

MLN Matters Number: 3232

Related Change Request (CR) #: 3232

Related CR Release Date: December 16, 2004

Effective Date: January 1, 2005

Related CR Transmittal #: 397

Implementation Date: January 3, 2005

## MMA - Drugs Paid by Average Selling Price Beginning January 1, 2005

**Note:** This article was updated on May 7, 2013, to reflect current Web addresses. All other information remains unchanged.

### Provider Types Affected

Physicians, suppliers, and providers

### Provider Action Needed

Physicians, suppliers, and providers should note that beginning January 1, 2005, the payment limit for Part B drugs and biologicals, not paid on a cost or prospective payment basis, will be paid based on the Average Sales Price (ASP) plus six (6) percent. Drugs will be paid based on date of service and the lower of:

- The submitted charge; or
- The ASP plus six (6) percent.

### Background

According to the Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA), beginning January 1, 2004 through December 31, 2004, drugs and biologicals not paid on a cost or prospective payment basis are paid based on various standards specified in the statute, although the default payment limit standard is 85 percent of Average Wholesale Price (AWP).

MM3232 notifies contractors (Part B Local Carriers and Durable Medical Equipment Carriers (DMERCs)) that the MMA mandates that drugs and biologicals not paid on a cost or prospective payment basis are to be paid based on the ASP beginning January 1, 2005.

Therefore, beginning January 1, 2005, the Centers for Medicare & Medicaid Services (CMS) will:

- Supply contractors with a drug payment limit file for drugs and biologicals; and

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- Send quarterly updates of this file to contractors

Payment will be based on:

- The lower of the submitted charge or the payment limit on this file; and
- The date-of-service.

Finally, contractors will:

- Develop payment limits when CMS does not supply a payment limit for the drug on the file;
- Continue to determine the payment limit for compounded drugs; and

Continue to determine the payment limit for new drugs.

## Related Instructions

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The *Medicare Internet Only Manual* (IOM) has been edited with revised and new sections to reflect changes implemented with this instruction. These revised and new sections include the following:

- The Medicare Claims Processing Manual (Pub. 100-4), Chapter 17 (Drugs and Biologicals):
- Section 10 (Payment Rules for Drugs and Biologicals) – **revised**
- Section 20 (Payment Allowance Limit for Drugs and Biologicals Not Paid on a Cost or Prospective Payment Basis) – **revised**
- Subsection 20.1 (MMA Drugs) – **new**

These revised and new sections of the Medicare Claims Processing Manual are included in the actual instruction (CR3232) issued to your carrier or DMERC.

## Additional Information

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The official instruction issued to your carrier/DMERC regarding this change may be found by going to <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R397CP.pdf> on the CMS website.

If you have any questions, please contact your carrier/DMERC at their toll-free number, which may be found at <http://www.cms.gov/Research-Statistics-Data-and-Systems/Monitoring-Programs/provider-compliance-interactive-map/index.html> on the CMS website.

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