

# 2008 CAP Physician Election Guide

**Updated December 2007**

The Medicare Part B Drug Competitive Acquisition Program (CAP) is an alternative to the Average Sales Price (ASP) method of acquiring many Part B drugs and biologicals administered incident to a physician's services. CAP participation is open to Medicare physicians who administer drugs under the "incident to" provision in their offices. For the purposes of the CAP, a physician includes all practitioners that meet the definition of a "physician" in section 1861(r) of the Social Security Act.

The following information is intended as a guide to the CAP physician election process. Additional information may be found via the links in the text below or by going to the CAP website at:

<http://www.cms.hhs.gov/CompetitiveAcquisforBios/>

## ***The CAP Drug List and Ordering CAP Drugs***

### **The CAP Drug List**

For 2008, the CAP will continue to operate with one geographic area and one drug category containing approximately 190 drugs commonly administered in a physician's office. A list of CAP drugs is available in the Downloads section of the following CMS CAP webpage:

[http://www.cms.hhs.gov/CompetitiveAcquisforBios/15\\_Approved\\_Vendor.asp](http://www.cms.hhs.gov/CompetitiveAcquisforBios/15_Approved_Vendor.asp). Be sure to select the list of drugs for 2008. If the drug is not on the Approved CAP Vendor's list, the Participating CAP Physician will still be able to obtain and administer drug through the current ASP (Average Sales Price) system.

The CAP drug list is reviewed and updated as necessary. The Approved CAP Vendor also has the option of requesting the addition of certain new drugs to their CAP list on a quarterly basis. Physicians will be notified of any changes to the CAP list via the CMS CAP website and the CAP listserv.

### **Ordering CAP Drugs**

Participating CAP Physicians must obtain all drugs on the CAP drug list from their chosen Approved CAP Vendor. If a Participating CAP Physician elects to obtain drugs through the CAP, the physician will complete an order form and fax it to the Approved CAP Vendor prior to the date of administration. Physicians must order drug on a patient-

specific basis. A Participating CAP Physician cannot use the CAP to supply a general stock of medication that would be used for a multiple number of patients except for emergency restocking as described below.

Though all drugs on the CAP list must be obtained from the Approved CAP Vendor prior to administration, there are two exceptions. One exception relates to drugs supplied in certain emergency situations. The other exception is for drugs supplied under the “Furnish As Written” provision.

#### Emergency Restocking

For emergency situations, a Participating CAP Physician may administer drugs from the office inventory when all of the following conditions are met:

- the drugs are required immediately,
- the physician could not have anticipated the need for the drugs,
- the vendor could not have delivered the drugs in a timely manner, and
- the drugs were administered in an emergency situation.

If all of these conditions are met, drugs acquired through the CAP may replace the medication from the physician’s private inventory.

#### “Furnish As Written”

If a specific NDC for a CAP drug is not available from the Approved CAP Vendor, the Participating CAP Physician may use the “Furnish As Written” provision and purchase the drug from a source other than the Approved CAP Vendor. In this case, the Participating CAP Physician will be paid under the ASP method.

For more information on the ordering process, please visit the CMS Approved CAP Vendor website at: [http://www.cms.hhs.gov/CompetitiveAcquisforBios/15\\_Approved\\_Vendor.asp](http://www.cms.hhs.gov/CompetitiveAcquisforBios/15_Approved_Vendor.asp). Please refer to the Approved CAP Vendor link in the “Related Links Outside CMS” section at the bottom of the webpage. The Approved CAP Vendor’s website contains information on the CAP ordering process. A copy of the patient order form can be downloaded from the website as well.

## ***CAP Drug Delivery***

For routine deliveries, the Approved CAP Vendor will normally ship drugs directly to the physician within two business days after receiving the order. Participating CAP Physicians must fax a completed order form to their Approved CAP Vendor no less than 2 business days prior to the date of administration.

