



Advising the Congress on Medicare issues

Clarifying Medicare's authority to apply least costly alternative policies

Nancy Ray
October 7, 2010

LCA policies

- Under LCA policies, Medicare sets the payment rate for a group of clinically similar services based on the least costly one
- LCA policies use existing statutory payment formulas; no additional data collection is necessary
- LCA policies improve payment accuracy and value of Medicare spending

Application of LCA policies

- Medicare's contractors have applied LCA policies for durable medical equipment items and Part B drugs in their jurisdiction
- In one instance, CMS implemented a LCA-type policy nationally to pay for two biologics under the hospital outpatient prospective payment system
- Opportunities to apply LCA policies will increase as more information becomes available

Lawsuit successfully challenged Medicare's use of LCA policies

- LCA policies applied based on “reasonable and necessary” statutory provision
- Beneficiary challenged use of LCA policy to pay for Part B inhalation drug
- Federal courts agreed with the plaintiff
- In April 2010, LCA policies for Part B drugs were removed

Establishing a clear and transparent process for applying LCA policies

- Identifies and defines groups of clinically similar services
- Permits public input and comment from a wide range of stakeholders
- Includes provider-based exceptions to LCA policies if it is medically necessary
- Permits a beneficiary to purchase a more costly item if it is not deemed medically necessary

Secretary could use existing infrastructure or develop a new pathway

Feature	Coverage	Payment
Geographic Jurisdiction	Locally or nationally	Usually nationally
Request process	CMS or stakeholders	Usually CMS
Transparency	Notice and comment through online coverage process	Notice and comment through Federal Register
External technical advice	CMS can sponsor external technology assessments and seek advice on clinical topics from MEDCAC	Some experience in assessing the clinical effect of a new service compared to existing treatments

Addressing four issues about applying LCA policies

- Transparency and rigor in Medicare's implementation of LCA policies
 - Develop open and transparent process
- LCA policies and clinicians' ability to treat beneficiaries
 - Develop medical exception process
- The effect of LCA policies on market pricing
- The effect of LCA policies on manufacturers' incentives to innovate

Setting the payment rate of new services

- Instances in which the payment rate of a new service is set higher than existing treatments even when there is little or no information on whether the new service results in better outcomes
- Hospital payment systems set higher payment rate for a new service/device that shows better outcomes than existing treatment options

For discussion and next steps

- LCA policies have improved payment accuracy and resulted in savings for beneficiaries, taxpayers, and Medicare
- Legal foundation to apply them is unclear
- Future opportunities to apply LCA policies will increase as more information becomes available
- Seek comments about policy options that would give Medicare authority to apply LCA policies for setting the payment rate of new and existing services