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**DATE:** November 7, 2022

**TO:** All Organization Types and Stakeholders

**SUBJECT:** Inflation Reduction Act Changes to Cost Sharing for Part B Drugs for Contract Year 2023 Medicare Advantage and Section 1876 Cost Plans

This memorandum provides Medicare Advantage (MA) organizations and Section 1876 Cost Plan sponsors with guidance on the beneficiary cost sharing protections under section 11101 (Part B drugs with prices increasing faster than inflation) and section 11407 (Monthly cost-sharing cap for insulin furnished under Part B benefit) of the Inflation Reduction Act (IRA, P.L. 117-169), enacted on August 16, 2022. The cost sharing changes discussed in this memorandum become effective on April 1, 2023 for Part B drugs with prices increasing faster than inflation (referred to as the Part B Rebatable Drug Coinsurance Adjustment in this memorandum) and July 1, 2023 for the monthly cost-sharing cap for insulins furnished under Part B (referred to as the Part B Insulin Cost Sharing Cap in this memorandum).

**This guidance is specific to Contract Year (CY) 2023. CMS will issue separate guidance regarding future contract years at a later date.**

### **Medicare Advantage Plans**

#### **IRA Section 11101: Part B Rebatable Drug Coinsurance Adjustment**

**Background:** Under the Part B Rebatable Drug Coinsurance Adjustment provision, beginning April 1, 2023, coinsurance for Part B rebatable drugs will be reduced, if the drug's price has increased at a rate faster than the rate of inflation. CMS will publish the adjusted beneficiary coinsurance for each Part B rebatable drug in the quarterly pricing files posted on the CMS website, as a 0-20% effective coinsurance of the Medicare-approved payment amount. The list of Part B rebatable drugs as well as the effective beneficiary coinsurance for those drugs could change each quarter.

**Requirements:** Beginning April 1, 2023, the MA enrollee cost sharing for a Part B rebatable drug must not exceed the coinsurance amount of the original Medicare adjusted beneficiary coinsurance for that Part B rebatable drug. Part B rebatable drugs may be in either of the categories "Chemotherapy administration services to include chemotherapy/radiation drugs" or "Other drugs covered under Part B of original Medicare" listed in § 422.100(j)(1)(i).

In applying this effective coinsurance percentage, MA plans may continue to base enrollee cost sharing off of the total MA plan financial liability for that Part B drug. For example, if the original Medicare adjusted beneficiary coinsurance for a Part B rebatable drug is 18% for the

calendar quarter beginning April 1, 2023, then the MA plan may use an enrollee coinsurance for that Part B rebatable drug during the calendar quarter beginning April 1, 2023 that does not exceed 18% of the total amount due for the drug for the specific encounter. MA plans that currently have a copayment for “Chemotherapy administration services to include chemotherapy/radiation drugs” or “Other drugs covered under Part B of original Medicare” do not need to make an adjustment so long as the copayment complies with the cost sharing rules in the April 2022 final rule.<sup>1</sup>

CMS will specify the adjusted beneficiary coinsurance amount for each Part B rebatable drug in the quarterly pricing files (e.g., the Average Sales Price (ASP) files posted on this website prior to the applicable quarter: <https://www.cms.gov/medicare/medicare-fee-for-service-part-b-drugs/mcrpartbdrugavgsalesprice><sup>2</sup>). MA organizations must ensure their cost sharing does not exceed the original Medicare adjusted beneficiary coinsurance as shown in the applicable quarterly ASP pricing file. The quarterly ASP pricing file will include an identifier or note in the “Notes” column for Part B rebatable drugs and will show the adjusted beneficiary coinsurance as a percentage with three decimal places (for example, 18.000) in a new column. The beneficiary coinsurance adjustment may change quarterly or not apply in a subsequent quarter.

See below for implementation instructions.

### **IRA Section 11407: Part B Insulin Cost Sharing Cap**

**Background:** Insulin furnished under Part B on or after July 1, 2023, through an item of durable medical equipment covered under section 1861(n) (i.e., a medically necessary traditional insulin pump), is subject to a beneficiary coinsurance cap for a month’s supply of such insulin (that does not exceed \$35 and the Medicare Part B deductible does not apply).

