

Coding For Practices CAP is Coming...

by Barbara Constable, RN, MBA



ILLUSTRATION/GETTY IMAGES

Medicare's competitive acquisition program (CAP) is a voluntary program for physician practices mandated under the Medicare Modernization Act of 2003 (MMA). Physicians who elect to participate in CAP will acquire their anticancer drugs from vendors selected by CMS in a competitive bidding process. Practices that choose to participate in CAP will *not* purchase and bill for any anticancer drugs under the current average sales price (ASP) methodology. Instead, CAP participating physicians will acquire their anticancer drugs from CAP vendors. The CAP vendors will bill Medicare for the administered drug and bill the beneficiary for any applicable co-payment or deductible. Each year, physician practices will elect to participate in the CAP program for a 12-month period. The CAP enrollment period will be from Oct. 1 to Nov. 15, with the program starting on Jan. 1 of the following year.

Because of last year's decision to push back implementation of the CAP program, 2006 offers physician practices a unique opportunity—two enrollment periods. While CMS has yet to announce a firm date, the first enrollment period is likely to be in the spring of 2006. Physicians who enroll during this time will begin participating in CAP on July 1, 2006. The second enrollment period is likely to be in Nov. 2006 for a Jan. 1, 2007, start date. Physician practices that are uncertain about whether to participate in CAP can adopt a "wait and see approach" and see how their colleagues fare under this new system.

Physicians who elect to participate in the first enrollment period will enroll for six-months (July to December 2006.) These physicians must complete a participating CAP physician's election agreement and abide by the following requirements:

- Share information with vendors to facilitate deductible and coinsurance collection
- Promptly file drug administration claims
- Promptly pursue claims that are denied for lack of medical necessity
- Accept assignment for CAP drug administration claims
- Notify the vendor when a drug is not administered
- Agree to comply with emergency drug replacement rules
- Agree to requirements for using "furnish as written" provisions
- Maintain an inventory record for each CAP drug
- Support approved CAP vendors during administrative appeals of drug administration claim denials.

Coinsurance Payments, Collections, and Vendors Withholding Drugs?

Eighty percent of Medicare recipients have supplemental insurance that covers their coinsurance payment, but exactly *who* is responsible for collection of this coinsurance? In its final rule, CMS stated that coinsurance collection is the responsibility of the vendor; however, physicians may voluntarily enter into an arrangement with CAP vendors to collect coinsurance and deductibles on their behalf *if* the arrangement complies with applicable laws.

Physicians are particularly concerned about what happens if the coinsurance requirements are *not* met. CMS has established a 45-day window after the patient receives the bill for vendors to receive payment *before* vendors can refuse to send medications to cover the treatment plan. CMS also changed the language in Section 414.914 to state that "approved CAP vendors *must* inform beneficiaries" on sources of coinsurance assistance instead of the patient needing to request this information. Once a patient is

referred for assistance, vendors must wait an *additional* 15-day grace period before stopping delivery of medications. If the vendor withholds patient medication, CMS stated it is the responsibility of the CAP vendor to notify the beneficiary about the withholding of medications, and the physician needs only to direct the patient to the vendor grievance process when necessary.

Should the CAP vendor refuse to make further drug shipments for that patient, physicians can opt out of that particular drug category within the CAP program. Physicians should know that the initial CAP program has only *one* drug category. This means that physicians who opt out of that one drug category would be opting out from the *entire* CAP program for the remainder of their agreement period. Physicians are required to immediately notify CMS and the CAP vendor if they are planning to opt out of the CAP program.

Another area of physician concern is whether CAP vendors will attempt to "dictate" the medications prescribed in treatment plans. If a medication is medically necessary and is *not* furnished by the CAP vendor then the "furnish as written" option allows physicians to obtain the drug and bill Medicare. Physicians will use the "furnish as written modifier" (J3) and bill for the drug under the ASP system. Physicians that use the "furnish as written" option must document the medical necessity in the patient record.

Additional CAP information can be found online at: <http://www.cms.hhs.gov/CompetitiveAcquisfor-Bios/Downloads/pfs112105fr.pdf>. Approved CAP drugs are listed in Addendum F, "Revised Single Drug Category List." 📄

Barbara Constable, RN, MBA, is a consultant for ELM Services, Inc., in Rockville, Md.