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August 29, 2012

Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Attention: CMS-1590-P
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

Re: Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2013 Proposed Rule; CMS-1590-P

Dear Administrator Tavenner:

The American Association of Physicists in Medicine[1] (AAPM) is pleased to submit comments to the Centers for Medicare and Medicaid Services (CMS) in response to the July 30, 2012 *Federal Register* notice regarding the 2013 Medicare Physician Fee Schedule (MPFS) proposed rule. AAPM will provide comments supporting CPT 77336 as a potentially misvalued service, regarding a review of services with stand alone practice expense procedure time, opposing the proposal to revise equipment interest rate assumptions, and regarding the impact of proposed 2013 radiation oncology relative value units (RVUs).

AAPM has significant concerns regarding the proposed reductions to radiation oncology and freestanding radiation therapy centers in the 2013 MPFS. Cuts of this magnitude will harm cancer care, especially in rural areas, and will negatively impact Medicare beneficiary access to life-saving treatments. We fear that many freestanding cancer centers may close or reduce expenses, including clinical labor, which could impact the safety and quality of radiation therapy and compromise patient outcomes.

[1] The American Association of Physicists in Medicine (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.

I. Potentially Misvalued Codes Under the Physician Fee Schedule

Public Nomination of CPT 77336 Continuing Medical Physics Consultation

AAPM appreciates that CMS has established a public process to identify potentially misvalued codes. For 2013, CMS proposes that CPT 77336 *Continuing medical physics consultation, including assessment of treatment parameters, quality assurance of dose delivery, and review of patient treatment documentation in support of the radiation oncologist, reported per week of therapy* may be potentially misvalued.

CPT code 77336 was last reviewed for the 2003 MPFS. AAPM supports review and revaluation of the Continuing Medical Physics Consultation code. CPT code 77336 is misvalued because changes in the technique for rendering continuing medical physics consultations have resulted in changes to the knowledge required, time, and effort expended, and complexity of technology associated with the tasks performed by the medical physicist and other staff. We assert that the direct practice expense inputs no longer accurately reflect the resources used to deliver this service and may be undervalued. The Continuing Medical Physics Consultation code now takes more time due to increased complexity of treatments and patient setups, increased use of image guided radiation therapy (IGRT) and associated workload for review of images, and the increased emphasis on safety, which has changed the level of oversight of patients under treatment. Given the complexity of current radiation therapy, the majority of work under 77336 is now being provided by medical physicists.

If CMS agrees that CPT 77336 is potentially misvalued, AAPM will submit new direct practice expense inputs and data to support the revaluation during the 60-day comment period after the 2013 MPFS final rule is published. We appreciate that CMS is willing to consider data and input from professional medical societies that do not have the opportunity to participate in the AMA Relative Value Scale Update Committee (RUC) process. Medical physicists are extremely knowledgeable regarding non-physician clinical labor time, medical equipment and supplies that are utilized in radiation oncology procedures, especially those services that utilize a medical physicist or dosimetrist.

> **AAPM supports the CMS proposal that CPT 77336 *Continuing medical physics consultation, including assessment of treatment parameters, quality assurance of dose delivery, and review of patient treatment documentation in support of the radiation oncologist, reported per week of therapy* is potentially misvalued and we support review and revaluation of this service.**

Review of Services with Stand Alone Practice Expense Procedure Time

CMS is proposing to review and make adjustments to CPT codes with stand alone procedure time assumptions used in developing nonfacility practice expense (PE) relative value units (RVUs). Twenty-three of the 24 codes proposed for this review are radiation oncology services (see Table 1 below).

CMS should remove CPT codes 77301, 77338, 77600, 77785, 77786 and 77787 from review as these are professional component/technical component codes. These procedures are not stand alone PE only codes and all were recently reviewed by the RUC with the exception of 77600. AAPM recommends that the current direct practice expense inputs be maintained for these codes.

> **AAPM recommends that CMS remove CPT codes 77301, 77338, 77600, 77785, 77786 and 77787 from the list of stand alone practice expense procedure time codes subject to revaluation.**

Table 1 *Services with Stand Alone PE Procedure Time*

77280 Set radiation therapy field	77408 Radiation treatment delivery
77285 Set radiation therapy field	77409 Radiation treatment delivery
77290 Set radiation therapy field	77412 Radiation treatment delivery
77301 Radiotherapy dose plan imrt	77413 Radiation treatment delivery
77338 Design mlc device for imrt	77414 Radiation treatment delivery
77372 Srs linear based	77416 Radiation treatment delivery
77373 Sbrt delivery	77418 Radiation tx delivery imrt
77402 Radiation treatment delivery	77600 Hyperthermia treatment
77403 Radiation treatment delivery	77785 Hdr brachytx 1 channel
77404 Radiation treatment delivery	77786 Hdr brachytx 2-12 channel
77406 Radiation treatment delivery	77787 Hdr brachytx over 12 chan
77407 Radiation treatment delivery	88348 Electron microscopy

As you know, many professional societies do not have adequate staff or volunteer member resources to conduct multiple physician work and practice expense surveys per year. Given that as many as 23 codes may be reviewed for one specialty, we ask CMS to consider prioritizing the code reviews and conducting reevaluation over a multi-year period.

AAPM recommends that CMS prioritize the stand alone practice expense procedure time code reviews and conduct reevaluation over a multi-year period.

For 2012, a series of radiation therapy services were reviewed as part of the potentially misvalued code initiative. Among these were CPT 77418 *Intensity modulated treatment delivery, single or multiple fields/arcs, via narrow spatially and temporally modulated beams, binary, dynamic MLC, per treatment session* (IMRT delivery) and CPT 77373 *Stereotactic body radiation therapy, treatment delivery, per fraction to 1 or more lesions, including image guidance, entire course not to exceed 5 fractions* (SBRT delivery).

