

identifying the national accrediting body making the request, describing the nature of the request, and providing at least a 30-day public comment period. We have 210 days from the receipt of a complete application to publish notice of approval or denial of the application.

The purpose of this proposed notice is to inform the public of CHAP's request for continued deeming authority for HHAs. This notice also solicits public comment on whether CHAP's requirements meet or exceed the Medicare conditions for participation for HHAs.

III. Evaluation of Deeming Authority Request

CHAP submitted all the necessary materials to enable us to make a determination concerning its request for reapproval as a deeming organization for HHAs. This application was determined to be complete on August 26, 2011. Under section 1865(a)(2) of the Act and our regulations at § 488.8 (Federal review of accrediting organizations), our review and evaluation of CHAP will be conducted in accordance with, but not necessarily limited to, the following factors:

- The equivalency of CHAP'S standards for HHA's as compared with CMS' HHA conditions of participation.

- CHAP's survey process to determine the following:

- ++ The composition of the survey team, surveyor qualifications, and the ability of the organization to provide continuing surveyor training.

- ++ The comparability of CHAP's processes to those of State agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

- ++ CHAP's processes and procedures for monitoring HHAs found out of compliance with CHAP's program requirements. These monitoring procedures are used only when CHAP identifies noncompliance. If noncompliance is identified through validation reviews, the State survey agency monitors corrections as specified at § 488.7(d).

- ++ CHAP's capacity to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

- ++ CHAP's capacity to provide us with electronic data, and reports necessary for effective validation and assessment of the organization's survey process.

- ++ The adequacy of CHAP's staff and other resources, and its financial viability.

- ++ CHAP's capacity to adequately fund required surveys.

- ++ CHAP's policies with respect to whether surveys are announced or unannounced, to assure that surveys are unannounced.

- ++ CHAP's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require (including corrective action plans).

IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this notice, and, we will respond to the comments in a subsequent document.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: August 31, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 2011-24547 Filed 9-22-11; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS-4152-N]

Medicare Program; Medicare Appeals; Adjustment to the Amount in Controversy Threshold Amounts for Calendar Year 2012

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustment in the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearings and judicial review under the Medicare appeals process. The adjustment to the AIC threshold amounts will be effective for requests for ALJ hearings and judicial review filed on or after January 1, 2012. The calendar year 2012 AIC threshold amounts are \$130 for ALJ hearings and \$1,350 for judicial review.

DATES: *Effective Date:* This notice is effective on January 1, 2012.

FOR FURTHER INFORMATION CONTACT: Liz Hosna (*Katherine.Hosna@cms.hhs.gov*), (410) 786-4993.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1869(b)(1)(E) of the Social Security Act (the Act), as amended by section 521 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000 (BIPA), established the amount in controversy (AIC) threshold amounts for Administrative Law Judge (ALJ) hearing requests and judicial review at \$100 and \$1000, respectively, for Medicare Part A and Part B appeals. Section 940 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), amended section 1869(b)(1)(E) of the Act to require the AIC threshold amounts for ALJ hearings and judicial review to be adjusted annually. The AIC threshold amounts are to be adjusted, as of January 2005, by the percentage increase in the medical care component of the consumer price index for all urban consumers (U.S. city average) for July 2003 to July of the year preceding the year involved and rounded to the nearest multiple of \$10. Section 940(b)(2) of the MMA provided conforming amendments to apply the AIC adjustment requirement to Medicare Part C Medicare Advantage (MA) appeals and certain health maintenance organization and competitive health plan appeals. Health care prepayment plans are also subject to MA appeals rules, including the AIC adjustment requirement. Section 101 of the MMA provides for the application of the AIC adjustment requirement to Medicare Part D appeals.

A. Medicare Part A and Part B Appeals

The statutory formula for the annual adjustment to the AIC threshold amounts for ALJ hearings and judicial review of Medicare Part A and Part B appeals, set forth at section 1869(b)(1)(E) of the Act, is included in the applicable implementing regulations, 42 CFR 405.1006(b) and (c). The regulations require the Secretary of the Department of Health and Human Services (the Secretary) to publish changes to the AIC threshold amounts in the **Federal Register** (405.1006(b)(2)). In order to be entitled to a hearing before an ALJ, a party to a proceeding must meet the AIC requirements at § 405.1006(b). Similarly, a party must meet the AIC requirements at 405.1006(c) at the time judicial review

is requested for the court to have jurisdiction over the appeal (405.1136(a)).

