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## MEMORANDUM

To: ASTS; Attn: Katrina Crist  
From: Rebecca Burke and Diane Millman  
CC: Peter Thomas  
Date: August 7, 2008  
Re: Final IPPS Rules for FY 2009

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The final IPPS rules were released last week. Below is a summary of the issues on which ASTS submitted comments.

### 1. Hospital Acquired Conditions

CMS is adding only three of the nine hospital-acquired conditions in the proposed rule. They are:

- Surgical site infections following certain elective procedures including certain orthopedic surgeries and bariatric surgery for obesity;
- Certain manifestations of poor control of blood sugar levels; and
- Deep vein thrombosis or pulmonary embolism following total knee replacement and hip replacement surgeries

None of the HACs of concern to ASTS - ventilator-associated pneumonia (VAP), staphylococcus aureus septicemia, and *Clostridium difficile* associated disease (CDAD) were added to the HAC list.

## 2. DRGs for Heart and Liver Transplants

Despite ASTS' comments, CMS did not make any changes to the MS-DRGs for heart and liver transplants. ASTS expressed concern that the MS-DRG weight for a liver transplant without an MCC (MS-DRG 6) would decrease by approximately 33% and that for a heart transplant without an MCC (MS-DRG 2) would be reduced by 20%. CMS recalibrates DRG weights each year based on hospital cost data from the MEDPAR file. We questioned whether the proposed recalibrated weights were correct, given the dramatic reductions. We also urged that CMS recombine the MS-DRGs for each organ into a single DRG rather than maintaining two DRGs for heart and two for liver transplants.

The new DRG weights for heart and liver transplants are:

DRG	Description	Current Weight – FY 2008	FY 2009 Weight Effective 10/1/2008
MS DRG1	Heart Tx w/MCC	23.1117	23.0701
MS-DRG 2	Heart Tx w/o MCC	16.2735	12.8157
MS-DRG 5	Liver Tx w/MCC	10.6120	10.8180
MS-DRG 6	Liver Tx w/o MCC	7.2562	4.8839

During FY 2007, the first year of the Ms-DRGs, 667 cases were assigned to the heart Tx with MCC and 295 were assigned to the w/o MCC DRG. For liver, the distribution was 650 with MCC and 233 w/o MCC. Thus, the majority of transplants are being assigned to the higher complexity DRG. Nevertheless, the reductions in payment for the lower complexity procedures are significant and raise questions, in our minds, about the accuracy of the data on which they were based.

CMS did not give a rationale for its refusal to consider recombining the heart and liver DRGs into a single DRG per organ other than its statement that it was premature to make any changes to the MS-DRGs because of insufficient claims data.

Similarly, in response to ASTS' request for a separate DRG for combined liver/kidney transplants, the agency simply stated that it had insufficient data under the new MS-DRG system to justify any changes.

## 3. Recommendation

We do not believe CMS is likely to restructure the current MS-DRGs for heart and liver without additional statistical analysis showing the current MS-DRGs to be faulty. Nor is the agency likely to include the risk adjustment factors suggested by ASTS (i.e. MELD score for liver patients) without a diagnosis code or set of codes which would identify

patients based on MELD score. It is possible that as transplant centers become more sophisticated at coding under the new MS-DRG system, they will be able to identify more cases which belong in the higher severity DRGs, thereby mitigating the impact of the reductions in the lower severity DRGs.

We do not believe that CMS is likely to change its position on the current DRG weights or structure without additional data. Therefore, if ASTS believes that the current payment amounts for lower severity heart and liver transplants will be a serious problem for transplant centers, ASTS needs to retain a consultant who could do an analysis of the hospital claims data to identify any possible errors in the CMS calculations and to support ASTS' position that the current DRG structure is unnecessary and financially destabilizing. We would be delighted to discuss this possibility with Chris Hogan, the consultant who we would recommend for this work, if ASTS decides to proceed after the proposed MS-DRG weights are published next year.