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MEMORANDUM

**DATE:** August 25, 2008

**FROM:** Director  
Financial Services Group  
Office of Financial Management

**SUBJECT:** Medicare Secondary Payer -- Workers' Compensation -- INFORMATION

**TO:** Consortium Administrator for Financial Management and Fee-for-Service Operations

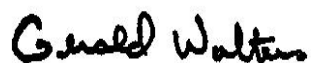
The purpose of this memorandum is to include policy regarding the pricing of Implantable Devices and to replace the policies regarding "Beneficiaries that Request Termination of a Workers' Compensation Medicare Set-Aside (WCMSA) Account" in Question and Answer 10 of the July 11, 2005 Associate Regional Administrator memorandum.

Effective with WCMSA submissions received by the Centers for Medicare & Medicaid Services' (CMS') Coordination of Benefits Contractor on or after September 1, 2008, if the WCMSA proposal includes the pricing for any Implantable Device(s) and does not include enough information as illustrated on the sample, "Pricing for a Spinal Cord Stimulator," or if the WCMSA proposal does not include pricing for any Implantable Device(s), and it is determined upon review of the WCMSA proposal, an Implantable Device(s) is recommended for the claimant and CMS will then utilize its own cost-finding methodology.

Effective immediately, the July 11, 2005 memorandum at Question and Answer 10, entitled "Beneficiaries that Request Termination of a WCMSA Account," is rescinded. Section 1862(b)(2) of the Social Security Act (the Act) (42 USC 1395y(b)(2)) requires that Medicare payment may not be made for any item or service to the extent that payment has been made under a workers' compensation (WC) law or plan. Medicare does not pay for an individual's WC related medical services when that individual received a WC settlement, judgment or award that includes funds for future medical expenses, until all such funds are properly expended. To protect the Medicare Trust Fund, a set-aside arrangement should be funded based on the life expectancy of the individual unless the State law specifically limits the length of time that WC covers work-related conditions. Unless a submitter furnishes acceptable proof of a

Rated Age for a claimant, CMS will estimate the claimant's remaining life expectancy using Actual Age. Acceptable proof of Rated Ages includes independent rated ages on the letterhead of an insurance carrier or settlement broker and a statement from the submitter that all rated ages obtained on the claimant have been included.

Please direct questions or concerns to Frank Johnson of my staff at (410) 786-2892.

A handwritten signature in black ink that reads "Gerald Walters". The script is cursive and somewhat informal.

Gerald Walters

Attachment

cc:

Charlotte Foster, ARA, DFMFFSO

## SAMPLE

Pricing for an implantable device							
Claimant:							
	Manufacturer	Model # or type	Useful life of item	Describe evidence to support useful life (and give exhibit reference, if any)	Cost (including tax, freight, and handling)	Describe evidence to support cost (and give exhibit reference, if any)	State evidence to support suitability of this particular item for this claimant (and give exhibit reference, if any)
A. Device							
B. Electrodes							
C. Receiver							
D. Other							
	Facility type	Inpatient or outpatient?	Procedure code(s)	If fee schedule, State and region	Cost	Describe evidence to support cost (and give exhibit reference, if any)	DRG or OPPPS code
E. Facility fee							
	Facility type	Inpatient or outpatient?	Procedure code(s)	If fee schedule, State and region	Cost	Describe evidence to support cost (and give exhibit reference, if any)	
F. Surgeon							
G. Anesthesiologist							
H. Programming services							
Total Cost (A thru H)							