B. Medicare Part C (Medicare Advantage) Appeals

Section 940(b)(2) of the MMA applies the AIC adjustment requirement to Medicare Part C (MA) appeals by amending section 1852(g)(5) of the Act. The implementing regulations for Medicare Part C (MA) appeals are found at 42 CFR part 422, Subpart M. Specifically, 422.600 and 422.612 discuss the AIC threshold amounts for ALJ hearings and judicial review. Section 422.600 grants any party to the reconsideration, except the MA organization, who is dissatisfied with the reconsideration determination, a right to an ALJ hearing as long as the amount remaining in controversy after reconsideration meets the threshold requirement established annually by the Secretary. Section 422.612 states, in part, that any party, including the MA organization, may request judicial review if, the AIC meets the threshold requirement established annually by the Secretary.

C. Health Maintenance Organizations, Competitive Medical Plans, and Health Care Prepayment Plans

Section 1876(c)(5)(B) of the Act states that the annual adjustment to the AIC dollar amounts set forth in section 1869(b)(1)(E) of the Act applies to certain beneficiary appeals within the context of health maintenance organizations and competitive medical plans. The applicable implementing regulations for Medicare Part C appeals are set forth in 42 CFR part 422, Subpart M, and as discussed previously, apply to these appeals. The Medicare Part C appeals rules also apply to health care prepayment plan appeals.

D. Medicare Part D (Prescription Drug Plan) Appeals

The annually adjusted AIC threshold amounts for ALJ hearings and judicial review that apply to Medicare Parts A, B, and C appeals also apply to Medicare Part D appeals. Section 101 of the MMA added section 1860D-4(h)(1) of the Act regarding Part D appeals. This statutory provision requires a prescription drug plan sponsor to meet the requirements set forth in sections 1852(g)(4) and (g)(5) of the Act, in a similar manner as MA organizations. As noted previously, the annually adjusted AIC threshold requirement was added to section 1852(g)(5) of the Act by section 940(b)(2)(A) of the MMA. The implementing regulations for Medicare Part D appeals can be found at 42 CFR part 423, Subparts M and U. The regulations at §423.562(c) prescribe that, unless the Part D appeals rules provide otherwise, the Part C appeals rules (including the annually adjusted AIC threshold amount) apply to Part D appeals to the extent they are appropriate. More specifically, 423.1970 and 423.1976 of the Part D appeals rules discuss the AIC threshold amounts for ALJ hearings and judicial review. Section 423.1970(a) grants a Part D enrollee, who is dissatisfied with the independent review entity (IRE) reconsideration determination, a right to an ALJ hearing if the amount remaining in controversy after the IRE reconsideration meets the threshold amount established annually by the Secretary. Section 423.1976(a) and (b) allow a Part D enrollee to request judicial review of an ALJ or MAC decision if, in part, the AIC meets the threshold amount established annually by the Secretary.

II. Annual AIC Adjustments

A. AIC Adjustment Formula and AIC Adjustments

As previously noted, section 940 of the MMA requires that the AIC threshold amounts be adjusted annually, beginning in January 2005, by the percentage increase in the medical care component of the consumer price index (CPI) for all urban consumers (U.S. city average) for July 2003 to July of the year preceding the year involved and rounded to the nearest multiple of \$10.

B. Calendar Year 2012

The AIC threshold amount for ALJ hearing requests will remain at \$130 and the AIC threshold amount for judicial review will rise to \$1,350 for CY 2012. These updated amounts are based on the 34.51 percent increase in the medical care component of the CPI from July 2003 to July 2011. The CPI level was at 297.600 in July 2003 and rose to 400.305 in July 2011. This change accounted for the 34.51 percent increase. The AIC threshold amount for ALJ hearing requests changes to \$134.51 based on the 34.51 percent increase. In accordance with section 940 of the MMA, this amount is rounded to the nearest multiple of \$10. Therefore, the 2012 AIC threshold amount for ALJ hearings is \$130. The AIC threshold amount for judicial review changes to \$1,345.11 based on the 34.51 percent increase. This amount was rounded to the nearest multiple of \$10, resulting in the 2012 AIC threshold amount of \$1,350 for judicial review.

C. Summary Table of Adjustments in the AIC Threshold Amounts

In the following table we list the CYs 2005 through 2012 threshold amounts.

	CY 2005	CY 2006	CY 2007	CY 2008	CY 2009	CY 2010	CY 2011	CY 2012
ALJ Hearing	\$100	\$110	\$110	\$120	\$120	\$130	\$130	\$130
Judicial Review	1,050	1,090	1,130	1,180	1,220	1,260	1,300	1,350

III. Collection of Information Requirements

This document does not impose information collection and recordkeeping requirements. Consequently, it need not be reviewed by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 35).

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare—Hospital Insurance Program; and No. 93.774,

Medicare—Supplementary Medical Insurance Program)

Dated: September 8, 2011.

Donald M. Berwick,

Administrator, Centers for Medicare & Medicaid Services.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0481]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; New Animal Drugs for Investigational Uses

AGENCY: Food and Drug Administration, HHS.