



Special Edition

ADVOCACY UPDATE

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Medicare Improvements for Patients and Providers Act Bill Summary

The “Medicare Improvements for Patients and Providers Act,” which became law over the President’s veto last week, is a 277-page bill addressing many issues beyond the Medicare physician payment update. Below is a summary of major provisions of the new law, P.L. 110-275, that are of significant interest to physicians.

Medicare fee schedule update

- The -10.6 percent Medicare physician payment cut that was supposed to occur on July 1 was cancelled, and the 0.5 percent update that was in effect for the first six months of this year was extended through the remainder of 2008. For calendar year 2009, an anticipated -5.4 percent cut will be replaced by a 1.1 percent payment update.
- Like previous legislation addressing the Medicare payment crisis, H.R. 6331 does not eliminate or reform the sustainable growth rate (SGR) system. As a result, the baseline trend for future updates remains in place and physicians will confront an estimated 21 percent payment cut in 2010. This cut will essentially be the sum of all payment reductions that would have been implemented in recent years if short-term legislative “fixes” had not been enacted.

Comments: This year’s experience has prompted a noticeable shift in the Congressional dialogue about the growing urgency of developing a true solution to the dysfunctional Medicare payment formula. We expect this pressure to increase next year, when the new Congress and Administration will be addressing an even steeper payment cut. The AMA is committed to using this 18-month reprieve to work with members of the Federation on developing long-term Medicare payment reform proposals. We believe that the tremendous grassroots support evident in this year’s advocacy efforts will serve to strengthen our position in finally achieving long-term payment reforms.

Primary care provisions

- The budget neutrality adjustment currently made to the relative value units (RVUs) for physician work to compensate for changes resulting from the last five-year review and from other RVU changes in 2008 will be eliminated. Instead, the neutrality adjustment will be applied to the fee schedule conversion factor starting in 2009. As a result, the adjustment will produce small payment increases for evaluation and management and other work-intensive services.
- The Medical Home Demonstration Project will be expanded and funding increased.

Work GPCI adjustment

- The expiring 1.0 “floor” on physician work geographic practice cost index (GPCI) adjustments was extended through 2009.

Mental health parity and related issues

- A 5 percent pay increase for certain mental health services will be provided from July 1, 2008, through December 31, 2009.
- Reduced co-payments for mental health services to achieve parity with other outpatient services will be phased in.
- Coverage of benzodiazepines and barbituates will be allowed under Medicare Part D.

Other specialty issues

- Payment rules for teaching anesthesiologists were brought into conformance with those applied to other physicians in the operating room.
- The exceptions process for therapy caps has been extended through December 2009.

Quality data reporting

- The Physician Quality Reporting Initiative (PQRI) was extended through 2010, and the payment bonus for physicians who successfully report on the PQRI measures was increased to 2 percent (up from 1.5 percent in 2007 and 2008).
- The names of physicians who successfully report PQRI information and those who have implemented electronic prescribing will be posted by the Centers for Medicare and Medicaid Services’ (CMS’s) on its web site.

Comments: Support for the PQRI program in Congress remains strong and bipartisan, despite concerns that have been expressed by some specialties about the availability of appropriate measures and the burdens associated with reporting. Bipartisan support was

also evident for allowing public access to PQRI data on the CMS web site, amplifying concerns about whether PQRI provides a true portrait of physician quality. Notably, most other Medicare providers - including hospitals, nursing homes, home health agencies, and dialysis facilities - are subject to public disclosure of quality information through the CMS web site. The AMA will continue its efforts to improve the PQRI measure set and will work with CMS to ensure that the strength of the quality information posted is appropriately described to patients who view it.

Electronic prescribing

- Widespread adoption of electronic prescribing will be encouraged through the imposition of positive incentives and penalties. Physicians who use electronic prescribing in 2009 and 2010 will be eligible for 2 percent Medicare payment bonus, which will be phased down to 1 percent in 2011 and 2012 and 0.5 percent in 2013. Physicians who do not use electronic prescribing will be penalized by -1 percent in 2012, by -1.5 percent in 2013, and by -2 percent in 2014 and beyond. Hardship exceptions from the penalties will be provided on a case-by-case basis.

Comments: There was bipartisan support for the electronic prescribing provisions of H.R. 6331 and, with lower penalties phasing in after bonus payments are provided, they represent a significant improvement over previous legislative proposals. The AMA will continue advocating for the promulgation of national standards, lifting the DEA restrictions on prescribing controlled substances, and other changes that need to occur to enable widespread adoption of electronic prescribing.

Beneficiary enhancements

- Coverage of Medicare preventive services was expanded, including the time during which beneficiaries may schedule a "Welcome to Medicare " visit.
- Coverage has been expanded to include cardiac and pulmonary rehabilitation services.
- The assets limits have been increased for beneficiaries to qualify for the Part D low-income subsidy.

Value-based purchasing

- A physician feedback program will be created using claims data to develop confidential reports to individual physicians on the resources they use on a episode or per capita basis. The Government Accountability Office will study and report on the results of the feedback program.
- The Secretary of Health and Human Services will develop a plan to transition to a value-based purchasing program for Medicare professional services. That plan is due to Congress by May 2010.
- Physicians and other suppliers that furnish advanced diagnostic imaging services (MRI, CT, and nuclear medicine/PET) will be required to meet new Medicare accreditation standards by January 1, 2012.

Medicare Advantage program reforms

- The law limits the ability of Medicare Advantage (MA) private fee-for-services plans to “deem” individual physicians as part of a plan network and hold them to the terms and conditions of contracts they have not signed. Private fee-for-service MA plans would have until 2011 to establish bona fide physician networks in areas where there already are two or more plans with negotiated network contracts.
- The law establishes prohibited federal marketing practices and confers states with authority to regulate MA and Part D marketing abuses. These prohibitions include no marketing activities in physician offices.