

MLN Matters Number: MM4404

Related Change Request (CR) #: 4404

Related CR Release Date: April 28, 2006

Effective Date: April 28, 2006

Related CR Transmittal #: R932CP

Implementation Date: May 30, 2006

**Note:** This article was updated on November 1, 2012, to reflect current Web addresses. All other information remains unchanged.

## MMA - Competitive Acquisition Program (CAP) for Part B Drugs Physician Election

### Provider Types Affected

Physicians billing Medicare carriers for certain Part B drugs and biologicals under the Medicare CAP program

### Provider Action Needed



#### STOP – Impact to You

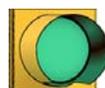
This article is based on Change Request (CR) 4404, which provides instruction for physicians who wish to elect the CAP to obtain certain Medicare Part B drugs and biologicals.



#### CAUTION – What You Need to Know

Physicians will be given an opportunity to elect to participate in the CAP on an annual basis, and practitioners who elect to participate in the CAP will be required to remain in the program at least one calendar year except under certain circumstances.

Physicians who elect to participate in the CAP will be required to complete a CAP election agreement. In 2006, the election period will occur from May 8, 2006, to June 2, 2006, and the term of election will run from July 1 to December 31, 2006.



#### GO – What You Need to Do

See the *Background Section* of this article for further details regarding the physician election of the CAP program for Part B drugs and biologicals.

#### Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

## Background

---

The Medicare Prescription Drug Improvement and Modernization Act of 2003 (MMA, Section 303 (d) <http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/>) requires the implementation of a competitive acquisition program (CAP) for Medicare Part B drugs and biologicals not paid on a cost or Prospective Payment System (PPS) basis.

Beginning with drugs administered **on or after July 1, 2006**, physicians will be given a choice between:

- Buying and billing these drugs under the average sales price (ASP) system; or
- Obtaining these drugs from CAP vendors selected in a competitive bidding process.

For 2006 the CAP approved vendor is Bioscrip, Vendor Identification Number Q103. [http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/15\\_Approved\\_Vendor.asp#TopOfPage](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/15_Approved_Vendor.asp#TopOfPage) on the CMS website.

**Note:** For purposes of the CAP, a physician includes individuals defined under the Social Security Act (Section 1861(r); [http://www.ssa.gov/OP\\_Home/ssact/title18/1861.htm](http://www.ssa.gov/OP_Home/ssact/title18/1861.htm)) and other practitioners who are authorized to provide physician services under 1861(s) and who can, within their state's scope of practice, prescribe and order drugs covered under Medicare Part B.

This article is based on Change Request (CR) 4404, which in addition to including the final physician election agreement included as an attachment, provides information and instructions for the implementation of the CAP pertaining to the physician election process as outlined in:

CR4064 (Transmittal 777, dated December 9, 2005; <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R777CP.pdf>); and

CR4309 (Transmittal 839, dated February 6, 2006; <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R839CP.pdf> )

The MLN Matters article corresponding to CR4064 can be found at <http://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/MM4064.pdf>; and the article corresponding to CR4309 can be found at <http://www.cms.gov/outreach-and-education/medicare-learning-network-mln/mlnmattersarticles/downloads/MM4309.pdf> on the CMS website.

### Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

In order to implement the annual physician election process, the Centers for Medicare & Medicaid Services (CMS) instructed your carrier in CR4064 to:

- Accept physician election applications immediately following the posting of approved CAP vendors on the CMS website;
- Create an initial list of all the physicians and practitioners **who have elected to participate** in CAP;
- Forward this information to the designated CAP vendor carrier Noridian; and
- Repeat this process annually.

### ***Annual Physician Election Process***

Physicians will be given an opportunity to elect to participate in the CAP on an annual basis, and practitioners who elect to participate in the CAP will be required to remain in the program at least one calendar year. The CAP physician election form is included with CR4404 and can be found online at

[http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/02\\_infophys.asp](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/02_infophys.asp)

Participating physicians who wish to continue their participation in CAP for subsequent years would do so by submitting an abbreviated agreement, which would also permit the practitioners to change approved CAP vendor or CAP drug category.

### ***CAP Participating Physician Requirements***

Physicians who elect to participate in the CAP will be required to complete a CAP election agreement (final attached to CR4404) assuring full and continued compliance with the participating CAP physician requirements per Title 42 CFR (Code of Federal Regulations) Part 414 Section 908

(<http://www.gpoaccess.gov/cfr/retrieve.html>) of Medicare regulations.

