

MEMORANDUM

To: American Society of Transplant Surgeons

From: Rebecca Burke and Diane Millman

Date: November 7, 2016

Subject: Summary of 2017 HOPPS and Medicare Physician Fee Schedule Final Rules

Last week CMS released both the 2017 Hospital Outpatient Prospective Payment rule (HOPPS) and the 2017 Medicare Physician Fee Schedule rule. Below is a summary of the key changes that we believe are relevant to ASTS members.

1. **HOPPS Rule:** The HOPPS final rule contains a number of changes to both the Transplant Center (TC) and Organ Procurement Organization (OPO) regulations.
 - a. **Change in Tolerance Range for TC Outcomes:** CMS has finalized its proposal to change the ratio of observed patients deaths or graft failures divided by the risk-adjusted expected number, or “O/E” from 1.5 to 1.85 for all organ types. ASTS had requested that the O/E be set at 2.0 which it argued was closer to the performance threshold for graft survival in 2007. CMS stated that it would consider future changes to the O/E based on new data but that it believed 1.85 was appropriate based on current data.
 - b. **Technical Corrections:** CMS also finalized its proposal to extend the due date for programs to notify CMS of their intent to request mitigating factors approval from 10 days to 14 days and clarified that the time period for submission of mitigating factors information would be calculated in calendar days. The agency also clarified that a signed Systems Improvement Agreement (SIA) would remain in effect even if a subsequent SRTR report indicates that the transplant program had restored compliance with Medicare Conditions of Participation. ASTS supported all three of these clarifications.
 - c. **OPO Changes:** CMS finalized its proposal to modify the OPO definition of eligible death and the outcomes standard related to aggregate donor yield to be consistent with OPTN standards. It also revised documentation requirements, consistent with OPTN policy, to require that only blood type source documentation and infectious disease testing results by physically sent in hard copy with the organ.

ASTS, in its comments, noted its longstanding concern with the “disconnect” between the OPO and the TC outcome measures and suggested that CMS consider modifying

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the OPO regulations to provide for a ‘mitigating factors’ process similar to that used for TCs that would take into consideration quality of organs retrieved by OPOs that fail to meet applicable outcome standards. CMS acknowledged this comment but stated that it could not make changes to the OPO regulations that were not included in the proposed rule.

2. **Medicare Physician Fee Schedule Rule:** The Centers for Medicare and Medicaid Services (CMS) released the [final 2017 Medicare physician fee schedule](#) rule on November 2, 2016 as well as a [fact sheet](#) summarizing the policy and payment changes that will take effect January 1, 2017. The 2017 conversion factor will be \$35.8887 – only a slight increase over the 2016 conversion factor of \$35.8043.

a. **Collection of Data on Global Surgery:** CMS has substantially scaled back its proposal for data collection on 10-day and 90-day global surgical services. The agency had proposed to require all physicians to report pre and post-operative visits on 10 and 90-day global services through a series of G-codes and to keep track of time in 10-minute increments. ASTS strongly opposed this proposal because of for the significant burden it would place on providers. In response to comments by ASTS and other societies, CMS has proposed a more modest Phase 1 data collection initiative as summarized below:

- Instead of collecting data using G-Codes in 10-minute increments, the agency will collect data using CPT Code 99024;
- Only post-operative visits must be reported;
- Only data on procedures reported by over 100 practitioners and that are furnished more than 10,000 times or have allowed charges of more than \$10 million annually must be reported. CMS estimates that under this policy it would collect data on about 260 codes that describe about 87 percent of all 10-day and 90-day global services and 77 percent of Medicare expenditures for such services. Based on CMS utilization data, it appears that this will require reporting for kidney transplants since they will likely meet the 10,000 threshold. We would not expect it would impact other organ transplants.
- Data collection will only apply to physicians in groups of 10 more and only in the following nine states (Florida, Kentucky, Louisiana, Nevada, New Jersey, North Dakota, Ohio, Oregon and Rhode Island).
- The start data for reporting will be July 1, 2017 instead of January 1, 2017 as had been proposed.