Participating CAP Physicians may also request emergency delivery under certain conditions. A physician would normally receive a drug within 1 business day after the Approved CAP Vendor has received the order.

*NOTE: For Participating CAP Physicians in the Pacific territories, the delivery time for CAP drugs differs from the information listed above. Please refer to the Approved CAP Vendor website for more information (see below).*

For more information on the delivery process, please visit the CMS Approved CAP Vendor website at: [http://www.cms.hhs.gov/CompetitiveAcquisforBios/15\\_Approved\\_Vendor.asp](http://www.cms.hhs.gov/CompetitiveAcquisforBios/15_Approved_Vendor.asp). Please refer to the Approved CAP Vendor link in the "Related Links Outside CMS" section.

## ***Billing for CAP Drugs***

The Approved CAP Vendor submits **CAP drug claims** to the CAP Designated Carrier and collects applicable deductible and coinsurance from the beneficiary.

Participating CAP Physicians submit **CAP drug administration claims** to their local carrier, and these claims must include a "no pay" line that contains information on the administered CAP drug. A Participating CAP Physician's billing software or clearinghouse must be able to support CAP claims submission. CAP claims must utilize the following modifiers:

### **The J1 Modifier**

This modifier is used in the drug administration claim on a "no pay" line and indicates that the drug was obtained through CAP. A dose-specific prescription order number is also included on the "no pay" line. The prescription order number will be supplied by the Approved CAP Vendor. It may be combined on the same line with a J2 modifier (see below).

## **J2 – “Emergency Restocking” modifier**

This modifier is used to restock drugs used in an emergency (as defined by the CAP). These claims should include the:

- Approved CAP Vendor’s provided prescription order number (Rx order #)
- HCPCS code(s) for CAP drug with the “J1” no-pay modifier and the “J2” modifier on that same line
- HCPCS code(s) that include the administration of each CAP drug on separate lines

The local carrier may conduct a post payment review to assess the appropriate use of this provision. For more information on the ‘Emergency Restocking’ provision, please refer to the criteria in the section “Ordering CAP Drugs.”

## **J3 – “Furnish As Written” Modifier**

This modifier is used when drug as written is not available through the CAP. Use J3 for “furnish as written” drugs to be paid outside the CAP program via the average sales price (ASP) methodology. The J3 modifier should not be added to a claim line with a J1 or J2 modifier. For more information on the ‘Furnish As Written’ provision, please refer to the section “Ordering CAP Drugs.”

## **M2 – “Medicare Secondary Payer” Modifier**

The M2 modifier is used when:

- Another insurance is primary to Medicare and the CAP physician orders drug via an alternate method, -OR-
- The CAP physician’s office later determines that Medicare is primary and that the drug should have been ordered through the Approved CAP Vendor.

A guide on how to bill CAP claims is available on the CAP website. This document discusses timeframes for claims submission, important information that must be included in CAP claims, and the proper use of the CAP modifiers. To obtain this document, please visit the “Information for Physicians” page on the CAP website at:

[http://www.cms.hhs.gov/CompetitiveAcquisforBios/02\\_infophys.asp](http://www.cms.hhs.gov/CompetitiveAcquisforBios/02_infophys.asp).

The document is at the bottom of the page in the ‘Downloads’ section. Additionally, the CAP Designated Carrier hosts online training workshops about the CAP. More information may be found below in the section entitled, “Training for the CAP.”

