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**To: Clients and Friends**  
**From: William MacBain and Jean LeMasurier**  
**Date: April 10, 2008**  
**Re: CMS Publishes Final 2009 Medicare Advantage Capitation Rates and Part D Payment Policies; CMS Will Conduct Plan Level Audits and Not Make Coding Intensity Adjustments for 2009**

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On April 7, 2008, CMS issued final 2009 payment rates for Medicare Advantage plans and Part D plans. In a departure from the agency's Advance Notice payment of rates memo issued on February 22, and in response to public comments filed, CMS says it will no longer reduce payments to some MA plans in 2009 to offset increased coding intensity. Instead, the agency will conduct additional audits and analysis to determine whether differences observed in coding between MA plans and FFS providers are the result of coding patterns or underlying beneficiary health status.

### **Part C Update**

The national per capita MA growth rate for CY 2009 for Aged and Disabled beneficiaries will be **4.24 percent**. This change reflects a 3.74 percent cost trend, plus a "catch-up" for revisions to estimates in the five previous years which adds 0.5 percent. The 4.24 percent is lower than the preliminary estimate of 4.8 percent and lower than the 2008 final update of 5.7 percent.

A budget neutrality factor of 1.009 will be applied to MA rates. This national adjustment reflects 25% of its full value for 2009, as this factor continues to be phased out.

CMS analysis shows that on average, MA plans will see increased payments of **3.6 percent**. The actual increase in the payment amount will vary by county because the payment is the greater of the Part C formula or the FFS rate, and because CMS has rebased the county FFS rates. If the county rates are weighted by the March 2008 MA enrollment in each county, we calculate the weighted average increase in county rates to be 3.68 percent.

The rate announcement includes a FFS normalization factor of 1.03 percent (lower than the 2008 level of 1.04 percent). The normalization factor will have a negative impact on MA plans whose risk scores do not reflect the gradual upward trend observed in FFS Medicare. Plans whose risk scores are moving up faster than FFS will have higher rate increases.

The actuarial value of the Medicare deductible and coinsurance amounts for 2009 is \$135.91, a 4.56 percent decrease from 2008.

The maximum deductible for Medicare Medical Savings Account (MSA) plans for 2009 is \$10,500. For MSA demonstration projects, as included in the Call Letter, the minimum difference between the deductible and the deposit is \$1,000.

### **Adjustment for MA Coding Intensity**

Based on comments received after the preliminary announcement, CMS is deferring its earlier proposal to adjust payments to some MA plans to offset the effects of increased coding intensity. CMS had proposed to reduce payments to plans whose risk scores were increasing at rates more than twice as fast as in the Medicare FFS sector. Instead, CMS will conduct additional audits and analysis to determine whether differences in coding between MA plans and FFS providers are the result of coding patterns or underlying beneficiary health status. CMS will expand its Risk Adjustment Data Validation audits to generate statistically valid plan level payment error estimates, based on 2007 payments. Plans audited will include randomly selected and targeted plans. These audits will sample a larger number of submitted diagnosis codes and medical records. Adjustments for Risk Adjustment factors that are not supported in the medical records will be made at the plan level, rather than made at the beneficiary level as in the past. Adjustments may be either up or down, CMS said.

### **Adjustments for VA-DOD Dual Eligibles**

Because CMS does not have access to data from the Department of Defense (DOD), the proposed adjustment to FFS rates to account for services that beneficiaries receive from the VA or DOD will not be made for 2009.

### **Part D Payment**

The rate notice includes updated statutory parameters for the Part D Defined Standard Benefit in 2009 to assure that the standard benefit covers a constant share of Part D expenses from year to year. These parameters are the same as announced in the 45 day Advance Notice. The 2009 deductible will rise to \$295, the Initial Coverage Limit to \$2,700, and the out-of-pocket threshold to \$4,350.

Because CMS has not issued a Final Rule on reporting drug costs for Part D plan sponsors that contract with PBMs, plan sponsors may apply either the pass through or lock-in pricing approach when calculating cost sharing and reporting drug costs. This is the same method that has been used in prior years. Plan sponsors must choose one method to be used for all Part D purposes and provide an attestation with the 2009 bid.

The rate notice restates the new CMS policy announced in the April 3, 2008 final rule on the calculation of the Low Income Benchmark premium amount. This policy change will weight premiums based on enrollment of LIS beneficiaries in each plan rather than Part D enrollment overall.

**Retiree Drug Subsidy Amounts** - The cost threshold and cost limit for qualified retiree drug plans under the Retiree Drug Subsidy (RDS) program will also increase in 2009. The cost threshold and cost limit are defined as \$295 and \$6,000 respectively.

The complete CMS final notice document can be accessed at:

<http://www.cms.hhs.gov/MedicareAdvtgSpecRateStats/Downloads/Announcement2009.pdf>

As always, if you have questions, please feel free to contact us.