Medicare: Issue of the Day

August 20, 2004

BETTER BENEFITS – MORE CHOICES

Good News about the Medicare Prescription Drug, Improvement and Modernization Act of 2003!

PROSTHETICS AND ORTHOTICS
Sections 302 and 627

Background

Prosthetics and orthotics are defined as types of **"Medical and Other Health Services"** in section 1861(s) of the statute, as follows:

- Prosthetics are **artificial legs, arms, and eyes**.
- Prosthetic Devices are **replacements for all or part of an internal body organ or for the function of an internal body organ** (e.g., ostomy, tracheostomy, and urological supplies, pacemakers, left ventricular assist devices, parenteral and enteral nutrition, cochlear devices, breast prostheses, eyeglasses following cataract surgery, and intraocular lenses); and
- Orthotics (leg, arm, back, and neck braces) are **rigid or semi-rigid devices used to support a weakened or deformed part of the body or restrict or eliminate motion in a diseased or injured part of the body**. Orthotics can be custom-fabricated for a specific patient, or prefabricated, or "off-the-shelf" items.

Also in section 1861(s), **therapeutic/diabetic shoes are defined**.

- The **payment methodology for prosthetics and orthotics is specified in section 1834(h) of the Social Security Act**. This payment methodology established fee schedules, based on an initial data collection in 1986-87 and has been in place since January 1, 1989.

- Carriers are required to establish a base local purchase price for the items in question. This base local price is defined as the ***"average reasonable charge"*** in the locality. **Regional prices are then created based on the local prices**, weighted for the number of claims submitted in each locality. As a result, there are **ten regional fee schedules**, upon which payment for prosthetics and orthotics is based.

- These **regional fee schedules** are limited by a national ceiling (120 percent of the average of the regional statewide fees) and a national floor (90 percent of the average of the regional statewide fees). The fee schedule **amounts are updated annually** by a factor that is specified in the statute, which is **generally equal to the percentage change in the consumer price index for urban consumers (CPI-U)**. In some years, the update factor is set at 0% or some percentage that is lower than the CPI-U.

- The fee schedule payment includes **payment for all services** (e.g., fitting) **associated with furnishing the item**.

  √ Medicare pays suppliers who furnish these items based on 80 percent of the lower of the supplier's actual charge or the regional fee schedule amount, less any unmet deductible.
  √ This *leaves the beneficiary responsible for the remaining 20 percent and any unmet deductible*.
  √ If a supplier does not participate in Medicare, but submits a claim on behalf of a beneficiary, the beneficiary is responsible for the difference between the fee schedule amount and the supplier's actual charge.

- The **payment methods for therapeutic/diabetic shoes and inserts is specified in the statute at section 1833(o)**.

- √ The statute **limits both the amount to be paid** and the number of shoes and inserts a beneficiary may have.
- √ The **dollar amounts are updated each year by the durable medical equipment (DME) update**, subject to a single nation-wide ceiling for custom and pre-fabricated inserts.

New Provisions Under The Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MMA)

Therapeutic/Diabetic Shoes and Inserts

- ❖ Section 627 of the MMA moves payment for therapeutic/diabetic shoes and inserts from section 1833(o) to the fee schedule for prosthetics and orthotics. The Secretary may establish lower payment limits than these amounts if shoes and inserts of an appropriate quality are readily available at lower amounts. The Secretary is required to establish a payment amount for an individual substituting modifications to the covered shoe (rather than obtaining one or more pairs of inserts) that would assure that there is no net increase in Medicare expenditures.

Competitive Acquisition

- ❖ The Balanced Budget Act of 1997 gave CMS the authority to conduct **competitive bidding demonstrations for Medicare Part B items and services, excluding physician services**. The competitive bidding demonstrations have been successful in **reducing costs** for the Medicare program.
  - ➢ Bidding demonstrations were implemented in Polk County, Florida, and San Antonio, Texas. **Savings** differed by demonstration site, but **averaged 20 percent at both sites, resulting in savings for both the program and eligible individuals**. CMS maintained high quality of products and services throughout the demonstrations and protected beneficiary access to durable medical equipment, prosthetics, orthotics, and supplies (DMEPOS) items and services within the selected demonstration sites. Authority to operate the demonstration projects expired on December 31, 2002 and currently DMEPOS items and services are paid according to the DMEPOS 2003 fee schedule.
- ❖ Section 302 of the MMA establishes a **competitive bidding process for**, among other items and services, **off-the-shelf orthotics which require minimal self-adjustment for appropriate use and do not require expert trimming, bending, molding, assembling or customizing to fit the individual**.
  - ➢ The **competitive bidding process is to be a permanent part of Medicare and to be phased in nationwide** as follows: in 10 of the largest metropolitan statistical areas in 2007; 80 of the largest metropolitan statistical areas in 2009; and additional areas after 2009.
  - ➢ In areas where competitive acquisition is not conducted after 2009, the Secretary may either apply competitive bidding payment amounts (from areas where competitive bidding is conducted) or may set payment amounts through inherent reasonableness (IR) authority.
  - ➢ *In the interim, Section 302 freezes payment for prosthetic devices, prosthetics, and orthotics from 2004 to 2006.*
- ❖ The Secretary must submit an initial report to Congress on the project by December 31, 2005 and progress and final reports to Congress as appropriate.

Quality Standards

- ❖ Section 302 also **requires the Secretary to establish and implement quality standards that independent accreditation organizations will apply to** DME; prosthetic devices; orthotics; prosthetics; parenteral and enteral nutrients, equipment and supplies; home dialysis supplies and equipment; therapeutic shoes; blood products; and transfusion medicine, as the Secretary deems appropriate. **Quality standards shall include consumer service standards.**