

Q&A: Medicare Payments Under H.R. 6331,
Legislation to Avert July 2008 Medicare Payment Cut

Q: How have payment rates changed as a result of H.R. 6331 becoming law?

A: On July 1, 2008, Medicare payment rates were cut by 10.6% as the result of a mandated payment formula for physicians but Medicare contractors did not begin processing the cut until July 15. This legislation eliminates that scheduled cut for the second half of 2008.

Q: Does this mean that my Medicare payments for services for the second half of the year will be the same as they were in the first half of the year?

A: Yes.

Q: I submit claims electronically for patients on the same day that I see them, so my bills for patients seen during the first two weeks of July have already been submitted to my Medicare contractor. What will happen with those?

A: By law, Medicare contractors may not pay physician claims fewer than 14 days after the claim was received. This means that the earliest claims for July 1 services could be paid is on July 15. The Centers for Medicare and Medicaid Services (CMS) has not announced any intent to instruct contractors to hold claims longer than usual, so claims for services provided on July 1 will likely be paid at a rate reflecting the 10.6% payment cut.

Q: Will I have to resubmit claims to receive the new payment rates?

A: No. CMS has stated its intent to instruct contractors to automatically reprocess the affected claims that were previously submitted and transfer funds electronically to physicians to make physicians whole for the 10.6% cut that was eliminated by the law. Medicare pays for 80% of the allowed charge for most physician services, so the funds received from Medicare would reflect 10.6% of 80% of the allowed charge. The example of a hypothetical claim for a service for which the Medicare allowed charge prior to the 10.6% cut is \$100 illustrates this scenario. The Medicare payment for this July 1 service that includes the 10.6% cut subsequently eliminated by H.R. 6331 is \$89.40. The Medicare contractor pays 80% of this allowed amount, \$71.52, on July 15. Medicare contractors automatically reprocess this claim to reflect the law's elimination of the cut and electronically transfer the additional amount owed to the physician of \$8.48—the difference of the 80% of the Medicare allowed amount of \$100 and the 80% of the allowed amount of \$89.40.

Q: I charge my patients for their 20% copay at the time of service. Do I have to charge patients the 10.6% difference between the old copay and the new?

A: This is unclear at this point. Typically, physicians would be prohibited from charging less than the full 20% copay to Medicare patients. However, in past years in which Congress has acted after payment cuts have been implemented, CMS has announced that

the Office of Inspector General would waive this requirement for patients that had been seen before the retroactive fee schedule change. Such an announcement has not yet been made, but ACP will inform members about such a decision once it has been made.

Q: How many of my claims will be paid at the rate reflecting the 10.6% payment cut?

A: CMS has indicated that it takes approximately 7-10 days for new payment rates to be loaded into computer systems for the contractors. This means that claims from the first two weeks of July that have already been submitted to Medicare are likely to be processed at the old rates, with the additional 10.6% coming in later adjustments.

Q: Should I wait to submit my claims until the new payment rates are implemented?

A: There is no reason to hold claims any longer than your normal business process would require. Since the bill became law on July 15, 2008, you should begin charging your Medicare patients copays that reflect the new payment rates immediately.

Q: This seems like a burden on not only physicians but the Medicare contractors, is there any chance that the contractors will pay the claims correctly—reflecting the change in the law—the first time and avoid these hassles?

A: As previously indicated, CMS has not announced that contractors will delay the process of payments beyond what is typical in an attempt to avoid the need to make later adjustments. The CMS decision is complicated by the lack of certainty that the recently enacted legislation would actually become law. It is conceivable that CMS and its contractors will be able to make correct payment for claims for early July services the first time. ACP members, however, should expect to receive reduced payments with later adjustments. The College will provide notice if CMS and its contractors are able to avoid this situation.