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## **SPECIAL EDITION**

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### **Enforcement Discretion Relating to Certain Pharmacy Billing**

The Centers for Medicare & Medicaid Services (“CMS”) appreciates its long-standing partnership with immunizers, including pharmacies, to facilitate the efficient administration of vaccinations, particularly for vulnerable populations in long-term care facilities and other congregate care settings across America. Leveraging immunizers’ capabilities and expertise will play an important role in the Department’s ability to broadly distribute and administer COVID-19 vaccinations, including Medicare beneficiaries.

America is facing an unprecedented challenge. Quickly, safely, and effectively vaccinating our most vulnerable citizens in settings that have accounted for about 30 percent of U.S. COVID-19 deaths is a top-priority mission for the Trump Administration. Unfortunately, many long-term care facilities may not have sufficient capacity to receive, store, and administer vaccines. And some long-term care facility residents cannot safely leave the facility to receive vaccinations.

Outside immunizers can help fill that urgent need and provide onsite vaccinations at skilled nursing facilities (“SNFs”). But to do so during this global emergency, Medicare-enrolled vaccinators must be able to bill directly and receive direct reimbursement from the Medicare program. However, the Social Security Act requires SNFs to bill for certain services, including vaccine administration, even when SNFs rely on an outside vendor to perform the service. See Social Security Act §§ 1862(a)(18), 1842(b)(6)(E).

Therefore, in order to facilitate the efficient administration of COVID-19 vaccines to SNF residents, CMS will exercise enforcement discretion with respect to these statutory provisions as well as any associated statutory references and implementing regulations, including as interpreted in pertinent guidance (collectively, “SNF Consolidated Billing Provisions”). Through the exercise of that discretion, CMS will allow Medicare-enrolled immunizers, including but not limited to pharmacies working with the United States, to bill directly and receive direct reimbursement from the Medicare program for vaccinating Medicare SNF residents.

CMS will exercise such discretion (1) during the emergency period defined in paragraph (1)(B) of section 1135(g) of the Social Security Act (42 U.S.C. § 1320b-5(g)) and ending on the last day of the calendar quarter in which the last day of such emergency period occurs; or (2) so long as CMS determines that there is a public health need for mass COVID-19 vaccinations in congregate care settings—whichever is later. While CMS exercises this enforcement discretion, compliance with SNF Consolidated Billing Provisions is not material to CMS’ decision to reimburse for COVID-19 vaccine administration. If CMS decides in the future to cease exercising this enforcement discretion, CMS will provide public notice in advance and allow at least 60 days for affected outside immunizers to modify their business practices.

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