



## American Association of Physicists in Medicine

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September 5, 2013

Marilyn Tavenner  
Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
Attention: CMS-1601-P  
Mail Stop C4-26-05  
7500 Security Boulevard  
Baltimore, MD 21244-1850

Re: Medicare Program; Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems; Proposed Rule; CMS-1601-P

Dear Administrator Tavenner:

The American Association of Physicists in Medicine<sup>1</sup> (AAPM) is pleased to submit comments to the Centers for Medicare and Medicaid Services (CMS) in response to the July 19, 2013 *Federal Register* notice regarding the 2014 Medicare Hospital Outpatient Prospective Payment System (HOPPS) and Ambulatory Surgical Center Payment System (ASC) proposed rule. AAPM will provide comments on the proposal to expand packaging for ancillary services, establish comprehensive APCs and implement new cost centers for CT & MRI.

**AAPM strongly supports the Advisory Panel on Hospital Outpatient Payments (HOP Panel) recommendation that CMS delay implementation of the calendar year 2014 proposals related to Comprehensive APCs; Expanded Packaging; and Cost Center Based Reimbursement Changes for CT & MRI until the data can be reviewed by the HOP Panel at the Spring 2014 meeting regarding interactions between proposals and potential cumulative impact.**

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<sup>1</sup> 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.

## **PACKAGING PROPOSAL**

For 2014, CMS proposes to expand the packaging proposal and conditionally package all ancillary services designated by status indicator "Q1." AAPM strongly opposes implementing this proposal for 2014 and has serious concerns regarding the impact on patients and funding of medical physics support of radiation oncology. While we oppose the proposed packaging described for radiation oncology ancillary procedures (and we note that many of the Q1 procedures listed by CMS are not ancillary but rather separate and distinct primary procedures) our comments will focus on medical physics consultation codes 77336 Continuing medical physics consultation and 77370 Special medical radiation physics consultation.

The medical physics services covered by codes 77336 and 77370 are not ancillary to the radiation therapy procedures described in the proposed rule. They describe medical physics services that are provided to radiation therapy patients who are under treatment and are separate and distinct from those that cover the planning and delivery of radiation therapy treatments. This proposal to package these services has far reaching implications and will result in financial pressures and workflow modifications that will harm patient care and safety.

First, the packaging proposal creates a situation where the date of service or billing date becomes a primary determinant of whether a certain code will be paid separately or not. This will provide incentives for hospital radiation therapy departments to schedule and bill services so as to maximize reimbursement. To this end, it could encourage departments to change workflows in a way that could compromise medical physics oversight and safety. This may result in distorted, suboptimal radiation oncology services provided to the patient and disruption in the process of care.

Second, the packaging of medical physics consultation codes (i.e., 77336 and 77370) will lead to a loss of direct financial accountability of medical physicist work and would significantly reduce medical physics resources around the country. Hospital administrators would no longer be able to track the work and revenue associated with our sub-specialty. If hospital administrators cannot track reimbursement performance for a line of services, they are motivated to reduce those services. In this case, the implication is that Medicare patients may no longer have adequate access to the critical oversight that medical physicists provide to ensure the accuracy of both the planning and delivery phases of radiation therapy treatments.

Thirdly, the reluctance or inability of departments to bill for separate CPT codes included in packaged services that will not be paid separately will skew the hospital data on patient charges and work performed that CMS collects and uses each year to set reimbursement levels. This could result in inaccuracies in the data used for the calculation of the payments for radiation therapy services in future years.

Lastly, a preliminary analysis of the outpatient claims data shows that packaging of several radiation oncology codes that were previously included in the Bypass List leads to less claims used for rate setting for several radiation oncology APCs, which also results in inaccurate payment rates. Data errors associated with the initial CMS analysis and the recent update to the HOPPS files on August 29th inhibit our ability to properly analyze the soundness of the proposal and the impact to our specialty prior to the September 6th comment deadline.

