



JUN - 3 2013

*Administrator*  
Washington, DC 20201

The Honorable Pete Sessions  
U.S. House of Representatives  
Washington, DC 20515

Dear Representative Sessions:

Thank you for your letter regarding the application of the two percent sequestration reductions required under the Budget Control Act of 2011 to payment for Medicare Part B drugs. The Centers for Medicare & Medicaid Services greatly appreciates your bringing these concerns to our attention.

Your letter asks a number of specific questions including our authority for setting Part B drug payment rates as well as whether any flexibility exists in how we implement the sequestration reductions. Generally, the Medicare payment methodology for Part B drugs and biologicals is described in section 1847A of the Social Security Act. This section specifies that Medicare's payment allowance is 106 percent of the Average Sales Price (ASP). The sequestration reductions are applied to the Medicare payment portion after subtracting beneficiary coinsurance.

The following hypothetical example illustrates how sequestration is applied:

Payment Calculation:

ASP	\$943.40
106% of ASP	\$1,000
Beneficiary Coinsurance	\$200
Pre-Sequestration Medicare Payment Portion:	\$800
Medicare Payment Portion after 2% Sequester	\$784

Total Payment to Physician before Sequester:

Medicare	\$800
Beneficiary	\$200
Total	\$1,000

Total Payment to Physician after Sequester:

Medicare	\$784
Beneficiary	\$200
Total	\$984

In the example above, assuming the beneficiary has met the deductible, the beneficiary's coinsurance of 20 percent (\$200) is subtracted from the Medicare allowance of \$1,000 for the

drug (106 percent of the ASP). The resulting amount of \$800, which is the Medicare payment portion, is then reduced by the two percent sequester reduction to \$784. The sum of the Medicare payment of \$784 and the beneficiary coinsurance of \$200 equals a total payment to the physician of \$984 (or a reduction of 1.6 percent from the \$1,000 that would otherwise be paid to the physician). In this example, net of the sequestration, the physician payment of \$984 would equal 104.3 percent more than the ASP.

The Department of Health and Human Services assessed whether the law allows discretion to administer the sequestration reductions in a manner that is different from the across the board approach that has been used to implement it. We do not believe that we have the authority under the Budget Control Act of 2011 to exempt Medicare payment for Part B drugs. Exemptions from the sequestration are specified in 2 U.S.C. sections 905(g) and (h) and 906(d)(7), which do not encompass payment for Medicare Part B drugs. The Office of Management and Budget memorandums M-13-03 and M-13-06 referenced in your letter pertain to any flexibility regarding the agency's budgetary resources for internal operations such as the hiring of new employees. This is separate from the agency's administration of Medicare payments, which are subject to the sequestration reductions, as noted above.

I appreciate your interest in these important issues as we work towards our mutual goal of strengthening the Medicare program for all beneficiaries. I will also provide this response to the co-signers of your letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Marilyn Taverner". The signature is fluid and cursive, with a large loop at the top.

Marilyn Taverner