



American Association of Physicists in Medicine

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August 20, 2010

Donald Berwick, M.D.
Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1504-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Medicare Program; Proposed Changes to the Hospital Outpatient Prospective Payment System and CY 2011 Payment Rates; Proposed Rule; CMS-1504-P

Dear Administrator Berwick:

The American Association of Physicists in Medicine¹ (AAPM) is pleased to submit comments to the Centers for Medicare and Medicaid Services (CMS) in response to the August 3, 2010 *Federal Register* notice regarding the 2011 Medicare Hospital Outpatient Prospective Payment System (HOPPS) proposed rule.

AAPM requests that CMS continue to explore additional methodologies to increase the number of multiple procedure claims used for rate setting, including expanding the criteria for inclusion on the Bypass list.

The typical radiation oncology encounter involves multiple services. As a result, exclusive reliance on single claims means that the APC payment rates are based on atypical encounters and erroneous claims submissions. AAPM supports the changes that CMS made several years ago, which permitted the Agency to include data from multiple procedure claims within the database used by CMS for rate setting for radiation oncology codes. The methodology developed by CMS relies upon the "date of service" on the claims and a list of codes to be "bypassed" to create "pseudo-single" claims from multiple procedure claims.

¹ The American Association of Physicists in Medicine's (AAPM) is the premier organization in medical physics, a broadly-based scientific and professional discipline encompassing physics principles and applications in biology and medicine whose mission is to advance the science, education and professional practice of medical physics. Medical physicists contribute to the effectiveness of radiological imaging procedures by assuring radiation safety and helping to develop improved imaging techniques (e.g., mammography CT, MR, ultrasound). They contribute to development of therapeutic techniques (e.g., prostate implants, stereotactic radiosurgery), collaborate with radiation oncologists to design treatment plans, and monitor equipment and procedures to insure that cancer patients receive the prescribed dose of radiation to the correct location. Medical physicists are responsible for ensuring that imaging and treatment facilities meet the rules and regulations of the U.S. Nuclear Regulatory Commission (NRC) and various State regulatory agencies. AAPM represents over 7,000 medical physicists.

While AAPM supports the proposal to maintain the current radiation oncology procedures codes on the 2011 Bypass list, we recommend that CMS consider changes to the criteria for inclusion on the Bypass list. Additional radiation oncology codes that are subject to bypass may result in additional multiple procedure claims used for rate setting, which yields more appropriate and representative payments for cancer treatments.

CMS should reexamine the Bypass list on an annual basis to ensure that the Agency is utilizing as many claims as possible for rate setting.

In addition, AAPM is concerned regarding the number of claims used to determine the proposed 2011 payment rate for Low Dose Rate Prostate Brachytherapy composite APC 8001. In the proposed rule, CMS states that they were able to use 788 claims that contained both CPT codes 55875 and 77778 to calculate the median cost for composite APC 8001. Our outpatient claims data analysis yielded approximately 5,700 claims that had one unit of CPT 55875 and one unit of 77778 on the same date. The potential 8001 composites that were not used typically had some other payable radiation therapy codes on the claims.

AAPM encourages CMS to explore alternative methodologies to capture more multiple procedure claims used for future rate setting of composite APC 8001.

At the February 2010 APC Advisory Panel Meeting, the Panel recommended that CMS present to the Data Subcommittee an analysis of the effect of using a different lower-level threshold in the overall cost-to-charge ratio (CCR) error trim as part of the standard methodology. The Advisory Panel members were concerned that the current CCR trimming policy could result in the exclusion of claims from providers that could otherwise be used for rate setting and modeling. CMS accepted the Panel's recommendation.

AAPM requests that CMS conduct an analysis of the overall cost-to-charge ratio (CCR) error trim in 2010 and provide APC-specific impacts for all radiation oncology services. AAPM recommends that CMS consider implementing a lower-level threshold in the CCR error trim for future rulemaking.

AAPM remains concerned that the current packaging policy for image guidance will create an incentive for hospitals to cut back their use of advanced therapeutic technologies for daily patient localization used in radiation oncology treatment delivery in a way that could have a direct negative impact on the quality of patient care. The goal of radiation therapy is to maximize the radiation dose to the tumor site while minimizing the dose to surrounding healthy tissue. AAPM believes that the use of state-of-the-art radiation oncology treatment delivery modalities without the corresponding use of adequate daily target localization presents a serious safety risk to patients, and the current CMS policy seems to offer a financial incentive to those hospitals that choose to make little or no use of daily localization when providing radiation therapy. Image guidance procedures improve the quality of radiation treatment delivery and are not a significant additional cost to the Medicare program. CMS should carefully monitor the effect that packaging will have on radiation therapy payment rates to ensure that any changes do not discourage the use of these important treatment tools.

AAPM remains opposed to continued packaging of radiation oncology image guidance services. AAPM recommends that CMS continue to monitor the impact of packaging image guidance on the quality of Medicare beneficiaries cancer care and to provide transparent and meaningful data associated with the packaging policy, which allows stakeholders to determine if reimbursement for image guidance technology is reasonable and appropriate.

In conclusion, AAPM encourages CMS to establish appropriate methodologies that utilize to the greatest extent possible multiple procedure claims for rate setting by creating more pseudo-single claims. We hope that CMS will take these issues under consideration during the development of the 2011 HOPPS/ASC final rule. Should CMS staff have additional questions, please contact Wendy Smith Fuss, MPH at (561) 637-6060.

Sincerely,



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Chair,
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Vice-Chair
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