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**Laser-Assisted Cataract Surgery and CMS Rulings 05-01 and 1536-R**

Per CMS Ruling 05-01, issued May 3, 2005, Medicare will allow beneficiaries to pay additional charges (which are non-covered by Medicare as these additional charges are not part of a Medicare benefit category) associated with insertion of a presbyopia correcting intraocular lens (PC-IOL) following cataract surgery. Per CMS-Ruling 1536-R, effective for services on and after January 22, 2007, Medicare will allow beneficiaries to pay additional charges (which are non-covered by Medicare as these additional charges are not part of a Medicare benefit category) for insertion of an astigmatism correcting intraocular lens (AC-IOL). These rulings allow the beneficiary to pay additional charges for two specific categories of non-covered services:

- The portion of the facility or physician's charge for the PC-IOL or AC-IOL that exceeds the facility or physician's charge for insertion of a conventional intraocular lens (IOL) following cataract surgery.
- Facility or physician charges for resources required for fitting and vision acuity testing of a PC-IOL or AC-IOL that exceeds the facility or physician charges for resources furnished for a conventional IOL following cataract surgery.

These rulings allow facilities and physicians to charge patients only for the non-covered portion of a service that is furnished at the same time as a covered service. Services that are part of cataract surgery with a conventional lens, including but not necessarily limited to the incision by whatever method, capsulotomy by whatever method, and lens fragmentation by whatever method, may not be charged to the patient. The beneficiary may only be charged for those non-covered services specified above.

We are providing this guidance because of a recent press release from an ophthalmology practice that described use of bladeless, computer-controlled laser surgery for cataract removal. The press release may imply a different Medicare policy regarding non-covered services that may be charged to the beneficiary if the cataract surgery is performed using a bladeless, computer-controlled laser. The press release states:

While traditional cataract surgery is fully covered by most private medical insurance and Medicare, bladeless cataract surgery requires patients to pay out-of-pocket for the portion of the procedure that insurance does not cover.

Medicare coverage and payment for cataract surgery is the same irrespective of whether the surgery is performed using conventional surgical techniques or a bladeless, computer controlled laser. Under either method, Medicare will cover and pay for the cataract removal and insertion of a conventional intraocular lens. If the bladeless, computer controlled laser cataract surgery includes implantation of a PC-IOL or AC-IOL, only charges for those non-covered services specified above may be charged to the beneficiary. These charges could possibly include charges for additional services, such as imaging, necessary to implant a PC-IOL or an AC-IOL but that are not performed when a conventional IOL is implanted. Performance of such additional services by a physician on a limited and non-routine basis in conventional IOL cataract surgery would not disqualify such services as non-covered services. This guidance does not apply to the use of technology for refractive keratoplasty.