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MEMORANDUM

DATE: February 1, 2010

TO: All Medicare Advantage Organizations and Section 1876 Cost Plans

FROM: Danielle R. Moon, J.D., M.P.A. /s/
Director, Medicare Drug & Health Plan Contract Administration Group

SUBJECT: Requirement to Furnish Screening for the Human Immunodeficiency Virus (HIV)
in High Risk Populations

The purpose of this memorandum is to clarify the obligation of all Medicare Advantage organizations (MAOs) and section 1876 cost plans to furnish HIV screening to enrollees with high risk profiles given a recent national coverage decision (NCD) on this particular screening.

Generally, both MAOs and section 1876 cost plans must cover all Original Medicare benefits, including new services covered under NCDs (refer to 42 CFR 422.101(a)(b)(1) and 42 CFR 417.440(b)). As provided under 42 CFR 422.109(b), if CMS determines that an NCD does not meet the significant cost threshold described in 42 CFR 422.109(a), an MAO is required to provide coverage for the service covered under the NCD as of the effective date of the NCD. When the significant cost threshold is not met, MAOs must assume risk for the costs of that service or benefit regardless of whether the cost of that service or benefit was accounted for in their bids.

In a decision memorandum dated December 8, 2009, located at URL <http://www.cms.hhs.gov/mcd/viewdecisionmemo.asp?id=229>, the Centers for Medicare and Medicaid Services (CMS) exercised its authority under sections 1861(s)(2)(BB) and 1861(ddd)(1) of the Social Security Act to add to the benefits furnished by Original Medicare coverage of "additional preventive services," provided certain requirements are met. The decision memorandum details these requirements; provides the timeline for the national coverage analysis, including the applicable comment periods; and provides background material on the need for HIV screening.

Consequently, effective January 1, 2010, all MAOs and section 1876 cost plans must cover both standard and U.S. Food and Drug Administration (FDA)-approved (HIV) rapid screening tests for:

1. Annual voluntary HIV screening of Medicare beneficiaries at increased risk for HIV infection per USPSTF guidelines, including:
 - Men who have had sex with men after 1975;
 - Men and women having unprotected sex with multiple partners;
 - Past or present injection drug users;
 - Men and women who exchange sex for money or drugs, or have sex partners who do;
 - Individuals whose past or present sex partners were HIV-infected, bisexual or injection drug users;
 - Persons being treated for sexually transmitted diseases;
 - Persons with a history of blood transfusion between 1978 and 1985;
 - Persons who request an HIV test despite reporting no individual risk factors, since this group is likely to include individuals not willing to disclose high-risk behaviors.
2. Voluntary HIV screening of pregnant Medicare beneficiaries when the diagnosis of pregnancy is known, during the third trimester, and at labor.

Beginning with contract year 2011, MAOs and section 1876 cost plans must include the costs associated with this screening in their annually submitted bids.

While Original Medicare pays 100% of the cost of clinical laboratory tests, some plans may elect to charge cost-sharing for these tests. During contract year 2010, if an MAO's or section 1876 cost plan's bid included cost sharing for Original Medicare clinical laboratory tests, the plan may apply that cost sharing to HIV screening, provided the cost-sharing amount does not exceed the cost of the HIV screening service.

We expect MAOs and section 1876 cost plans to notify enrollees about this new screening test, any cost sharing associated with it, and eligibility for coverage as soon as practicable. MAOs should update their websites to include information about coverage of this service, and they should notify their beneficiaries through other means as appropriate, including plan newsletters and errata sheets for their SBs and EOCs.

Please contact your account manager if you have questions regarding this memorandum.