applicable coinsurance and deductible.

### Important Links

The related MLN Matters article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4064.pdf> on the CMS website.

The official instruction (CR4064) regarding this change may be viewed at

<http://www.cms.hhs.gov/Transmittals/downloads/R777CP.pdf> on the CMS website.

Additional information on the CAP program is available at

<http://www.cms.hhs.gov/CompetitiveAcquisforBios/> on the CMS website.

Providers may also want to review MLN Matters article MM4039 (MMA - Additional Requirements for the Competitive Acquisition Program (CAP) for Part B Drugs and Biologicals), which builds on CR4064. This article may be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4309.pdf> on the CMS website.