Based on publicly available resources, CMS proposes to downward adjust the intraservice procedure time for 77418 IMRT delivery from 60 to 30 minutes; and 77373 SBRT delivery from 90 to 60 minutes. The proposal has a significant negative impact on the value of these two codes.

As you know, under the MPFS the valuation of medical services is a complex process. While we appreciate CMS' concern regarding the public information provided in patient education materials, we respectfully request that CMS apply a more rigorous analytical methodology to review these services.

As discussed in this proposed rule, the Affordable Care Act requires the Secretary to develop a validation process to validate the RVUs of potentially misvalued codes under the MPFS and make appropriate adjustments. AAPM supports validation of CPT 77418 and 77373 RVUs through this process. In addition, by making the "potentially misvalued services" initiative open and transparent, other stakeholders that do not participate in the RUC may now provide additional information and data to CMS regarding potentially misvalued codes.

AAPM recommends that CMS review all components of the practice inputs for CPT 77418 IMRT delivery and 77373 SBRT delivery including non-physician clinical labor staff types and time, as well as the supply and equipment costs and time used during the entire procedure (i.e. pre-, intra- and post-service time).

AAPM stands ready to work with CMS to provide data on direct practice expense inputs for any radiology or radiation oncology services that utilize a medical physicist.

II. Resource-Based Practice Expense Relative Value Units

Interest Rate Assumptions & Equipment Costs Per Minute

CMS is proposing to improve the accuracy of payment rates to reflect current economic conditions by revising the interest rate assumptions used to establish payment for practice expense from 11 percent to a range of 5.5 to 8 percent based on the Small Business Administration (SBA) maximum interest rates for different categories of loan size (equipment cost) and maturity (equipment useful life).

We understand that physicians are more likely to obtain loans from private banks than the SBA to finance equipment purchases. We do not agree with the CMS proposal to use SBA loan maximum interest rate guidelines as these loans have lower interest rates and there is no evidence that physicians typically finance equipment through the SBA. CMS must utilize interest rates that accurately reflect the cost of financing equipment. We encourage CMS to find a more acceptable data source for these interest rates.

AAPM opposes the CMS proposal to revise interest rate assumptions for medical equipment based on the Small Business Administration (SBA) maximum interest rates.

III. Impact of Proposed Reductions to 2013 Radiation Oncology RVUs

AAPM has reviewed the proposed relative value units (RVUs) for radiation oncology codes 77261-77799 and the majority of technical component codes will incur RVU reductions in 2013. In fact 12 procedure codes will realize reductions greater than 10 percent as proposed for 2013 (see below):

- 77295-TC (3D simulation) -19.3%
- 77305-TC (simple isodose plan) -12.2.0%
- 77310-TC (intermediate isodose plans) -11.0%
- 77321-TC (special teletherapy port plan) -14.5%
- 77333-TC (intermediate treatment device) -28.2%
- 77373 (SBRT delivery) -28.1%
- 77402 (radiation treatment delivery, single area) -16.2%
- 77407 (radiation treatment delivery, two areas) -12.5%
- 77418 (IMRT delivery) -39.8%
- 77421 (stereoscopic x-ray guidance) -12.6%
- 77421-TC (stereoscopic x-ray guidance) -17.6%
- 77470 (special treatment procedure) -10.6%
- 77470-TC (special treatment procedure) -31.3%
- 0073T (compensator-based IMRT delivery) -39.8%

Many of the codes listed above with proposed RVU reductions in 2013, also realized RVU reductions in 2012. This proposed rule includes extreme, unpredictable shifts in payment for numerous services in the MPFS. AAPM is concerned that CMS is allowing devaluation of technical component services provided in freestanding and community-based cancer centers under the MPFS.

CMS continues to propose new payment policies that negatively impact the specialty of radiation oncology. The impact of current 2012 policies was negative 6.0 percent and an additional negative 15.0 percent to negative 19.0 percent is slated for 2013. AAPM is concerned regarding the viability of providing high quality radiation therapy and medical physics services in a freestanding setting.

Radiation Oncology and Radiation Therapy Centers have the largest negative impacts to both 2012 and 2013 total payments compared to all 57 specialties. Continued reductions to RVUs and MPFS payments will have a deleterious effect on freestanding cancer centers and impact the provision of cancer care, especially in rural areas. Medicare beneficiaries deserve access to quality cancer treatment provided in freestanding and community-based cancer centers.

> **AAPM recommends that CMS stabilize radiation oncology RVUs and payments in order to ensure Medicare beneficiary access to life saving cancer treatments provided in freestanding and community-based cancer centers.**

Conclusion

Capital-intensive specialties, including radiation oncology, are projected to decrease due to proposed changes in how the interest rate used in the PE calculation is estimated. Also, under the potentially misvalued codes initiative, CMS proposes to adjust the payment rates for two common radiation oncology treatment delivery methods, intensity-modulated radiation treatment (IMRT), and stereotactic body radiation therapy (SBRT) to reflect more accurate time projections based upon publicly available data. The combined effect of the Physician Practice Information Survey transition and the latter two proposals would be a reduction in payments to radiation therapy centers and radiation oncology.

Appropriate payment for medical physics services, radiology and radiation oncology procedures is necessary to ensure that Medicare beneficiaries will continue to have full access to imaging in the diagnosis of cancer and high quality cancer treatments in freestanding cancer centers. We hope that CMS will take these issues under consideration for the 2013 Physician Fee Schedule final rule. Should CMS staff have additional questions, please contact Wendy Smith Fuss, MPH at (561) 637-6060.

Sincerely,

James Goodwin, M.S.
Chair,
Professional Economics Committee