If a physician makes the decision to participate in the CAP, payment for the administration of any CAP drug or biological may be made only on an assignment-related basis. Additional details are available in the *Medicare Claims Processing Manual*, Chapter 17, Sections 100-100.8.2, which are included in Attachment A of CR4404.

### ***Application Process***

Physicians who would like to participate in the program can obtain the following information at [http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/02\\_infophys.asp](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/02_infophys.asp) on the CMS website:

- The CAP physician election form;
- The list of the approved CAP vendors; and

#### **Disclaimer**

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

- The specific National Drug Codes (NDCs) that the vendors will provide.

Once the election agreement is completed, it must be submitted to the practitioner's local Medicare carrier.

**The physician election process for 2006 shall operate from May 8 to June 2. For subsequent calendar years, CMS anticipates that the physician election process will be between October 4 and November 15 of each calendar year to meet operational timeframes for CAP vendors and claim processing contractors.**

**Note:** The CAP election agreement must be postmarked by June 2 for 2006 election period.

The 2006 CAP operational period will be for July 1- December 31, 2006.

### *Group Election*

When members in a group practice bill Medicare using the group's PIN, they must commit as a group practice to elect to participate in the CAP.

In order for a physician to "buy and bill" separately from the group he or she must not have reassigned his or her benefits to the group, and must be billing using his or her individual PIN.

If a physician in that situation elects to participate in the CAP as an individual, he or she would complete the CAP physician election form with his or her individual PIN, and other requested information.

### *Mid-Year Changes*

Physicians are permitted to select another approved CAP vendor or leave the CAP in mid-year if any one of the following occur:

- The approved CAP vendor selected by the physician leaves the program;
- The participating physician leaves a group practice, or a new physician enters a group practice that had selected the approved CAP vendor;
- The participating physician relocates to another competitive acquisition area (Although multiple CAP competitive areas are anticipated, there is one drug category and one geographic area for the 2006 through 2008 contract period.);
- The physician is newly enrolled in the Medicare program and elects to participate in the CAP within 90 days of enrollment; or
- The approved CAP vendor refuses to ship to the participating CAP physician because the conditions of 42 CFR § 414.914(h) were met, the physician may withdraw from the CAP category for the remainder of the year upon notice to CMS and the approved CAP vendor.

#### Disclaimer

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.

### *CAP Physician Election Agreement*

The final CAP physician election agreement is included as an Attachment to CR 4404. Providers interested in participating in the CAP must download the form from the CAP website and complete pages 1, 5, and 6 of the agreement. If a physician has more than one practice location additional copies of page 6 must be submitted. For group practices all physician members who will be participating in the CAP and billing under the group PIN must be listed, however only one election agreement should be submitted for each group practice. An authorized representative must sign the form on behalf of the individual or group practice members on page 5. 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 or authority within the provider's organization.

In summary, CR4404 instructs your carrier to receive the CAP physician election agreement forms submitted by physicians who wish to participate in the CAP in their area either during the annual election process or because of a mid-year change.

Please note that:

- Claims submitted by a physician for CAP drugs with a date of service after the effective date the physician disenrolled from the CAP will be processed as ASP claims.
- Claims submitted by the vendor for CAP drugs with a date of service prior to the effective date the physician disenrolled from the CAP will be processed as CAP claims.

### **Additional Information**

---

Attached to CR4404 is the Competitive Acquisition Program (CAP) Physical Election Agreement for Medicare Part B Drugs.

For complete details, please see CR4044 at <http://www.cms.gov/Regulations-and-Guidance/Guidance/Transmittals/downloads/R932CP.pdf> on the CMS website.

If you have any questions, please contact your carrier 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.

The list of CAP drugs can be found at [http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/15\\_Approved\\_Vendor.asp](http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Part-B-Drugs/CompetitiveAcquisforBios/index.html/CompetitiveAcquisforBios/15_Approved_Vendor.asp) on the CMS website.

#### **Disclaimer**

This article was prepared as a service to the public and is not intended to grant rights or impose obligations. This article may contain references or links to statutes, regulations, or other policy materials. The information provided is only intended to be a general summary. It is not intended to take the place of either the written law or regulations. We encourage readers to review the specific statutes, regulations and other interpretive materials for a full and accurate statement of their contents.