Part B Drug Acquisition Program Stalled by CMS

BY MARY ELLEN SCHNEIDER
New York Bureau

Medicare officials have pulled the plug at least temporarily on their Competitive Acquisition Program for Part B drugs, including infused biologics.

The program was put on hold because of "contractual issues" with the successful vendor bidders for the 2009 cycle of the program. The Competitive Acquisition Program (CAP) will remain in effect until the end of this year, but after that, physicians who had participated in the program will have to go back to purchasing drugs using the average sales price (ASP) system. The CMS has not announced a time line for resuming the program.

The CAP was mandated by Congress under the 2003 Medicare Modernization Act. It was launched in July 2006 to give physicians an alternative to obtaining Part B infusion and injectable drugs through the ASP or "buy and bill" system.

The voluntary program took the purchase of these drugs out the hands of physicians. Those physicians who enrolled no longer took on the financial risk of buying drugs up front and being reimbursed by the CMS later. Instead, they received drugs from an approved vendor who was selected by the CMS through a competitive bidding process. Under the program, physicians were paid only for the administration of the drug.

BioScrip Inc., an Elmsford, N.Y.–based specialty pharmaceutical health care organization, has been the only approved CAP vendor throughout the history of the program. The company announced over the summer that it would not sign a new contact with the CMS for CAP because the terms of the contract presented an "unacceptable short- and long-term profit risk."

For 2008, nearly 5,000 physicians were enrolled in the CAP. The program included more than 200 drugs.

As currently designed, the CAP is "totally untenable," said Dr. Karen Kolba of Santa Maria, Calif. The delay in the program will give the CMS some time to consider possible changes that could encourage more participation from physicians, she said.

Dr. Kolba, who has not signed up for CAP, said the biggest problem with the program is the "all-or-nothing" requirement for ordering drugs.

Once enrolled, physicians are not allowed to pick and choose what drugs they want to obtain through the CAP. If a drug they administer is available through the vendor, they must get it through the CAP. This is simply impractical for inexpensive, commonly used drugs such as cortisone injections, Dr. Kolba said, because CAP drugs must be ordered for specific patients and administered only to them. "It becomes something of an accounting nightmare," she said.

Between now and the end of the year, physicians who are enrolled in the CAP must obtain drugs from BioScrip if the administration date for the drug is before Dec. 31, 2008. Any drugs that will be administered on or after Jan. 1, 2009, must be obtained through the regular ASP method.

If a physician has unused Part B drugs obtained through the CAP in the office after Dec. 31, 2008, those drugs are considered the property of the vendor and must be purchased through the ASP system or returned to BioScrip. Those drugs cannot be given away to the physician by BioScrip.

As physicians return to the ASP method of procuring drugs in 2009, they should keep in mind that they will once again be responsible for collecting deductibles and coinsurance from Medicare beneficiaries and that they should not use the CAP modifiers (J1, J2, J3, M2) when submitting claims.

The CMS is also advising physicians to contact BioScrip as soon as possible to minimize the amount of unused drugs and facilitate uninterrupted access to Part B drugs.

While the program is on hold, the CMS will be asking physicians to provide feedback on the program. Specifically, agency officials are looking for information on the categories of drugs provided through the program, the distribution of areas that are served by the CAP, and any procedural changes that could make the program more flexible and more attractive for vendors and physicians. ■

More information on the postponement of the CAP is available at www.cms.hhs.gov/CompetitiveAcquisforBios.