



Office of External Affairs

MEDICARE FACT SHEET

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COMPETITIVE ACQUISITION PROGRAM PROPOSED RULE (CMS-1325-P)

Overview

Physicians who administer drugs in their offices to Medicare beneficiaries under Medicare's Supplementary Medical Insurance Program (Part B) could have the option of obtaining those drugs under a proposed rule issued today by the Centers for Medicare & Medicaid Services (CMS). The proposed competitive acquisition program (CAP) offers physicians an option that could save them time and paperwork, while creating a competitive environment in the market for Part B drugs that are administered in the physician's office.

The proposed rule deals only with drugs that are covered under Medicare Part B, and will not apply to drugs included in the Medicare prescription drug benefit that will take effect on January 1, 2006.

Under the proposed rule, physicians could choose to obtain physician administered Part B drugs from vendors selected by Medicare through a competitive bidding process. The vendors would then bill Medicare directly for the drugs. The physician would no longer purchase the drug and seek payment from Medicare. Rather, the physician's role would be limited to ordering and administering the drug. Physicians could also choose to continue to purchase drugs directly in the market, as they do now, and continue to be paid by Medicare at the statutorily established rate, which, for most drugs, is 106 percent of average sales price (ASP).

Whether the physician elects to participate in the CAP or to continue purchasing drugs on the market, Medicare will continue to pay directly for the services involved in administering the drugs, using newly created codes that better describe the range of services provided. The payment rates for these services are more than double the payment rates for services provided in 2003.

Background

Since the inception of the program, Medicare has paid for a limited number of prescription drugs under Part B. For the most part, these are drugs that are generally not self-administered, but rather administered by physicians in their offices (e.g., many oncology drugs). The physicians would purchase the drugs they needed for their patients, and bill Medicare for both the drugs and the administration services.

Prior to 2003, numerous studies had established that Medicare was paying for these drugs under a statutory formula that resulted in payment far in excess of the physician's acquisition costs, but physicians said these overpayments were needed to offset inadequate payment for administration.

The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA) required CMS to correct this cross subsidization, increasing payments for the administration of drugs to reflect the costs of the services, and reforming the payment methodology for these drugs in two ways. First, effective January 2005, Medicare sets payment rates for most Part B covered drugs at 106 percent of the ASP, as determined from data supplied to Medicare by manufacturers and updated on a quarterly basis.

The second phase of MMA payment reform of Medicare Part B drugs requires CMS to offer physicians an option, beginning in 2006, to acquire drugs from vendors who are selected in a competitive bidding process. The vendors would then be responsible for billing the program and collecting any applicable deductible and coinsurance for drugs included in the CAP.

Physician Participation

Physician participation in the program is completely voluntarily. Physicians have complete freedom to choose to obtain their drugs in the marketplace and Medicare will continue to pay them for such drugs under the ASP system or otherwise applicable payment methodology.

For physicians choosing to participate in the program, obtaining drugs from a vendor under the CAP is intended to be simple and efficient. Physicians would simply enroll with one of the winning vendors. The physician would order drugs needed for specific beneficiaries from the vendor, and administer them to the beneficiaries. The physician would not bill Medicare for drugs but would bill Medicare only for the administration services. The vendor, rather than the physician, would bill Medicare for the drugs, and would be responsible for collecting any deductibles and coinsurance from the beneficiary.

Under the proposed rule, physicians would be given an opportunity once a year to elect to participate in the program and to choose a vendor to be the physician's sole source of the selected categories of Part B drugs. The proposed rule includes a provision allowing a physician to obtain these drugs elsewhere under specified emergency circumstances.

Vendor Selection:

Under the proposed rule, a vendor wishing to participate in the competitive acquisition program would submit a bid to Medicare for supplying drugs administered in a physician's office. To be eligible for a contract, a vendor would first have to demonstrate that it meets rigorous standards set out in the proposed regulation for quality, program integrity, financial stability, and service. After meeting those standards, winning vendors would be selected based on their bid price.

Areas for Public Input

The proposed rule seeks public comment on a number of key elements of the CAP option. These include:

- The selection of categories of drugs to be available through the CAP program
- Whether and how the categories should be phased in to the CAP

- The designation of areas for the vendor competitions – such as national, statewide or regional
- Standards for selecting winning bidders. The standards in the proposed rule include:
 - acquire drugs directly from the manufacturer (or from an entity that acquired the drugs directly from the manufacturer);
 - be licensed to distribute drugs in every state in which they are bidding;
 - have the capacity to ship 5 days per week and in emergency situations;
 - supply audited financial statements;
 - have at least 3 years experience distributing Medicare Part B drugs.
- Number of vendors - we propose to select up to five bidders for a drug category in each competitive bidding area, but not to select any bid with prices higher than 106 percent of the weighted ASP of the drugs in that category

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