

August 28, 2009

BY ELECTRONIC DELIVERY

Charlene Frizzera, Acting Administrator
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: CMS-1413-P (Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2010)

Dear Acting Administrator Frizzera:

On behalf of the American Society of Transplant Surgeons (ASTS), I am delighted to have the opportunity to comment on CMS' proposed policies and payment rates for services to be provided under the Physician Fee Schedule (PFS) in Calendar Year 2010. ASTS is an organization comprised of over 1500 transplant surgeons, physicians and scientists dedicated to excellence in transplantation surgery through education and research with respect to all aspects of organ donation and transplantation so as to save lives and enhance the quality of life of patients with end stage organ failure.

ASTS applauds CMS for its proposal to remove physician-administered drugs from the definition of "physicians' services" for purposes of computing the SGR and levels of allowed expenditures and actual expenditures in all future years. This change will help to reduce the deviation between target and actual spending and improve future updates to physician payments under the PFS. We strongly support implementation of this proposal.

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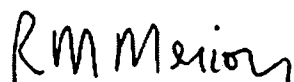
We also strongly support CMS' proposal to utilize the results of the Physician Practice Information Survey (PPIS) in the formula used to determine Medicare payment for physicians' practice expenses. The AMA, together with the medical specialties, funded and implemented this survey on physician practice expenses in 2007-2008 and, from its inception, it was anticipated that this survey would gather practice expense data to replace the outdated SMS survey from 1995 that CMS had been using in its Physician Fee Schedule calculation. All of the major specialty groups participated financially in sponsoring the survey and had input in the survey questions and methodology. As indicated in comments filed by the AMA, the survey was administered in a fair and evenhanded manner, and its results reflect the best available data on the relative practice expenses of the various specialties. The amounts paid for practice expense associated with transplant surgery are comprised almost entirely of indirect expenses, which have increased substantially in recent years in part as a result of the growing administrative burdens involved in addressing Scientific Registry of Transplant Recipients (SRTR) and other data reporting requirements.¹

We are also concerned about the potential impact of the elimination of consultation codes. We agree that there is considerable confusion regarding the circumstances under which a consultation can be billed, especially when responsibility for a portion of a patient's care is effectively transferred to the consulting physician. Thus, we are generally supportive of CMS' proposal to eliminate the use of consultation codes. However, we do not believe this proposal should be implemented without corresponding increases to the global procedures that include office visits. Specifically, we believe the redistribution of the work RVUs from the eliminated consultation codes should extend to the 10-day and 90-day global codes.

We are also concerned that implementation of this proposal in 2010 will leave very little time to educate members about the new policy. We also believe that there may be unanticipated consequences with respect to payment practices of other third-party payers who continue to recognize the use of consultation codes. For that reason we believe CMS should delay implementation of this policy to allow additional time for education of physicians and to consult with other payers.

Again, we appreciate the opportunity to submit these comments, and hope that our comments are helpful to CMS in considering these issues.

Sincerely yours,



Robert M. Merion, MD
President

¹ Transplant surgery is assigned to the specialty of general surgery or cardiac/thoracic surgery for heart and lung transplants, for purposes of the Medicare physician fee schedule calculations. The General Surgery PE/Hr increased from \$70 to \$100; the PE/hr for Cardiac/Thoracic surgery decreased from \$91 to \$81. The CMS impact analysis estimates a 4% increase for General Surgery and a 3% decrease for Cardiac/Thoracic surgery with at least 1% being attributable to the new survey results. However, as reflected in the Table below, all of the transplant codes, including heart and heart/lung would increase.