**Requirements:** Beginning July 1, 2023, MA plans must cover Part B insulin at or below the original Medicare coinsurance cap of \$35 for a one-month’s supply of insulin without applying a service category or plan level deductible, pursuant to § 422.100(j)(1)(i)(F). Because original Medicare cost sharing is set as an absolute cap on cost sharing for Part B insulin, both MA coinsurance and copayments must not exceed that amount.

### **Section 1876 Cost Plans**

The cost sharing charged by Section 1876 Cost Plans must not exceed the effective original Medicare coinsurance percentage for a Medicare Part B rebatable drug when such a drug is in the “Chemotherapy administration services to include chemotherapy/radiation drugs” category. This requirement is the same as described in the Medicare Advantage section above. See below for implementation instructions.

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<sup>1</sup> See for example § 422.100(f)(6) as well as § 422.100(j).

<sup>2</sup> For calendar quarters beginning April 1, 2023 and beyond, the ASP pricing files will include a column for beneficiary coinsurance.

We also note that the Part B Rebatable Drug Coinsurance Adjustment and Part B Insulin Cost Sharing Cap of the IRA apply to Section 1876 Cost Plan enrollees who access health care benefits via original Medicare instead of through the cost plan's network in the same manner as they apply to original Medicare beneficiaries.

### **CY 2023 Part B Rebatable Drug Coinsurance Adjustment Implementation (MA Plans and Section 1876 Cost Plans)**

Beginning April 1, 2023, MA plans and Section 1876 Cost Plans must implement the Part B Rebatable Drug Coinsurance Adjustment at the point-of-service or through an enrollee refund. Implementation at point-of-service means that when the plan uses coinsurance, the enrollee is charged no more than the dollar amount of the adjusted coinsurance percentage that applies to the specific Part B rebatable drug they received, based on the date of service.

Given the limited time for plans to implement the coinsurance adjustment for Part B rebatable drugs, CMS will consider timely refunds to enrollees (per §§ 417.456 and 422.270) of any excess coinsurance paid by the enrollee for a Part B rebatable drug as compliance with the applicable requirements for MA plans and Section 1876 Cost Plans. This means that if an enrollee pays more than the adjusted coinsurance percentage for a Part B rebatable drug based on the date of service, the plan must issue a refund to that enrollee. The refund amount to the enrollee must equal the difference between: (1) the dollar amount of the coinsurance paid by the enrollee for that Part B rebatable drug and (2) the dollar amount of the adjusted coinsurance percentage that applied on the date of service for that specific Part B rebatable drug. This implementation flexibility is only for CY 2023.

Note: Additional guidance specific to dually eligible enrollees will be forthcoming.

### **CY 2023 Medicare Plan Finder and Communication Materials (MA Plans and Section 1876 Cost Plans)**

The CY 2023 Medicare Plan Finder (MPF) will reflect Part B drug cost sharing amounts that MA organizations and Section 1876 Cost Plans submitted in their 2023 bids. CMS is considering ways in which to educate beneficiaries about the cost sharing changes discussed in this memorandum on MPF.

MA organizations' and Section 1876 Cost Plans' communication materials (including the Evidence of Coverage (EOC), the Annual Notice of Change (ANOC), and the Summary of Benefits) must reflect the changes in their cost sharing limits related to the IRA provisions discussed in this memorandum. For example, MA plans may use the ANOC or EOC errata model to communicate these changes if updating the hard copy ANOC or EOC is not practicable. In other instances, plans may use an addendum or a notice to communicate changes.

Consistent with CMS's guidance in the *Updates to Part D Member Materials for Contract Year 2023 Health Plan Management System (HPMS)* memorandum, dated September 6, 2022, which addressed updates to various communications materials to ensure that information pertaining to

coverage of insulin and vaccines was accurate in light of the changes to Part D benefits outlined in sections 11401 and 11406 of the IRA, plans are not required to resubmit any materials previously submitted to CMS, through the HPMS marketing module, that are edited based on the guidance set forth in this memorandum. Plans also are not required to resubmit any errata, notices, or addenda created for any of the materials based on the guidance set forth herein. CMS will not take any compliance actions for the changes to communication materials required in this memorandum.

Additionally, MA organizations and Section 1876 Cost Plans must have updated enrollee communication materials on their websites. MA and Section 1876 Cost Plans should also review other communication materials under §§ 422.428, 422.2260 and 423.2260 to ensure that information and guidance for enrollees related to coverage of Part B rebatable drugs and Part B insulin are accurate in light of the guidance in this memorandum.