Program Memorandum Carriers

Department of Health and Human Services (DHHS)
Centers for Medicare & Medicaid Services (CMS)

Transmittal B-01-50 **Date: AUGUST 8, 2001**

CHANGE REQUEST 1781

SUBJECT: Attestation Option for Submission Requirement for Clinical Laboratories Billing the Technical Component of Physician Pathology Services to Hospital Patients

Background and Scope

This is a clarification to a requirement in Transmittal AB-01-47, Change Request 1499, dated March 22, 2001, that gives details for implementing §542 of the Benefits Improvement and Protection Act of 2000 (BIPA). This section allows carriers to continue to pay independent laboratories that bill the technical component (TC) of physician pathology for certain hospital patients. See AB-01-47 for the full explanation of the requirements of BIPA, §542.

The basic requirement for a carrier to continue to pay an independent laboratory for the technical component (TC) of a specimen for a hospital inpatient or outpatient is that the hospital must have had an agreement as of July 22, 1999, with an independent laboratory for an independent laboratory to do the TC. If the hospital meets that requirement, it is called a "covered hospital".

AB-01-47 requires the independent laboratory to forward to its carrier(s) a copy of the agreement or other documentation to establish that there was an arrangement on or before July 22, 1999, between the laboratory and the hospital for the processing of the TC by the independent lab.

We have received comments advising that not all such agreements were written; some were oral. We also were informed that some of the original contracts could not be found.

Policy

We are amending our instruction in AB-01-47 regarding submission of an agreement or other documentation to clarify that an attestation will suffice to meet the requirement if no written agreement is available.

Implementation

This Program Memorandum (PM) also presents the elements necessary for an effective attestation for the purposes of meeting the submission requirement stated in AB-01-47. We are neither providing an attestation form nor specifying the content of the attestation. However, an attestation that contains all the elements listed below would be sufficient on its face.

- Legal name (and if necessary to ensure proper identification, the business name) of each entity;
- Mailing addresses for both entities;
- Medicare billing numbers for both entities and the Clinical Laboratory Improvements Amendments of 1988 (CLIA) number for the laboratory;
- Statement to the effect that on July 22, 1999, this arrangement existed between this laboratory (or a predecessor independent laboratory) and the hospital;

- Statement of any limitation to the agreement, e.g., only certain tests are covered under this agreement or certain time restrictions were imposed;

- Date of the attestation;

- Original signature of the representative of the laboratory (if the laboratory had the arrangement with the hospital as of July 22, 1999) or a representative of the hospital (if the hospital had an arrangement with a different laboratory as of July 22, 1999); and

- Statement that the signer is authorized to sign on behalf of the entity furnishing the attestation.

If you are unsure whether an attestation is sufficient, ask your appropriate regional office for their advice. They will consult with central office before determining that a submitted attestation is insufficient.

Provider Education

Advise clinical laboratories of the provisions of this PM as soon as possible using all available media.

The *effective date* for this PM is January 1, 2001.

The *implementation date* for this PM is August 8, 2001.

These instructions should be implemented within your current operating budget.

This PM may be discarded after July 31, 2002.

If you have any questions, contact Dolores Crujeiras at 410-786-7169.