



SUNDAY MONDAY TUESDAY **WEDNESDAY** IN WASHINGTON THURSDAY FRIDAY SATURDAY

**August 25, 2004**

## **What's at Stake on January 1, 2005?**

Urge your Member of Congress to **cosponsor H.R. 4491**. Why? Reimbursement cuts required by the Medicare Modernization Act of 2003 (MMA) will base payment for several DME items on Federal Employees Health Benefits Program (FEHBP) amounts. The cuts – effective January 1 – are listed below.

- **22.27** percent cut for **nebulizers** (E0570). Median FEHBP price: \$160.29.
- **20.34** percent cut for **hospital beds** (E0260). Median FEHBP price: \$1,397.65.
- **11.77** percent cut for **air mattresses** (E0277). Median FEHBP price: \$7,000.00.
- **7.13** percent cut for **manual wheelchairs** (K0001). Median FEHBP price: \$530.00.
- **5.36** percent cut for **lancets**, per 100 (A4259). Median FEHBP price: \$12.00.
- **4.10** percent cut for **blood glucose test strips** (A4253). Median FEHBP price: \$36.75.
- **3.28** percent cut for **power wheelchairs** (K0011). Median FEHBP price: \$5,097.40.

Remember: **H.R. 4491 would repeal these cuts**. See [www.aahomecare.org](http://www.aahomecare.org) for details and links to Congressional contact information.

## **AAHomecare Raises Concern about Transfer of Administrative Law Judges**

The MMA requires transfer of Administrative Law Judges (ALJ) from the Social Security Office of Hearings and Appeals to the Department of Health and Human Services (HHS), while staying independent from CMS. MMA required Social Security (SSA) and HHS to report to Congress on their plan. See June 28 *Federal Register*:  
<http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/pdf/04-14680.pdf>

The independent Medicare appeals process has provided an element of fairness and balance for providers and suppliers contesting fiscal intermediary and carrier denials. AAHomecare members have had a remarkable record of success in ALJ appeals. In recent comments on the HHS/SSA transfer plan, AAHomecare raised concerns. The blueprint calls for the SSA judges to conclude their pending cases by September 30, 2005, and the new HHS judges are to assume authority on July 1, 2005, although hiring and training of the ALJs and support staff will not begin until next April. **The plan calls for only 50 HHS ALJs and a reduced number of support staff per ALJ.** The combination of the late start in setting up the HHS cadre of judges as well as the limited number of judges and support staff could lead to even longer delays in scheduling hearings and obtaining decisions. HHS will also begin to evaluate the ALJs, raising concerns about who will develop performance standards, how judges will be trained, and whether they may be penalized for decisions that deviate from instructions provided by those who train and monitor them. AAHomecare urged HHS to consider giving prior decisions on specific patients where the circumstances are essentially the same precedential authority, but in general ALJs should continue to make independent objective decisions based on the circumstances of each case.

## **New OIG Program Exclusions from July**

Office of the Inspector General's list of exclusions from participation in federal health programs imposed in the month of July:  
<http://a257.g.akamaitech.net/7/257/2422/06jun20041800/edocket.access.gpo.gov/2004/pdf/04-18411.pdf>.