



AMOUNT IN CONTROVERSY NEEDED FOR AN ALJ HEARING TO REMAIN THE SAME IN 2005; AMOUNT WILL INCREASE FOR THOSE APPEALING IN FEDERAL COURT

Medicare requires that a certain “amount in controversy” remain outstanding in order for a beneficiary to appeal a denial of a claim to the administrative law judge (ALJ) level of review. For many years, the amount in controversy for most claims under Medicare Part A was \$100. The Benefits Improvement and Protection Act of 2000 (BIPA) made the amount in controversy for an ALJ hearing uniform for all Medicare appeals. BIPA reduced the amount needed to request an appeal involving hospital services from \$200 to \$100, and reduced the amount needed to request an appeal of claims under Part B from \$500 to \$100. These changes became applicable to appeals of initial determinations filed after October 1, 2002. Medicare also required that \$1000 remain in controversy in order for a beneficiary to appeal an unfavorable final decision to federal court.

The Medicare Prescription Drug, Improvement and Modernization Act (MMA) allows for an annual increase in the amount in controversy requirements for both ALJ appeals and appeals to federal court starting with hearing requests and federal court appeals filed on or after January 1, 2005. The amounts are to be increased each year by the percentage increase in the medical care component of the consumer price index, city average (available at <http://www.bls.gov/cpi/home.htm>), rounded to the nearest multiple of \$10.

The Centers for Medicare & Medicaid Services (CMS) has not formally announced the new amount in controversy figures for 2005. However, CMS officials have informally told the Center for Medicare Advocacy that there will be no change in the \$100 amount in controversy for ALJ hearings in 2005 because the inflation adjustment was less than 5%, thus the statutory rounding mechanism does not authorize an increase (an increase of less than 5% of \$100 is less than \$5 which, rounded to the nearest \$10, rounds down to zero). The amount in controversy for federal court review *will* increase to \$1050, because the mandated adjustment to the \$1000 amount comes out to nearly \$50, which rounds up to \$50. The new figures will be announced in final regulations to implement changes made by BIPA to the Medicare appeals process. It is anticipated that the final regulations will be issued in January 2005.

For more information on this topic, please contact attorney Vicki Gottlich, in the Center for Medicare Advocacy’s Washington, DC office at (202) 216-0028 or vgottlich@medicareadvocacy.org.