

<b>CMS Manual System</b>	<b>Department of Health &amp; Human Services (DHHS)</b>
<b>Pub 100-20 One-Time Notification</b>	<b>Centers for Medicare &amp; Medicaid Services (CMS)</b>
<b>Transmittal 758</b>	<b>Date: August 20, 2010</b>
	<b>Change Request 7095</b>

**SUBJECT: Discarded Drugs and Biological Policy at Contractor Discretion**

**I. SUMMARY OF CHANGES:** In response to inquiries related to CR 6711, Transmittal 1962, relating to discarded drugs and biologicals, this document instructs contractors to notify their providers on local requirements associated with the use of the JW modifier.

**EFFECTIVE DATE: July 30, 2010**

**IMPLEMENTATION DATE: September 21, 2010**

*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

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

**III. FUNDING:**

**For Fiscal Intermediaries (FIs), Regional Home Health Intermediaries (RHHIs) and/or Carriers:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**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:**

**One-Time Notification**

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

# Attachment – One-Time Notification

Pub. 100-20	Transmittal: 758	Date: August 20, 2010	Change Request: 7095
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**SUBJECT: Discarded Drugs and Biological Policy at Contractor Discretion**

**Effective Date: July 30, 2010**

**Implementation Date: September 21, 2010**

## I. GENERAL INFORMATION

**A. Background:** The Centers for Medicare and Medicaid Services has received several inquiries from various providers regarding how the JW modifier is to be used for their Medicare Part B drug claims. This document is in response to these inquiries related to Change Request 6711, Transmittal 1962, which provides updates and additions to language relating to discarded drugs and biologicals. These updates and additions are found in Pub. 100-04, Medicare Claims Processing Manual, chapter 17, section 40.

**B. Policy:** Pub. 100-04, Medicare Claims Processing Manual, chapter 17, section 40, provides policy on the appropriate use of the JW modifier for discarded drugs. Each contractor has individual discretion to determine whether the JW modifier is required for any claims with discarded drugs, and the specific details regarding how the discarded drug information should be documented and applied on the claim.

## II. BUSINESS REQUIREMENTS TABLE

*Use "Shall" to denote a mandatory requirement*

Number	Requirement	Responsibility (place an "X" in each applicable column)										
		A / B  M A C	D M M A C	F I  I E R	C A R I E R	R H H I  S S	Shared-System Maintainers				OTH ER	
		F S S	M C S	V M S	C W F							
7095.1	All contractors shall notify their providers of their locally determined requirements associated with the use of the JW modifier for discarded drugs and biologicals.	X	X	X	X							

### III. PROVIDER EDUCATION TABLE

Number	Requirement	Responsibility (place an "X" in each applicable column)									
		A / B  M A C	D M E  M A C	F I    	C A R I E R	R H H I	Shared-System Maintainers				OTH ER
							F I S S	M C S	V M S	C W F	
7095.2	<p>A provider education article related to this instruction will be available at <a href="http://www.cms.hhs.gov/MLNMattersArticles/">http://www.cms.hhs.gov/MLNMattersArticles/</a> shortly after the CR is released. You will receive notification of the article release via the established "MLN Matters" listserv.</p> <p>Contractors shall post this article, or a direct link to this article, on their Web site and include information about it in a listserv message within 1 week of the availability of the provider education article. In addition, the provider education article shall be included in your next regularly scheduled bulletin. Contractors shall supplement MLN Matters articles with localized information that would benefit their provider community in billing and administering the Medicare program correctly.</p>	X	X	X	X						

### IV. SUPPORTING INFORMATION

**Section A: For any recommendations and supporting information associated with listed requirements, use the box below:**

*Use "Should" to denote a recommendation.*

X-Ref Requirement Number	Recommendations or other supporting information:
CR 6711	Contractors should refer to this guidance when determining their local requirements and policy.

**Section B: For all other recommendations and supporting information, use this space: N/A**

### V. CONTACTS

**Pre-Implementation Contact(s):** Cheryl Gilbreath, (410) 786-5919, [Cheryl.Gilbreath@cms.hhs.gov](mailto:Cheryl.Gilbreath@cms.hhs.gov)

**Post-Implementation Contact(s):** Appropriate Regional Office

## **VI. FUNDING**

**Section A: For *Fiscal Intermediaries (FIs)*, *Regional Home Health Intermediaries (RHHIs)*, and/or *Carriers*, use only one of the following statements:**

No additional funding will be provided by CMS; contractor activities are to be carried out within their operating budgets.

**Section B: For *Medicare Administrative Contractors (MACs)*, include the following statement:**

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.