



## **Clinical Diagnostic Laboratory Fee Schedule Modernization Act of 2008**

The Medicare program reimburses clinical diagnostic laboratory tests according to the fee schedule created under section 1833(h) of the Social Security Act. This fee schedule has not been subject to a fundamental review since it was established in 1984. Meanwhile, the significant advances in technology and expertise required within the clinical laboratory industry have been coupled with dramatic increases in cost. The Clinical Laboratory Fee Schedule Modernization Act of 2008 requires the Secretary of Health and Human Services to convene a negotiated rulemaking committee that will result in a modernized, consensus-driven clinical laboratory fee schedule.

### **Current Fee Schedule**

The current clinical laboratory fee schedule provides Medicare Part B reimbursement for clinical laboratory services on a prospective basis. This fee schedule was adopted in 1984 based on 1983 local prevailing charge data collected by the Centers for Medicare and Medicaid Services (CMS). In 1986, Congress capped payments for each laboratory test at 115 percent of the median of the carriers across the country. Over the past decade, payment has been reduced from 115 percent to 74 percent of the median payment for each test.

### **Today's Market**

The cost of clinical laboratory services has increased significantly since 1983, but the clinical laboratory fee schedule has not been updated accordingly. Today, clinical laboratories are paid only 75 percent of the 1984 level when adjusted for inflation. In 2000, the Institute of Medicine (IOM) issued a report which reviewed current Medicare clinical lab payment policy and provided a set of 12 recommendations which have seen limited implementation by Congress. In recent years, laboratories have suffered real reductions in their Medicare Part B reimbursement levels - not just reductions in the rate of increase as has been experienced by other health care services. Updates to the clinical laboratory fee schedule have been inconsistent and a freeze on any updates to the Consumer Price Index is currently in place through fiscal year 2008. The shrinking Medicare fee schedule does not fully reflect changes in cost, technology, complexity and delivery of clinical laboratories over the past two decades.

### **Modernizing the Fee Schedule**

The Clinical Laboratory Fee Schedule Modernization Act of 2008 sets a process in place that will result in the creation of a modernized clinical laboratory fee schedule. The purpose of this legislation is to ensure patient access, involve relevant stakeholders, and create mechanisms for periodic updates while updating the fee schedule to reflect increased cost and enhanced technology. This legislation requires the Secretary of Health and Human Services to convene a negotiated rulemaking committee that would seek consensus on a clinical laboratory fee schedule

within two years. If the negotiated rulemaking committee fails to reach consensus, Congress or the Secretary must enact a modernized fee schedule within a maximum of four years, three months. The Medical Payment Advisory Commission ("MedPAC") would review the proposed updated fee schedule and provide its recommendations. A modernized fee schedule that includes periodic updates will encourage clinical laboratories to continue to provide advanced, accurate and effective tests