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Thursday, January 3, 2013

President Obama Signs the *American Taxpayer Relief Act of 2012* *--New Law Includes Physician Update Fix through December 2013--*

On Wednesday, January 2, 2013, President Obama signed into law the ***American Taxpayer Relief Act of 2012***. This new law prevents a scheduled payment cut for physicians and other practitioners who treat Medicare patients from taking effect on January 1, 2013. The new law provides for a zero percent update for such services through December 31, 2013. This provision guarantees seniors have continued access to their doctors by fixing the Sustainable Growth Rate (SGR) through the end of 2013. President Obama remains committed to a permanent solution to eliminating the SGR reductions that result from the existing statutory methodology. The Administration will continue to work with Congress to achieve this goal.

The new law extends several provisions of the *Middle Class Tax Relief and Job Creation Act of 2012 (Job Creation Act)* as well as provisions of the *Affordable Care Act*. Specifically, the following Medicare fee-for-service policies (with January 1, 2013, or October 1, 2012, effective dates) have been extended. We also have included Medicare billing and claims processing information associated with the new legislation. Please note that these provisions do not reflect all of the Medicare provisions in the new law, and more information about other provisions will be forthcoming.

Section 601 – Medicare Physician Payment Update – As indicated above, the new law provides for a zero percent update for claims with dates of service on or after January 1, 2013, through December 31, 2013. The Centers for Medicare & Medicaid Services (CMS) is currently revising the 2013 Medicare Physician Fee Schedule (MPFS) to reflect the new law's requirements as well as technical corrections identified since publication of the final rule in November. For your information, the 2013 conversion factor is $34.0230.

In order to allow sufficient time to develop, test, and implement the revised MPFS, Medicare claims administration contractors may hold MPFS claims with January 2013 dates of service for up to 10 business days (i.e., through January 15, 2013). We expect these claims to be released into processing no later than January 16, 2013. The claim hold should have minimal impact on physician/practitioner cash flow because, under current law, clean electronic claims are not paid

sooner than 14 calendar days (29 for paper claims) after the date of receipt. Claims with dates of service prior to January 1, 2013, are unaffected. Medicare claims administration contractors will be posting the MPFS payment rates on their websites no later than January 23, 2013.

The 2013 Annual Participation Enrollment Program allowed eligible physicians, practitioners, and suppliers an opportunity to change their participation status by December 31, 2012. Given the new legislation, CMS is extending the 2013 annual participation enrollment period through February 15, 2013. Therefore, participation elections and withdrawals must be post-marked on and before February 15, 2013. The effective date for any participation status changes elected by providers during the extension remains January 1, 2013.

Section 602 - Extension of Medicare Physician Work Geographic Adjustment Floor - The 2012 1.0 floor on the physician work geographic practice cost index is extended through December 31, 2013. As with the physician payment update, this extension will be reflected in the revised 2013 MPFS.

Section 603 - Extension Related to Payments for Medicare Outpatient Therapy Services - Section 603 extends the exceptions process for outpatient therapy caps through December 31, 2013. Providers of outpatient therapy services are required to submit the KX modifier on their therapy claims, when an exception to the cap is requested for medically necessary services furnished through December 31, 2013. In addition, the new law extends the application of the cap and threshold to therapy services furnished in a hospital outpatient department (OPD), and counts outpatient therapy services furnished in a Critical Access Hospital towards the cap and threshold. Additional information about the exception process for therapy services may be found in the Medicare Claims Processing Manual, Pub.100-04, Chapter 5, Section 10.3: http://www.cms.gov/manuals/downloads/clm104c05.pdf.

The therapy caps are determined for a beneficiary on a calendar year basis, so all beneficiaries began a new cap for outpatient therapy services received on January 1, 2013. For physical therapy and speech language pathology services combined, the 2013 limit for a beneficiary on incurred expenses is $1,900. There is a separate cap for occupational therapy services which is $1,900 for 2013. Deductible and coinsurance amounts applied to therapy services count toward the amount accrued before a cap is reached, and also apply for services above the cap where the KX modifier is used.

Section 603 also extends the mandate that Medicare perform manual medical review of therapy services furnished January 1, 2013 through December 31, 2013, for which an exception was requested when the beneficiary has reached a dollar aggregate threshold amount of $3,700 for therapy services, including OPD therapy services, for a year. There are two separate $3,700 aggregate annual thresholds: (1) physical therapy and speech-language pathology services, and (2) occupational therapy services.

Section 604 - Extension of Ambulance Add-On Payments - Section 604 extends the following three *Job Creation Act* ambulance payment provisions: (1) the 3 percent increase in the ambulance fee schedule amounts for covered ground ambulance transports that originate in rural areas and the 2 percent increase for covered ground ambulance transports that originate in urban areas is extended through December 31, 2013; (2) the provision relating to air ambulance services that continues to treat as rural any area that was designated as rural on December 31, 2006, for purposes of payment under the ambulance fee schedule, is extended through June 30, 2013; and (3) the provision relating to payment for ground ambulance services that increases the base rate for transports originating in an area that is within the lowest 25th percentile of all rural areas arrayed by population density (known as the “super rural” bonus) is extended through December 31, 2013.

CMS is currently revising the 2013 Medicare Ambulance Fee Schedule (MAFS) to reflect the new

law's requirements. In order to allow sufficient time to develop, test, and implement the revised MAFS, Medicare claims administration contractors may hold MAFS claims with January 2013 dates of service for up to 10 business days (i.e., through January 15, 2013). We expect these claims to be released into processing no later than January 16, 2013. The claim hold should have minimal impact on supplier cash flow because, under current law, clean electronic claims are not paid sooner than 14 calendar days (29 for paper claims) after the date of receipt. Claims with dates of service prior to January 1, 2013, are unaffected.

Suppliers of ambulance services affected by these provisions may continue billing as usual.

Section 605 - Extension of Medicare Inpatient Hospital Payment Adjustment for Low-Volume Hospitals - The *Affordable Care Act* allowed qualifying low-volume hospitals to receive add-on payments based on the number of Medicare discharges. To qualify, the hospital must have less than 1,600 Medicare discharges and be 15 miles or greater from the nearest like hospital. This provision extends the payment adjustment through September 30, 2013, retroactive to October 1, 2012. Be on the alert for further information about implementation of this provision.

Section 606 - Extension of the Medicare-Dependent Hospital (MDH) Program - The MDH program provides enhanced payment to support small rural hospitals for which Medicare patients make up a significant percentage of inpatient days or discharges. This provision extends the MDH program until October 1, 2013, and is retroactive to October 1, 2012. Be on the alert for further information about implementation of this provision.

Be on the alert for more information about the *American Taxpayer Relief Act of 2012.*
