



# IMA INSIGHTS

## SECTION 1011 - ARE YOU LEAVING MONEY ON THE TABLE?

To our Healthcare Clients and Friends:

In this edition of *Insights*, we will discuss Section 1011 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003. Although the first Section 1011 payments totaling approximately \$25.5 million were disbursed to enrolled providers on February 27, 2006, many facilities are still not aware of the program; or have not yet enrolled in the program. These facilities are almost certainly leaving money on the table. If your hospital falls into this category, you are not alone. In fact, the Centers for Medicare and Medicaid Services (CMS) recently issued a special edition article on the subject, presumably because so many facilities were not utilizing the available funds. We can not cover all the details of this program here, but we will outline the key concepts and provide links by which you can obtain the necessary detail.

### THE ISSUE

Providing necessary emergency care for the community has always been accompanied by some degree of financial risk. Anyone can come through the Emergency Department doors at any time, and hospitals are required by law to provide at least an initial medical screening for these patients and to stabilize the emergent condition. Most providers go well beyond that minimal requirement, as part of their overall mission to serve the community. Insurance to cover these services may or may not exist, with many facilities noting that the uninsured utilize the Emergency Department as they would a physician's office; albeit a physician's office that is open 24 hours a day, every day of the year.

Medicare estimates that 55% of an ED physician's time is spent providing uncompensated care. If a hospital has an Emergency Department, chances are good it faces numerous challenges when it comes to being reimbursed for these services. This is especially true if the emergency treatment is rendered to undocumented aliens. In too many cases the undocumented foreign national remains a self-pay and eventually becomes a bad debt; with the facility absorbing the loss.

Hospitals in the southwestern portion of the United States were the first to feel the effects of the wave of undocumented aliens seeking medical care in their Emergency Departments. Some of these undocumented aliens were residing in the area, some were migrant workers who were working in the area (or in transit from one area to the next), and some were merely passing through as they journeyed into the "land of opportunity." It took some time for the effects to be felt in the eastern portion of the country, but about four years ago, we began hearing hospital Chief Financial Officers in eastern states lament about the losses they were suffering in their Emergency Departments as a result of the increase in undocumented aliens. The issue is surprisingly widespread, and the government responded accordingly.

### SECTION 1011

In what appears to be an acknowledgement that providers were bearing a significant financial burden in rendering emergency health services to undocumented and specified aliens, Medicare established \$1 billion in funding over a four-year period (\$250 million a year for fiscal years 2005 through 2008) to help offset that expense. Known as Section 1011 of the Medicare Prescription Drug, Improvement and Modernization Act of 2003, the money is earmarked for enrolled hospitals (which may also include either a Medicare critical access facility or an Indian Health Service [IHS] facility, whether operated by the IHS or by an Indian tribe or tribal organization), (certain) physicians, and ambulance providers who provide emergency healthcare services and associated inpatient, outpatient and ambulance services to eligible patients. Payment via Section 1011 is available only when reimbursement has not been obtained via another source.

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Two-thirds of the \$250 million annual allocation is divided among all 50 states and the District of Columbia, based upon the percentage of undocumented aliens living in those areas as of January, 2000 (the total number estimated at over 7 million at that time). The remaining one-third of the allocation is divided among the six states with the largest number of apprehensions of undocumented aliens during a twelve-month period that generally ends on the last day of the previous fiscal year (e.g., for 2007, the time frame for measuring apprehension of undocumented aliens is July 2005 through June 2006). California, Florida, New Mexico, New York, and Texas have thus far consistently been the states with the highest number of apprehensions of undocumented aliens, with over 1.2 million apprehensions during the defined time period (and representing almost 96% of all apprehensions nationwide). State allocations are listed at [http://www.cms.hhs.gov/UndocAliens/04\\_state\\_alloc.asp#TopOfPage](http://www.cms.hhs.gov/UndocAliens/04_state_alloc.asp#TopOfPage) on the CMS website.

