

(b) *Coverage of Category B (Nonexperimental/investigational) IDE devices and routine care items and services.* Medicare may make payment for a Category B (Nonexperimental/investigational) IDE device and routine care items and services furnished in an FDA-approved Category B (Nonexperimental/investigational) IDE study if CMS (or its designated entity) determines prior to the submission of the first related claim that the Medicare coverage IDE study criteria in § 405.212 are met.

(c) CMS (or its designated entity) must review the following to determine if the Medicare coverage IDE study criteria in § 405.212 are met for purposes of coverage of items and services described in paragraphs (a) and (b) of this section:

- (1) FDA approval letter of the IDE.
- (2) IDE study protocol.
- (3) IRB approval letter.
- (4) NCT number.
- (5) Supporting materials, as needed.

(d) *Notification.* A listing of all CMS-approved Category A (Experimental) IDE studies and Category B (Nonexperimental/investigational) IDE studies shall be posted on the CMS Web site and published in the FEDERAL REGISTER.

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§ 405.212 Medicare Coverage IDE study criteria.

(a) For Medicare coverage of items and services described in § 405.211, a Category A (Experimental) or Category B (Nonexperimental/investigational) IDE study must meet all of the following criteria:

- (1) The principal purpose of the study is to test whether the device improves health outcomes of appropriately selected patients.
- (2) The rationale for the study is well supported by available scientific and medical information, or it is intended to clarify or establish the health outcomes of interventions already in common clinical use.
- (3) The study results are not anticipated to unjustifiably duplicate existing knowledge.
- (4) The study design is methodologically appropriate and the anticipated number of enrolled subjects is adequate

to confidently answer the research question(s) being asked in the study.

(5) The study is sponsored by an organization or individual capable of successfully completing the study.

(6) The study is in compliance with all applicable Federal regulations concerning the protection of human subjects found at 21 CFR parts 50, 56, and 812 and 45 CFR part 46.

(7) Where appropriate, the study is not designed to exclusively test toxicity or disease pathophysiology in healthy individuals. Studies of all medical technologies measuring therapeutic outcomes as one of the objectives may be exempt from this criterion only if the disease or condition being studied is life threatening and the patient has no other viable treatment options.

(8) The study is registered with the National Institutes of Health's National Library of Medicine's ClinicalTrials.gov.

(9) The study protocol describes the method and timing of release of results on all pre-specified outcomes, including release of negative outcomes and that the release should be hastened if the study is terminated early.

(10) The study protocol must describe how Medicare beneficiaries may be affected by the device under investigation, and how the study results are or are not expected to be generalizable to the Medicare beneficiary population. Generalizability to populations eligible for Medicare due to age, disability, or other eligibility status must be explicitly described.

(b) [Reserved]

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§ 405.213 Re-evaluation of a device categorization.

(a) *General rules.* (1) Any sponsor that does not agree with an FDA decision that categorizes its device as Category A (experimental) may request re-evaluation of the categorization decision.

(2) A sponsor may request review by CMS only after the requirements of paragraph (b) of this section are met.

(3) No reviews other than those described in paragraphs (b) and (c) of this section are available to the sponsor.

(4) Neither the FDA original categorization or re-evaluation (described