

# 6.05 New Opportunities for Drugs under Old Medicare: Changes to Inpatient New Technology Pass-Throughs and 'Incident to' Coverage

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MEDICARE DEMONSTRATION PROJECT  
REPLACEMENT FOR DRUGS  
COVERED UNDER MEDICARE PART B

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- Medicare Part B Drug Coverage is Limited
  1. Limited number of prescribed drugs and biologicals
    - Approximately 450 drugs in 2002
  2. Limited circumstances prescribed by statute

- Generally, Covered Drugs Fall Into Three Broad Categories:
  1. Drugs furnished incident to a physician's service which are not usually self-administered
    - Injectable or intravenous
    - Physician buys drug and is reimbursed by Medicare
    - Examples:
      - i. Injectable prostrate drugs (lupron acetate)
      - ii. Injectable or intravenous cancer treatment drugs (epoetin alpha, paclitaxel, docetaxel)

- Three Broad Categories (cont.)
  2. Drugs administered through a covered DME item  
(*e.g.*, nebulizer or pump)
    - Common examples
      - i. Inhalation drugs albuterol sulfate & ipratropium bromide

- Three Broad Coverage Categories (cont.)

- 3. Other Statutorily Covered Drugs

- Some examples:

- i. Immunosuppressive drugs
      - ii. Hemophilia blood clotting factor
      - iii. Oral anti-cancer drugs
      - iv. Certain drugs separately billed by ESRD facilities

## ■ Medicare Part B Drug Spending

1. Estimated \$8.4 billion paid by Medicare carriers for 2002
2. Majority
  - Drugs incident to physicians' services and drugs furnished in conjunction with DME
  - 77% to oncologists and urologists for cancer drugs and pharmacies and suppliers of DME drugs
    - i. \$3.8 billion for drugs billed by oncologists
    - ii. \$1 billion for 2 highest DME drugs (albuterol and ipratropium bromide)

- Medicare Payment for Part B Drugs
  1. 85% AWP in 2004 (except drugs paid on cost or prospective payment rate)
  2. 106% of Average Sales Price in 2005
    - Single Source Drugs: lesser of manufacturer's ASP or wholesale acquisition cost
    - Multiple Source Drugs: volume-weighted average of the sales price
  3. Competitive Bidding Option in 2006
    - Physicians contract with a third party who supplies and bills for the drugs

# DEMONSTRATION

- Section 641 of the Medicare Prescription Drug and Modernization Act
- Permits payment under Medicare Part B for drugs or biologicals prescribed as replacements for:
  1. Covered drugs or biologicals that are furnished incident to physician's services and not usually self-administered (Sec. 1862(s)(2)(A) of the Medicare Act); and
  2. Covered oral anti-cancer drugs containing the same active ingredient as drugs that would be covered as 'incident to' drugs (Sec. 1862(s)(2)(QQ) of the Medicare Act)

# DEMONSTRATION (cont.)

- Conference Agreement
  1. Indicates at least 40% of demonstration spending should be for oral anti-cancer drugs
  2. Indicates intent to provide for immediate coverage for all immunomodulating drugs and biologicals used in treating multiple sclerosis, including the biological administered via intramuscular injection

# DEMONSTRATION (cont.)

- Cost Sharing

1. Drugs covered under the demonstration will be subject to the cost-sharing as under the new Part D (MMA Sec. 101(a))

- Sites

1. To be selected by HHS (Conference Agreement indicates 6 States)

# DEMONSTRATION (cont.)

- Duration

1. Beginning March 7, 2004 (90 days after enactment) and ending December 31, 2005

- Scope:

1. No more than 50,000 patients
2. No more than \$500 million in spending

# DEMONSTRATION (cont.)

- Ostensible Purpose

1. HHS to report to Congress by July, 2006 evaluate impact on
  - Evaluate impact on patient access to care and patient outcomes
  - Evaluate cost-effectiveness of project
    - i. Including savings due to reduced physician and hospital outpatient charges for administration

# IMPLEMENTATION OF DEMONSTRATION

- CMS Office of Research, Development, & Information
  1. Web page:  
[www.cms.hhs.gov/researchers/demos/drugcoveredemo.asp](http://www.cms.hhs.gov/researchers/demos/drugcoveredemo.asp)
- CMS Open Door Forum Listening Session (1/30/04)
  1. Key Initial Issue: Identify drugs that will be covered
  2. How to define “replacement” drugs
    - What’s covered
    - What’s replaced
    - What circumstances
  3. Methods to reach beneficiaries

# IMPLEMENTATION OF DEMONSTRATION (cont.)

- Who Can Participate in the Demonstration?
- How?

# AFTER THE DEMONSTRATION

- What comes after 2005?
  1. Demonstration covers drugs that will be covered under Part D in 2006
  2. Will Part B be amended to cover demonstration drugs under “old” Medicare?

# AFTER THE DEMONSTRATION

## What Comes Later

- If “old” Medicare will in the future cover new replacement drugs,
  1. Who wins & who losses?
  2. Will physicians prescribe self-administered drugs replacing the drugs that are covered as incident to physicians’ services and usually not self-administered?
    - Who gets paid & who takes the risk?
  3. Will drugs continue to be covered as ‘incident to’ if there is a covered replacement drug that may be self-administered?



# BACKGROUND (cont.)