**AAPM strongly opposes packaging radiation oncology ancillary services, especially medical physics consultation codes 77336 and 77370. AAPM recommends that CMS assign status indicator "S" to the medical physics consultation codes 77336 and 77370 and not implement unconditional packaging of these services.**

**Further, AAPM recommends that CMS delay the packaging proposal for one to two years and provide meaningful data that is transparent and may be analyzed to determine impacts specific to expanded packaging.**

**If CMS implements the packaging proposal in 2014, they should require hospitals to provide complete and correct coding of all packaged services. In addition, CMS should maintain all device and procedure edits to increase the integrity of hospital claims data.**

### **CREATION OF CT AND MRI COST CENTERS**

For 2014, CMS is proposing to establish separate cost centers for CT and MRI, distinctly separate from the general radiology cost center utilized in determining APC weights. Based on fiscal year 2011 cost data, this proposal yields significantly lower cost-to-charge ratios (CCRs) for CT and MRI compared to the CCR for general radiology. The newly proposed CCRs for CT and MRI are not based on valid data and should not be used for payment purposes. This data results in payments for some CT and MRI services at a lower rate than some radiographic services despite the fact that the CT and MRI equipment cost is 10-15 times higher. The data is clearly flawed.

This proposal significantly reduces CT and MRI payments under HOPPS. Multiple imaging composite APCs 8005, 8006, 8007 and 8008 realize 2014 payment reductions from 14.7 percent to 25.9 percent while the ultrasound composite APC 8004 increases 59.9 percent (see table below).

<b>2014 Composite APC</b>	<b>2013 Payment Rate</b>	<b>2014 Proposed Payment Rate</b>	<b>Percentage change from 2013 to 2014</b>
8004 Ultrasound Composite	\$196.61	\$314.33	59.9%
8005 CT and CTA without Contrast Composite	\$400.28	\$296.50	-25.9%
8006 CT and CTA with Contrast Composite	\$682.10	\$509.10	-25.4%
8007 MRI and MRA without Contrast Composite	\$706.85	\$597.28	-15.5%
8008 MRI and MRA with Contrast Composite	\$1,038.94	\$885.86	-14.7%

Further, this proposal has unintended consequences as separate CT and MRI CCRs would apply to the HOPPS and impact Medicare Physician Fee Schedule (MPFS) reimbursement. Reductions in hospital payment would also affect the physician office setting because the technical component payments would fall below the rates under the MPFS causing further cuts as mandated by the Deficit Reduction Act (DRA). The DRA mandates that the MPFS technical payments be paid at the lower of the MPFS or HOPPS rate. CT and MRI procedures have experienced multiple payment cuts since 2006, the majority of which have been applied to technical component (TC) services. Additional payment reductions would cause these services to shift out of the office setting, since physicians would be unable to cover their costs. In fact, the reduced payment levels would not cover CT and MRI equipment costs, let alone the other resource inputs required for physicians to provide the services in an office setting.

Hospitals vary widely on how they report their charges and costs. AAPM believes it would be best to use a single radiology cost-to-charge ratio, given the difficulties that hospitals have in accurately accounting for their radiology-related costs.

**AAPM recommends that CMS continue to use only the single diagnostic radiology cost center and not implement the proposed CT and MRI cost centers for 2014 and future years.**

## **COMPREHENSIVE APC PROPOSAL**

CMS proposes to create comprehensive APCs to prospectively pay for the most costly device-dependent services. The comprehensive APC would treat all individually reported codes as representing components of the comprehensive service, resulting in a single prospective payment based on the cost of all individually reported codes that represent the delivery of a primary service as well as all adjunct services provided to support that delivery.

Based on an economic analysis, it was difficult to determine how CMS created the comprehensive APCs and some of the numbers listed in published outpatient claim files are illogical. Given the lack of transparency and inaccurate claims data, AAPM recommends that CMS not implement this proposal in 2014.

### **AAPM recommends that CMS not implement the creation of comprehensive APCs for 2014.**

We hope that CMS will take these issues under consideration during the development of the 2014 HOPPS/ASC final rule. Should CMS staff have additional questions, please contact Wendy Smith Fuss, MPH at (561) 637-6060.

Sincerely,

A handwritten signature in black ink that reads "James R. Goodwin". The signature is written in a cursive style with a large initial "J" and "G".

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