Under phase-2, CMS will also conduct a survey of physicians beginning in mid-2017 to supplement the data obtained through the process described above. CMS aims to obtain data from 4872 surgeons across all specialties. For this purpose, specialties are defined as CPT Level 2 classifications (e.g. cardiovascular system, digestive system, etc.). Thus transplant surgery is not a distinct classification but it is possible that individual transplant surgeons will be surveyed on both transplant and non-transplant services.

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To the extent that there are significant differences in the number and nature of post-operative visits among different organ transplant procedures, ASTS may want to consider the implications of the data collection process for transplant procedures. For example, if CMS only or primarily collects data on kidney transplants, it is possible that it will simply crosswalk that data to other transplant procedures which may be more complex and require more post-operative visits. This could result in those services being undervalued. Although this is all speculative at this point, it may be in ASTS' interest to support a more expansive data collection process to ensure that all transplant procedures are surveyed. To the extent that this is a concern, ASTS may want to consider raising the issue with CMS.

- b. **Reimbursement for Transplant Services:** A spreadsheet showing the 2017 payment and changes in RVUs compared to 2016 is attached. Note that most transplant services will decrease slightly (less than 1%). This is likely due to budget neutrality requirements associated with increases for primary care and other services. The one exception is CPT Code 50380 (kidney reimplantation) which will decrease by 3.5%. At the same time, CPT Code 50320 (living donor kidney removal) will increase by 3.5%.

CPT¹/ HCPCS	Description	RVUs 2016	2017 RVUs	Percent change 2016- 2017	2017 Allowance
32851	Lung transplant, single	96.28	95.63	-0.7%	\$ 3,432.04
32852	Lung transplant with bypass	105.42	104.47	-0.9%	\$ 3,737.41
32853	Lung transplant, double	134.14	133.36	-0.6%	\$ 4,770.95
32854	Lung transplant with bypass	142.62	141.58	-0.7%	\$ 5,065.02
33935	Transplantation, heart/lung	146.34	144.43	-1.3%	\$ 5,166.98
33945	Transplantation of heart	142.19	141.21	-0.7%	\$ 5,051.79
47122	Extensive removal of liver	100.02	99.41	-0.6%	\$ 3,556.39
47125	Partial removal of liver	89.39	89.12	-0.3%	\$ 3,188.27
47130	Partial removal of liver	96.06	95.75	-0.3%	\$ 3,425.46
47135	Transplantation of liver	156.05	155.54	-0.3%	\$ 5,564.44
47140	Partial removal, donor liver	103.88	96.88	-6.7%	\$ 3,465.88
47141	Partial removal, donor liver	124.16	123.72	-0.4%	\$ 4,426.08
47142	Partial removal, donor liver	136.89	135.77	-0.8%	\$ 4,857.17
47146	Prep donor liver/venous	9.61	9.59	-0.2%	\$ 343.08
47147	Prep donor liver/arterial	11.17	11.13	-0.4%	\$ 398.18
48552	Prep donor pancreas/venous	6.86	6.81	-0.7%	\$ 243.63
48554	Transpl allograft pancreas	74.18	73.86	-0.4%	\$ 2,642.34
50320	Remove kidney, living donor	41.99	43.46	3.5%	\$ 1,554.78
50327	Prep renal graft/venous	6.32	6.30	-0.3%	\$ 225.38
50328	Prep renal graft/arterial	5.54	5.52	-0.4%	\$ 197.48
50329	Prep renal graft/ureteral	5.18	5.21	0.6%	\$ 186.39
50340	Removal of kidney	27.13	27.34	0.8%	\$ 978.09
50360	Transplantation of kidney	70.21	70.00	-0.3%	\$ 2,504.25
50365	Transplantation of kidney	82.05	82.66	0.7%	\$ 2,957.16
50370	Remove transplanted kidney	34.77	34.76	0.0%	\$ 1,243.54
50380	Reimplantation of kidney	57.64	55.57	-3.6%	\$ 1,988.02