



Related MLN Matters Article #: MM5468

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Tax Relief and Health Care Act of 2006 Changes to Independent Laboratory Billing for the Technical Component (TC) of Physician Pathology Services

Key Words

MM5468, CR5468, R1148CP, Laboratory, Technical, TC, Pathology

Provider Types Affected

Independent laboratories submitting claims to Medicare carriers and Part A/B Medicare Administrative Contractors (A/B MACs) for services provided to Medicare beneficiaries

Key Points

- The effective date of the instruction is January 1, 2007.
- The implementation date is February 5, 2007.
- MLN Matters article MM5468 is based on Change Request (CR) 5468 which directs Medicare contractors to notify independent laboratories that those independent laboratories qualifying to bill under the Tax Relief and Health Care Act of 2006 (Section 104) may continue to bill their carrier or A/B MAC for the TC of physician pathology services furnished to patients of a covered hospital, regardless of the beneficiary's hospitalization status (inpatient or outpatient) on the date that the service was performed, through December 31, 2007.
- The TC of physician pathology services refers to the preparation of the slide, involving tissue or cells that a pathologist will interpret.
- The professional component (PC) refers to the pathologist's interpretation of the slide.
- If the PC service is furnished by the hospital pathologist for a hospital patient, it is separately billable.
- If the independent laboratory's pathologist furnishes the PC service, it is usually billed with the TC service as a combined service.
- In the final physician fee schedule regulation published in the *Federal Register* on November 2, 1999 (See http://www.access.gpo.gov/su_docs/fedreg/a991102c.html; Health Care Financing Administration), CMS stated that it would implement a policy to pay only the hospital for the TC of physician pathology services furnished to hospital patients.

- Prior to this proposal, any independent laboratory could bill the carrier under the physician fee schedule for the TC of physician pathology services for hospital patients.
- As pointed out in the final rule, this policy has contributed to the Medicare program paying twice for the TC service. Medicare paid through the inpatient prospective payment rate to the hospital where the patient is an inpatient and again to the independent laboratory that bills the carrier, instead of the hospital, for the TC service.
- Ordinarily, the provisions in the final physician fee schedule are implemented in the following year. In this case, the provision was delayed one year, at the request of the industry, to allow independent laboratories and hospitals sufficient time to negotiate arrangements.
- Additionally, new provisions established under the Benefits Improvement and Protection Act of 2000 (BIPA, Section 542), administrative extensions of these provisions, and provisions established under the Medicare Modernization Act (MMA, Section 732), have further delayed the policy change proposed in the regulation.
- Therefore, during this time, the Medicare contractors have continued to pay for the TC of physician pathology services when an independent laboratory furnishes this service to an inpatient or outpatient of a covered hospital.

Note: Covered hospital refers to a hospital that had an arrangement with an independent laboratory that was in effect as of July 22, 1999, under which a laboratory furnished the TC of physician pathology services to fee-for-service Medicare beneficiaries who were patients of a hospital and submitted claims for payment for the TC to a carrier.

- CMS notified independent laboratories in previously issued instructions that they may no longer bill the carrier for these services after December 31, 2006. (See CR 5210, Transmittal 1046, at: <http://www.cms.hhs.gov/Transmittals/downloads/R1046CP.pdf>.)
- However, the Tax Relief and Health Care Act of 2006 (Section 104) provides for a one-year extension to the Medicare Modernization Act (MMA, Section 732) that allows the carrier to continue to pay independent laboratories under the Medicare Physician Fee Schedule (MPFS) for the TC of physician pathology services furnished to patients of a covered hospital.
- **Therefore, independent laboratories which qualify to bill for these services may continue to bill the carrier for the TC of physician pathology services furnished to patients of a covered hospital during calendar year 2007.**

Important Links

The related MLN Matters article can be found at

<http://www.cms.hhs.gov/MLNMattersArticles/downloads/MM5468.pdf> on the CMS website.

The official instruction (CR5468) issued regarding this change may be viewed at

<http://www.cms.gov/Transmittals/downloads/R1148CP.pdf> on the CMS website.

If providers have any questions, they may contact their Medicare carrier or A/B MAC at their toll-free number, which may be found at

<http://www.cms.hhs.gov/MLNProducts/downloads/CallCenterTollNumDirectory.zip> on the CMS website.