## ***Conditions of Participation for the CAP***

Participating CAP Physicians must agree to:

- Comply with the CAP ordering and billing rules
- Use the appropriate CAP modifiers on all CAP drug claims
- File CAP drug administration claims within 30 days of administering the drug
- If necessary, pursue appeals and redeterminations for CAP claims that are denied because of medical necessity issues in a timely and appropriate manner
- Accept assignment for CAP drug administration claims
- Submit a written order and maintain a separate inventory for each CAP drug obtained
- Take delivery of CAP drugs at physician practice locations listed on the physician election agreement form
- Specify a date of administration and administer drug within a 7 day timeframe. Notify and work with the Approved CAP Vendor when a CAP drug is not administered
- Comply with the "Emergency Restocking" rules
- Agree to the requirements of the "Furnish as Written" provision
- Provide the CMS CAP "Fact Sheet" to beneficiaries receiving drugs under CAP
- If requested, provide medical records, written statements, and other medical documents to CMS, the Approved CAP Vendor, and the Designated CAP Carrier in order to verify CAP drug claims and facilitate the Vendor's collection of applicable deductible and co-insurance from the beneficiary

## **Exigent Circumstances for Opting Out of the CAP**

Though the CAP Physician Election Agreement requires Participating CAP Physicians to participate in the CAP for one year, a provider may request to leave the program under certain exigent circumstances:

- Within the first 60 days from their effective date of participation, a physician determines that CAP participation results in a burden to his or her practice (ex: difficulty meeting the CAP drug ordering or billing requirements)
- After the first 60 days from their effective date of participation, a physician demonstrates that an unexpected change in circumstance results in CAP participation being a burden to a practice (ex: a change in patient population or practice personnel)
- A physician leaves a group practice participating in the CAP
- A selected Approved CAP Vendor ceases participation in the CAP
- A physician relocates to another competitive acquisition area
- For other exigent circumstances defined by CMS

## **Group Practices**

When members of a group practice bill Medicare using the group's Physician Identification Number (PIN) or National Provider Identifier (NPI), they must commit as a group practice to participate in the CAP.

## ***How To Join the CAP***

The annual physician election period for the CAP is held every fall. For 2008, **an additional physician election period for the CAP will begin on January 15, 2008 and will conclude on February 15, 2008.** The Physician Election Form must be **postmarked by February 15, 2008.** The participation period for physicians who choose to elect during the additional election period will be from **April 1, 2008 to December 31, 2008.**

Physicians who are not currently participating in the CAP and who do not wish to participate in CAP at this time are not required to take any action.

New Medicare physicians have 90 days to elect into the CAP. Current Medicare physicians can join the CAP during the annual fall election period. By law, current Participating CAP Physicians must re-elect yearly during the annual fall election period if they wish to continue participating in the CAP.

## Completing the Physician Election Form

- CHANGES TO THE 2008 FORM. PLEASE NOTE: the form's content is the same as the form used in 2007 and 2006. The CAP will continue to operate with one drug category and one Approved CAP Vendor. The 2008 form may be filled in directly on the screen and then printed, but the typed information cannot be saved.
- Physicians must download the form and complete pages 1, 4, and 5 of the agreement. Use additional copies of page 5 if more than 15 physicians are listed for one location and check the box at the bottom left of page 5 to indicate that additional pages for that location are being submitted.
- If additional practice sites exist (if the practice operates from and expects to administer CAP drugs at more than one address), use additional copies of page 5 to list the additional practice addresses and the physicians who practice at the other location(s).
- To create additional copies of page 5, fill in the primary office information, fill in the checkboxes at the top and bottom of the page, and then print the entire form. Verify that the printed information is correct. Clear the information on page 5 only, type in additional physicians' information and/or practice locations, then print page 5 only. When filling out the last copy of page 5, please remember to clear the checkbox at the bottom of the page. Please do not submit an entire form for each additional practice location.
- For physicians who are renewing their participation in the CAP, page 5 of the form must still be completed. A photocopy of page 5 from the 2007 form can be attached to the 2008 application if none of the information on this page has changed. Physicians may also contact their local carrier for instructions on completing page 5 of the election form.
- Please keep a copy of your signed and dated election form for future reference.
- An authorized official as defined in the Physician Election Form must sign page 4 and mail the completed election form with an original signature to the physician's local carrier.

