

January 13<sup>th</sup>, 2018

## Medicare Cap

### Repeal or Not?

The state of the Medicare Cap is in flux for 2018 and confusion reigns. There were efforts to repeal the cap at the end of 2017, but at this time the cap is still in place AND the exceptions process for 2018 has not been extended.

Here's an overview of the possibilities we face. As I'm sure you know by now, currently we are following option 4.

1. **Cap is Repealed:** It seems doubtful that Congress will get this done, but if the cap is repealed, there will still be a requirement to apply the KX at \$3,000. Applying the KX indicates that Medicare may elect to manually review for medical necessity. (In essence, from our client's perspective, there is no real change except the KX is applied a little later.)
2. **Cap is Not Repealed, Exceptions Process is Not Reinstated:** If that is the case, there will be a "hard cap" at \$2010 and Medicare will not pay for services beyond that amount. To bill the patient for services beyond the cap, our clients would need to collect an ABN (Advance Beneficiary Notice of Noncoverage). Based upon the MACRA (Medicare Access and CHIP Reauthorization Act of 2015) legislation, if this scenario happens, hospitals outpatient therapy for provider-based clinics will NOT be subject to the therapy cap.
3. **Cap is Not Repealed, Exceptions Process is Reinstated:** No changes necessary except adjusting the cap amount to \$2010 for 2018. KX would be applied at \$2010 for medically necessary services.
4. **No Action Prior to the End of 2017:** This is the current scenario and will remain so because Congress did not address the issue. ***So, with no congressional action, the cap of \$2010 was automatically instated without the exceptions process.*** Using history as a guide, the exceptions process may be reinstated sometime later, possibly as late as March of 2018. As noted above, per MACRA legislation, hospital outpatient therapy departments are NOT subject to the therapy cap.

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