

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-04 Medicare Claims Processing</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 11626</b>	<b>Date: October 6, 2022</b>
	<b>Change Request 12923</b>

**NOTE: This Transmittal is no longer sensitive and is being re-communicated November 08, 2022. The Transmittal Number, date of Transmittal and all other information remains the same. This instruction may now be posted to the Internet.**

**SUBJECT: 2023 Annual Update of Per-Beneficiary Threshold Amounts**

**I. SUMMARY OF CHANGES:** The purpose of this Change Request (CR) is to update the annual per-beneficiary incurred expenses amounts now called the KX modifier thresholds and related policy for calendar year 2023. These amounts were previously associated with the financial limitation amounts that were more commonly referred to as “therapy caps,” before their application was repealed when the Bipartisan Budget Act of 2018 was signed into law. Information related to this recurring update notification can be found in Publication 100-04, Chapter 5, Section 10.

**EFFECTIVE DATE: January 1, 2023**

*\*Unless otherwise specified, the effective date is the date of service.*

**IMPLEMENTATION DATE: January 3, 2023**

*Disclaimer for manual changes only: The revision date and transmittal number apply only to red italicized material. Any other material was previously published and remains unchanged. However, if this revision contains a table of contents, you will receive the new/revised information only, and not the entire table of contents.*

**II. CHANGES IN MANUAL INSTRUCTIONS:** (N/A if manual is not updated)

R=REVISED, N=NEW, D=DELETED-Only One Per Row.

<b>R/N/D</b>	<b>CHAPTER / SECTION / SUBSECTION / TITLE</b>
N/A	N/A

**III. FUNDING:**

**For Medicare Administrative Contractors (MACs):**

The Medicare Administrative Contractor is hereby advised that this constitutes technical direction as defined in your contract. CMS does not construe this as a change to the MAC Statement of Work. The contractor is not obligated to incur costs in excess of the amounts allotted in your contract unless and until specifically authorized by the Contracting Officer. If the contractor considers anything provided, as described above, to be outside the current scope of work, the contractor shall withhold performance on the part(s) in question and immediately notify the Contracting Officer, in writing or by e-mail, and request formal directions regarding continued performance requirements.

**IV. ATTACHMENTS:**

**Recurring Update Notification**

# Attachment - Recurring Update Notification

Pub. 100-04	Transmittal: 11626	Date: October 6, 2022	Change Request: 12923
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## I. GENERAL INFORMATION

**A. Background:** Section 50202 of the Bipartisan Budget Act of 2018, P.L. 115-123 (BBA of 2018) amended section 1833(g) of the Social Security Act (the Act) to repeal the application of the therapy caps while also retaining and adding limitations to ensure appropriate therapy. The therapy caps or financial limitations were originally applied through section 4541(c) of the Balanced Budget Act of 1997, P.L. 105-33 (1997 BBA). A provision of section 50202 of the BBA of 2018 adds section 1833(g)(7)(A) of the Act to preserve the former therapy cap amounts as thresholds above which claims must include the KX modifier to confirm that services are medically necessary as justified by appropriate documentation in the medical record.

These amounts are now known as the KX modifier thresholds; and, there is one amount for Physical Therapy (PT) and Speech-Language Pathology (SLP) services combined and a separate amount for Occupational Therapy (OT) services. Claims from suppliers or providers for therapy services above these amounts without the KX modifier are denied. These per-beneficiary amounts under section 1833(g) of the Act (as amended by 1997 BBA) are updated each year by the Medicare Economic Index (MEI).

For Calendar Year (CY) 2023, the KX modifier threshold amounts are: (a) \$2,230 for PT and SLP services combined, and (b) \$2,230 for OT services. Another provision of section 50202 of the BBA of 2018 adds section 1833(g)(7)(B) of the Act to maintain the targeted medical review process (first established through section 202 of the Medicare Access and CHIP Reauthorization Act of 2015) but at a lower threshold amount of \$3,000. This threshold amount is now termed the Medical Record (MR) threshold amount – one MR threshold amount for PT and SLP services combined and another for OT services – remains at \$3,000 until CY 2028 at which time it will be updated by the MEI.

**B. Policy:** The CY 2023 KX modifier threshold amounts are: (a) \$2,230 for PT and SLP services combined, and (b) \$2,230 for OT services.

## II. BUSINESS REQUIREMENTS TABLE

*"Shall" denotes a mandatory requirement, and "should" denotes an optional requirement.*

Number	Requirement	Responsibility									
		A/B MAC		H H H	D M E M A C	Shared- System Maintainers				Other	
		A	B			F I S S	M C S	V M S	C W F		
12923.1	Medicare contractors shall update the allowed dollar amount for CY 2023 outpatient per-beneficiary therapy amounts to \$2,230 for PT and SLP combined and \$2,230 for OT.		X				X		X		

**III. PROVIDER EDUCATION TABLE**

Number	Requirement	Responsibility						
		A/B MAC			D M E M A C	C E D I	C E D I	C E D I
		A	B	H H H				
12923.2	Medicare Learning Network® (MLN): CMS will market provider education content through the MLN Connects® newsletter shortly after CMS releases the CR. MACs shall follow IOM Pub. No. 100-09 Chapter 6, Section 50.2.4.1 instructions for distributing the MLN Connects newsletter information to providers and link to relevant information on your website. You may supplement MLN content with your local information after we release the MLN Connects newsletter. Subscribe to the “MLN Connects” listserv to get MLN content notifications. You don’t need to separately track and report MLN content releases when you distribute MLN Connects newsletter content per the manual section referenced above.	X	X	X				

**IV. SUPPORTING INFORMATION**

**Section A: Recommendations and supporting information associated with listed requirements: N/A**

*"Should" denotes a recommendation.*

X-Ref Requirement Number	Recommendations or other supporting information:
	N/A

**Section B: All other recommendations and supporting information: N/A**

**V. CONTACTS**

**Pre-Implementation Contact(s):** Brian Reitz, 410-786-5001 or [brian.reitz@cms.hhs.gov](mailto:brian.reitz@cms.hhs.gov) , Carla Douglas, 410-786-4799 or [carla.douglas@cms.hhs.gov](mailto:carla.douglas@cms.hhs.gov) , Pamela West, 410-786-2302 or [pamela.west@cms.hhs.gov](mailto:pamela.west@cms.hhs.gov)

**Post-Implementation Contact(s):** Contact your Contracting Officer's Representative (COR).

## **VI. FUNDING**

### **Section A: For Medicare Administrative Contractors (MACs):**

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**ATTACHMENTS: 0**