

Part B Insider (Multispecialty) Coding Alert

DRUG REIMBURSEMENT: How To Use The Three New 'J' Modifiers In The Drug Vendor Program

CMS will let you use a non-vendor drug in emergencies

Feeling crushed by high drug prices and low Medicare rates? Help may be on the way.

While you may be interested in taking part in the Competitive Acquisition Program (CAP) for Part B drugs, which starts July 1, you may also be wrestling with concerns about the program's logistics. The **Centers for Medicare & Medicaid Services** has taken more steps to respond to those concerns.

Good news: If one of your patients needs a drug in an emergency, you can supply the drug yourself without waiting for the vendor to supply it. Participating physicians also can supply a drug that their vendor doesn't carry, if the patient needs that particular drug, and bill Medicare directly. In Transmittal 839, dated Feb. 6, CMS announced that:

- Participating physicians can bill Medicare for a medically necessary drug that their CAP vendor doesn't provide by using the "furnish as written" modifier (J3).
- Participating physicians can supply a drug from their own personal store in an emergency, and then obtain a replacement drug from the CAP vendor. They must use the "restocking" modifier (J2). By using that modifier, you're asserting that you needed the drug immediately and couldn't wait for the vendor to send it, and that the vendor sent a replacement drug.
- If participating physicians discard a portion of a drug, they can use the JW modifier, meaning "drug amount discarded/not provided to any patient."

What the CAP Changes Mean For You

"Those aren't major changes," says **Barbara McAneny**, a physician with **New Mexico Oncology** in Albuquerque, who serves on the Practicing Physicians Advisory Council. The CAP "still is a major nuisance."

Her biggest concerns remain unanswered, including what will happen to patients who can't afford to pay their copayment, says **Carolyn Davis Hutt**, reimbursement coordinator with **Oncology Hematology West** in Omaha, NE. Currently, many oncology practices will waive copays for some indigent patients, but she fears that the CAP vendor will refuse to ship drugs for those patients.

Physicians will still have to maintain their own drug inventory for non-Medicare payors, she adds. And it's not clear whether the "emergency" restocking provision will apply if a patient just turns out to need a different drug regimen when she comes in for a visit. Will that situation count as an emergency? Hutt asks.

The provision allowing physicians to discard the unused portion of a drug is actually a benefit to the vendors, not to the physicians, says **Roberta Buell**, vice president of provider services and reimbursement with **P4** in Sausalito, CA.

Not dead yet: CMS may still be more concerned with making the vendors happy than the providers, adds **Sam Shepard**, director of health policy with the **American Association of Clinical Urologists**, because vendor interest in the CAP has been low so far. While some observers claim the CAP is dead in the water, Shepard predicts the program will go forward.

