



Related MLN Matters Article #: MM5259

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Competitive Acquisition Program (CAP) – Claim Processing for Not Otherwise Classified (“NOC”) Drugs

Key Words

MM5259, CR5259, R1034CP, CAP, Drugs, NOC, Competitive

Provider Types Affected

Physicians participating in the Medicare Part B Drug CAP

Key Points

- The effective date of the instruction is January 1, 2007.
- The implementation date is January 2, 2007.
- MLN Matters article MM5259 and related Change Request (CR) 5259 describe the process for adding NOC Drugs to the CAP beginning in 2007.
- It provides additional details, information, and instructions for the implementation of the CAP as outlined previously in CRs 4064, 4306, 4309 and 5079 and the MLN Matters articles related to those CRs.
- As discussed in the November 21, 2005, CAP final rule (http://www.access.gpo.gov/su_docs/fedreg/a051121c.html) and in response to public comments about beneficiary access to new medications, the Centers for Medicare & Medicaid Services (CMS) provided for the addition of NOC drugs to the CAP beginning in 2007.
- CMS believes that the addition of NOC drugs to the CAP:
 - Will improve beneficiaries' access to newly marketed drugs that have a national sales price;
 - Will decrease the reliance on buy and bill acquisition; and
 - Will further simplify the drug acquisition process for physicians who have elected to participate in the CAP.
- CMS will define a list of CAP NOC drugs that the approved CAP vendor must use when requesting the addition of NOC drugs to the CAP.

- The CAP NOC drug list will be based on the Average Sales Price (ASP) NOC list, but will include only drugs that are both likely to fit the existing CAP drug category (or categories) and drugs that have a single national ASP-based payment amount.
- The CAP NOC drug list will be posted on the CMS CAP website and updated quarterly.

Process To Add NOC Drugs To A CAP Vendor's Drug List

- The process for adding NOC drugs to the CAP will basically follow the process for adding other drugs to the CAP as described in CR5079.
- An approved CAP vendor will be required to submit a written request to add specific NOC drugs to the CAP designated carrier. The request must include:
 - A rationale for the proposed change;
 - A discussion of the impact on the CAP (including safety, waste, etc.); and
 - The potential for cost savings.
- If approved, changes will become effective at the beginning of the following quarter, and CMS will post the changes on the CMS website (<http://www.cms.hhs.gov/CompetitiveAcquisforBios/>) and notify the carriers and participating CAP physicians of any changes on a quarterly basis.
- Participating CAP physicians will be notified of changes to their approved CAP vendor's CAP drug list on a quarterly basis and at least 30 days before the approved changes are due to take effect. CAP drug list approvals apply only to the CAP vendor who submitted the request and to the category identified on the request.
- Therefore, each vendor's drug list may contain different drugs after changes to the initial drug list are approved.
- The CAP NOC drug payment amount will be at the same rate as published on the ASP NOC file consistent with the next quarterly update, and the payment amount will be updated annually as for other CAP drugs.

CAP NOC Claims Submission Requirements

- CMS requires the use of a CAP-specific Q code (Q4082 Drug/bio NOC part B drug CAP) for CAP NOC drug claims in order to distinguish CAP NOC drug claims from ASP NOC claims and to prevent the CAP claims from being paid outside the Medicare Part B drug CAP.
- Physician drug administration claims for CAP NOC drugs are required to:
 - Use the CAP-specific NOC Q-code: Q4082 Drug/bio NOC Part B drug CAP and
 - Identify the specific NOC drug **and the dose** that had been administered in Item 19 on paper claims or Loop 2300 Segment NTE on electronic claims.
- Physician claims must also contain the appropriate CAP modifiers (J1, J2, and J3). All other CAP claim parameters will remain the same.

Note: Physicians who have elected to participate in the CAP should continue to use ASP NOC codes when billing for NOC drugs that are outside the CAP. In addition, physicians who participate in the CAP are required to obtain all CAP drugs on the updates from the approved CAP vendor unless medical necessity requires the use of a formulation not supplied by the vendor.

Returned CAP NOC Claims

- If a CAP physician submits a CAP NOC code, but the description does not match a CAP NOC drug on the approved list, carriers will treat the claim as unprocessable and return the following Remittance Advice (RA) messages:
 - Reason Code 16 – Claim/service lacks information which is needed for adjudication;
 - Remark Code MA 130 – Your claim contains incomplete and/or invalid information, and no appeals rights are afforded because the claim is unprocessable. Please submit a new claim with the complete/correct information; and
 - Remark Code N350 – Missing/incomplete/invalid description of a service for a Not Otherwise Classified (NOC) code or an Unlisted procedure.
- If a non-CAP physician submits the CAP NOC code or a CAP physician submits a J NOC code with a description of a CAP approved NOC drug, the carrier will treat the claims as unprocessable and return the following RA messages:
 - Reason Code 16 – Claim/service lacks information which is needed for adjudication;
 - Remark Code MA 130 – Your claim contains incomplete and/or invalid information, and no appeals rights are afforded because the claim is unprocessable. Please submit a new claim with the complete/correct information; and
 - Remark Code N56 – Procedure code billed is not correct/valid for the services billed or the date of service billed.

Important Links

The related MLN Matters article can be found at <http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5259.pdf> on the CMS website.

The November 21, 2005, CAP final rule may be found at http://www.access.gpo.gov/su_docs/fedreq/a051121c.html on the CMS website.

The official instruction (CR5259) issued regarding this change may be viewed at <http://www.cms.hhs.gov/Transmittals/downloads/R1034CP.pdf> on the CMS website.

Change Request (CR) 5259 is not a stand-alone CR. It provides additional details, information, and instructions for the implementation of the CAP as outlined in the following CRs and related MLN Matters articles:

- CR4064 (<http://www.cms.hhs.gov/transmittals/downloads/R777CP.pdf>) and MM4064 (<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4064.pdf>);
- CR4306 (<http://www.cms.hhs.gov/transmittals/downloads/R841CP.pdf>);

- CR4309 (<http://www.cms.hhs.gov/transmittals/downloads/R866CP.pdf>) and MM4309 (<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM4309.pdf>); and
- CR5079 (<http://www.cms.hhs.gov/transmittals/downloads/R1055CP.pdf>) and MM5079 (<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5079.pdf>).