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CMS Medicare FFS Provider e-News

CMS Information for the Medicare Fee-For-Service Provider Community

CMS asks that you share the following important information with all of your association members and state and local chapters. Thank you!

Robin Fritter, Director
Division of Provider
Relations & Outreach
Provider Communications
Group
Center for Medicare
Centers for Medicare &
Medicaid Services

robin.fritter@cms.hhs.gov
410-786-7485

President Obama Signs the *Middle Class Tax Relief and Job Creation Act of 2012* --New Law Includes Physician Update Fix through December 2012--

On Wednesday, February 22, 2012, President Obama signed into law the ***Middle Class Tax Relief and Job Creation Act of 2012 (Job Creation Act)***. This new law prevents a scheduled payment cut for physicians and other practitioners who treat Medicare patients from taking effect on March 1, 2012. The new law extends the current zero percent update for such services through December 31, 2012. President Obama remains committed to a permanent solution to eliminating the Sustainable Growth Rate reductions, which result from the existing statutory methodology. The Administration will continue to work with Congress to achieve this goal, as well as implement the policies in the Affordable Care Act to move toward a patient-centered, quality oriented system.

The new law extends several provisions of the *Temporary Payroll Tax Cut Continuation Act of 2011 (Continuation Act)*. Specifically, the following Medicare fee-for-service policies have been extended. We also have included Medicare billing and claims processing information associated with the new legislation. Please note that these provisions do not reflect all of the Medicare provisions in the new law, as some provisions are effective later in the year and more information about those provisions will be forthcoming.

Section 3003 - Physician Payment Update - The new law extends the current zero percent update for claims with dates of service on or after March 1, 2012, through December 31, 2012. However, the new law does not extend Sections 307 and 309 of the Continuation Act, the five percent physician fee schedule mental health add-on payment and the special 2011 payment rates for bone mass measurement, respectively. The Centers for Medicare & Medicaid

Services (CMS) is currently revising the 2012 Medicare Physician Fee Schedule (MPFS) to reflect the expiration of both of these provisions. In order to allow sufficient time to develop, test, and implement the revised MPFS, Medicare claims administration contractors may hold mental health and bone density claims with March 2012 dates of service for up to 10 business days. We expect these claims to be released into processing no later than March 15, 2012. Other March 2012 claims will be unaffected by this claim hold. Claims with dates of service prior to March 1, 2012, also are unaffected. Finally, Medicare contractors will be posting the new mental health and bone density rates on their websites no later than March 15, 2012.

Section 3004 - Extension of Medicare Physician Work Geographic Adjustment Floor - The existing 1.0 floor on the physician work geographic practice cost index is extended through December 31, 2012. As with the physician payment update, this extension will be reflected in the revised 2012 MPFS.

Section 3001 - Extension of Medicare Modernization Act Section 508 Reclassifications -

Section 3001 extends Section 508 reclassifications and certain special exception wage indexes from December 1, 2011, through March 31, 2012. For the period beginning on December 1, 2011, and ending on March 31, 2012, section 3001 also requires (as did section 302 of the Continuation Act) removing Section 508 and special exception wage data from the calculation of the reclassified wage index if doing so raises the reclassified wage index. All hospitals receiving section 508 reclassifications and inpatient special exception reclassifications under the Continuation Act and the Job Creation Act shall be assigned a special wage index effective for October 2011 through March 2012. We will apply these provisions to both inpatient and outpatient hospital payments. A special wage index will be applicable, from January 1, 2012, through June 30, 2012, for hospital outpatient payments, to special exception hospitals and reclassified hospitals affected by these extensions. Hospital inpatient and outpatient payments under both section 302 of the Continuation Act and section 3001 of the Job Creation Act will be made by June 30, 2012.

Section 3002 - Extension of Outpatient Hold Harmless Payments - Section 3002 extends outpatient hold harmless payments for rural hospitals and sole community hospitals with 100 or fewer beds through December 31, 2012. However, hold harmless payments for sole community hospitals with more than 100 beds were not extended by this provision and are set to expire on February 29, 2012.

Section 3005 - Extension of Exceptions Process for Medicare Therapy Services - Section 3005 extends the exceptions process for outpatient therapy caps from March 1, 2012, until December 31, 2012, with some modifications to current therapy policies. Providers of outpatient therapy services are required to submit the KX modifier on their therapy claims, when an exception to the cap is requested for medically necessary services furnished through

December 31, 2012. In addition, the new law includes changes related to therapy services furnished in a hospital outpatient department (OPD). These changes impact the annual therapy cap in 2012 as well as the applicability of the therapy cap exception process. More information about the changes affecting hospital OPDs will be forthcoming in a future issuance. Additional information about the exception process for therapy services may be found in the Medicare Claims Processing Manual, Pub.100-04, Chapter 5, Section 10.3:

<http://www.cms.gov/manuals/downloads/clm104c05.pdf>.

The therapy caps are determined for a beneficiary on a calendar year basis, so all beneficiaries began a new cap for outpatient therapy services received on January 1, 2012. For physical therapy and speech language pathology services combined, the 2012 limit for a beneficiary on incurred expenses is \$1,880. There is a separate cap for occupational therapy services which is \$1,880 for 2012. Deductible and coinsurance amounts applied to therapy services count toward the amount accrued before a cap is reached, and also apply for services above the cap where the KX modifier is used.

Section 3005 also mandates that Medicare perform manual medical review of therapy services furnished beginning on October 1, 2012, for which an exception was requested when the beneficiary has reached a dollar aggregate threshold amount of \$3,700 for therapy services, including OPD therapy services, for a year. There are two separate \$3,700 aggregate annual thresholds: (1) physical therapy and speech-language pathology services, and (2) occupational therapy services.

Finally, Section 3005 requires that all claims for therapy services furnished on or after October 1, 2012, include the National Provider Identifier of the physician who reviews the therapy plan.

CMS will issue additional information about all of these new requirements later in the year.

Section 3006 - Extension of Moratorium On Qualified Pathologists and Independent Laboratory Billing for the Technical Component of Physician Pathology Services Furnished to Hospital Patients - Section 3006 extends the moratorium through June 30, 2012. Therefore, those qualified pathologists and independent laboratories that are eligible may continue to submit claims to Medicare for the technical component of physician pathology services furnished to patients of a hospital, regardless of the beneficiary's hospitalization status (inpatient or outpatient) on the date that the service was furnished. This policy continues to be effective for claims with dates of service on or after March 1, 2012, through June 30, 2012.

Section 3007 - Extension of Ambulance Add-On Payments - Section 3007 extends through December 31, 2012, the

following three Continuation Act ambulance payment provisions: (1) the 3 percent increase in the ambulance fee schedule amounts for covered ground ambulance transports that originate in rural areas and the 2 percent increase for covered ground ambulance transports that originate in urban areas; (2) the provision relating to air ambulance services that continues to treat as rural any area that was designated as rural on December 31, 2006, for purposes of payment under the ambulance fee schedule; and (3) the provision relating to payment for ground ambulance services that increases the base rate for transports originating in an area that is within the lowest 25th percentile of all rural areas arrayed by population density (known as the “super rural” bonus). Suppliers of ambulance services affected by these provisions may continue billing as usual.

Be on the alert for more information about the Job Creation Act and the provisions which take effect later in the year.

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