- An authorized official is an appointed official to whom the provider has granted the legal authority to enroll it in the Medicare program, to make changes and/or updates to the provider's status in the Medicare program and to commit the provider to fully abide by the laws, regulations and program instructions of Medicare. The authorized official must be the provider's general partner, chairman of the board, chief financial officer, chief executive officer, president, direct owner of 5% or more of the provider, or must hold a position of similar status and authority within the provider's organization.
- Local carriers will only process the election agreement if it is filled out completely and correctly.
- Practices that submit claims to multiple local carriers will need to submit a separate election agreement to each carrier.
- Local carriers will forward the physician election information to the Designated Carrier, who will inform the Approved CAP Vendor of the physicians that have elected them.

### **How to Submit the Signed and Completed Form**

Physicians/groups must return a completed CAP Physician Election Agreement form by mail to their **local carrier**. Include "ATTENTION: CAP PHYSICIAN ELECTION" in the address. The address for your local Medicare carrier may be found at:

[http://www.cms.hhs.gov/MedicareProviderSupEnroll/Downloads/contact\\_list.pdf](http://www.cms.hhs.gov/MedicareProviderSupEnroll/Downloads/contact_list.pdf).

**MAIL THE COMPLETED FORM TO YOUR LOCAL CARRIER. DO NOT MAIL COMPLETED FORMS TO CMS HEADQUARTERS IN BALTIMORE, MD.**

### ***DEADLINES FOR THE 2008 ADDITIONAL PHYSICIAN ELECTION PERIOD***

- Do not mail election forms before January 15, 2008.
- **2008 election forms must be postmarked no later than February 15, 2008 in order to qualify for a CAP effective date of April 1, 2008.**

## ***Training for the CAP***

Noridian Administrative Services, the designated carrier for the CAP, offers interactive, online workshops about the CAP for Part B Drugs and Biologicals. These workshops train CAP vendors and elected physicians on a variety of CAP topics, and NAS staff can also answer any questions. Interested parties may view additional information about and register for these workshops at:  
[https://www.noridianmedicare.com/cap\\_drug/train/workshops/index.html](https://www.noridianmedicare.com/cap_drug/train/workshops/index.html)

## ***CMS-855 Medicare enrollment vs. CAP Election***

Medicare provider enrollment and CAP election are separate but linked processes. If you or your group have not continuously updated your 855 applications when changes have occurred, your CAP election form data may not match with the data in the Provider Enrollment and Chain/Ownership System (PECOS). Your local carrier may reject your CAP election agreement form if it does not match with PECOS. Please contact your local carrier to check your PECOS information before you submit the CAP election form.

To update your PECOS data, please fill out and submit the appropriate CMS 855 forms. These forms are available from your local carrier or via CMS at: <http://www.cms.hhs.gov/CMSForms/CMSForms/list.asp>

The CMS-855 forms must be submitted to the Medicare contractor that serves your State or practice location and who is responsible for processing your Medicare enrollment application. A list of the Medicare fee-for-service contractors by State can be found in the download section of:  
<http://www.cms.hhs.gov/MedicareProviderSupEnroll/>.

Please **do not** submit your CMS-855 form with your CAP election form.

## ***Termination of Participation in CAP***

Physicians elect an Approved CAP Vendor for the calendar year and cannot withdraw from the program unless certain circumstances exist. A physician can withdraw from the CAP only when:

- A CAP vendor terminates their participation in the program during the annual physician election period, which occurs in the fall. The physician can choose a different CAP vendor or can withdraw from the CAP, or

- A physician leaves a group practice and establishes a "new" practice, the new group or provider will have 90 days from enrolling to select a CAP vendor, or
- A physician is no longer able to obtain drugs for a beneficiary from the Approved CAP Vendor because of the beneficiary's failure to pay applicable cost sharing, or
- A physician petitions and cites other exigent circumstances as defined by CMS, or
- A physician indicates "Terminate CAP Election" on the Physician Election Agreement form during the annual physician election period.