### ENROLLEES

Over 15,766 providers have enrolled in the Section 1011 program as of May 23, 2007. Payments under Section 1011 are paid directly to eligible enrolled providers rendering emergency health services to eligible individuals. Providers received over \$58.1 million in Section 1011 funds for services furnished during fiscal year (FY) 2005 and \$192 million for services furnished during FY 2006. So for the first two fiscal years of the program, only about half the allocated funds were utilized. Should some of that money have been yours?

### ELIGIBLE ALIENS

Section 1011 does not define “undocumented alien”. CMS has said the term refers to a person who enters the United States without legal permission to do so, or who fails to leave when his or her permission to remain in the United States expires; or to an individual paroled into the United States at a United States port of entry with the expectation of receiving eligible services. Additionally, Mexican citizens permitted to enter the United States for not more than 72 hours on a laser visa, issued in accordance with the requirements of regulations prescribed under the Immigration and Nationality Act, are also eligible.

### COVERED SERVICES

An enrolled provider’s services are covered under Section 1011 when its EMTALA obligation begins. As a rule that occurs when a patient arrives at the ED. Coverage continues until the patient is stabilized in the ED or an inpatient bed. The “emergency” must be resolved, although any underlying medical condition may still exist. The expectation is that the patient will be stabilized within two calendar days. Any claims for more than two days may be reviewed.

#### Indicators Patient is a Section 1011 Candidate:

1. No SSN
2. Foreign address
3. No address
4. No Green Card, work visa, or travel visa
5. Border crosser (Mexican citizens with “laser visa” for no more than 72-hour access to the US)

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### PROCESS

A clear process must be developed and extensive training will be required to ensure your front-line registrars are provided the tools to maneuver through the quagmire of Section 1011. Determining the patient's eligibility must be accomplished without obstructing access to emergency care. The necessary information can be found on the CMS website and the website of TrailBlazer, CMS' contractor for Section 1011 (<http://www.trailblazerhealth.com/Section1011/>) Full or partial reimbursement of your cost of providing emergency care to undocumented aliens will be the reward for your efforts.

### CLAIM SUBMISSION

Claims must be submitted electronically to TrailBlazer (not the fiscal intermediary) within 180 days of the end of the federal fiscal quarter in which the service was provided. Detailed claim information is available on TrailBlazer's website.

### ENROLL NOW

Don't miss out on the funds your facility deserves. The time remaining for Section 1011 funds is growing short. If emergency treatment for undocumented aliens results in lost revenue at your facility, enroll today via the TrailBlazer website, where enrollment information and assistance is available. The website is easy to navigate and you can even register for their listserv sign-up. Section 1011 is not likely to provide a major windfall for your hospital; but if it helps to offset some of your costs for providing emergency care to qualified patients, what do you have to lose?

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We are pleased to have the opportunity to present this information to you. If you have any questions or need assistance locating the information you need to enroll for Section 1011, please do not hesitate to contact me at 610-517-1386.

Yours very truly,



Kim Hollingsworth  
Partner  
IMA Consulting

*IMA Consulting has moved its corporate office.*

We are now located at:

2 Christy Drive, Suite 219  
Chadds Ford, PA 19317



**IMA  
Consulting**

Two Christy Drive, Suite 219  
Chadds Ford, PA 19317

Phone: 484.840.1984  
Fax: 484.840.0124

**Toll Free: 866.840.0151**



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**Robert J. De Luca,  
Partner**

**Kimberly Hollingsworth,  
Partner**

**Mary Ann Holt,  
Partner**

**Anthony J. Scarcelli, Jr.,  
Partner**

**Robert D. Sutton,  
Partner**

**William R. Weeks,  
Partner**

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**IMA Insights** began in May of 2003 as a way of providing timely and meaningful information to healthcare executives. All previous issues can be found at our website <http://www.IMA-Consulting.com>, follow the link for News.

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