

## Part B Insider (Multispecialty) Coding Alert

### Drug Acquisition: CMS Puts On Its Thinking CAP - And Puts Off Providers

#### You'll have seven days, instead of one, to provide drugs

The **Centers for Medicare and Medicaid Services** bowed to providers' concerns in a couple of areas relating to the Competitive Acquisition Program (CAP) for Part B drugs.

First, CMS issued an interim final rule instead of a plain final rule. That means providers have another two months to comment on the rule, which came out in the July 6 Federal Register. Second, the new version of the rule states that physicians can name a seven-day period during which they plan to administer drugs. The CAP proposed rule had stated that physicians must predict the exact date on which they would administer a particular dose of a drug to a particular patient.

Allowing physicians to specify a seven-day window for providing a drug instead of pinpointing the date on which they'll administer it is "a little more realistic," but still not very workable, claims Albuquerque, NM oncologist **Barbara McAneny**, a leading critic of the CAP on the **Practicing Physicians Advisory Council**. "What they're asking us to do is to predict when somebody's counts come back up or when their infection will clear up."

The CAP will cover 169 drugs that CMS believes are most commonly administered incident to physicians services. Physicians who sign up for the CAP will obtain these drugs directly from a vendor, which will bill Medicare for the drug. The 169 drugs don't include vaccines, such as tetanus and diphtheria, which physicians administer in emergency situations. They also don't include contrast agents, at least for now.

CMS also won't include leuprolide among the covered drugs, because many carriers apply their own "least costly alternative" policies to this drug. And blood products, including blood-clotting factors and intravenous immune globulin, also won't be part of the CAP. The included drugs account for 84.92 percent of oncologists' drug charges and 86 percent of non-oncologists' drug charges.

If a CAP vendor believes a carrier won't cover a drug, the vendor can call the physician and discuss the issue, CMS says. If the physician insists on ordering the drug and the vendor still believes it won't be covered, the vendor can ask the patient to sign an advance beneficiary notice. If the carrier then denies the drug, the physician will be required to pursue an appeal.