

Advising the Congress on Medicare issues

Clarifying Medicare's authority to apply least costly alternative policies

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Background

- Problem—Medicare lacks flexibility and resources necessary to become a more innovative program and to alter the spending trajectory
- June 2010 report included a chapter on enhancing Medicare’s flexibility to innovate
- This session focuses on clarifying Medicare’s authority to apply least costly alternative (LCA) policies

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
- LCA policies have resulted in savings for beneficiaries, taxpayers, and Medicare

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

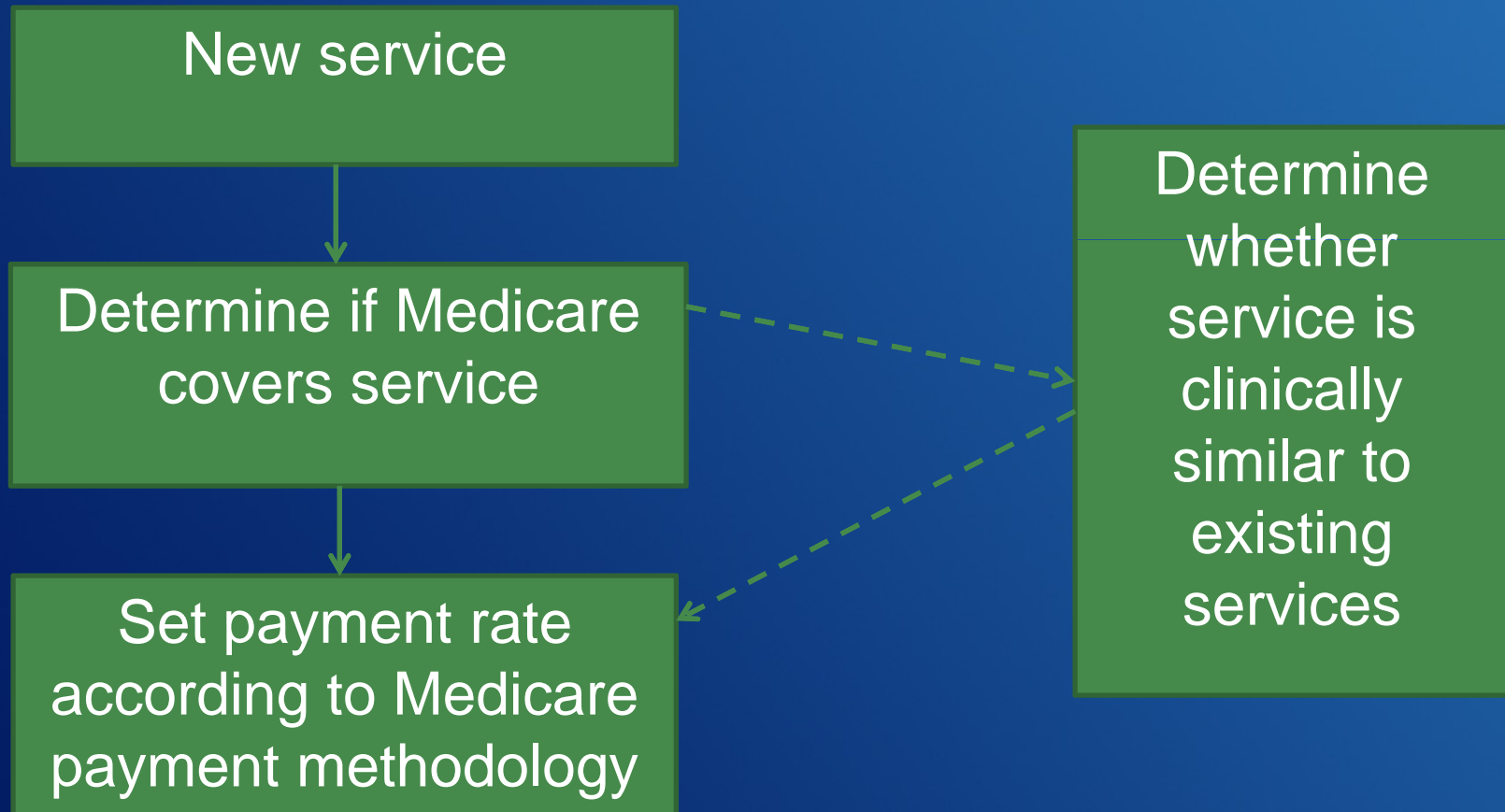
Policy option: Give Medicare clear authority to apply LCA policies

- Using clear authority, CMS could develop a systematic process to consider and implement LCA policies
- Clarifying Medicare's LCA authority could be coupled with a requirement that the program evaluate opportunities for its application

Policy option: Establish a clear and transparent process for applying LCA policies

- Identifies and defines groups of clinically similar services
- Permits public input and comment
- Ensures access to the most costly service if it is medically necessary
- Permits a beneficiary to gain access to the most costly service if that is her/his preference

Illustrative example of steps to apply LCA policies



Secretary could use existing infrastructure or develop a new pathway

Feature	Coverage	Payment
Request process	CMS or stakeholders	CMS
Geographic jurisdiction	Local or national	Usually national
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	Limited advisory bodies

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