

Professional Component Cuts Proposed for 2012

By Adrienne Dresevic, Esq. and Carey F. Kalmowitz, Esq.

On July 19, 2011, the Centers for Medicare and Medicaid Services (CMS) published the 2012 Proposed Physician Fee Schedule (PPFS), which includes the proposed application of a multiple procedure payment reduction (MPPR) to the professional component (PC) of advanced imaging tests if (i) furnished to the same patient, (ii) by the same physician, (iii) during the same session. This proposal is responsive to the Medicare Payment Advisory Commission (MedPAC) recommendations to Congress regarding ancillary imaging services (see the July Regulatory Review column, which analyzes MedPAC's 2011 recommendations to Congress in greater detail). CMS estimates that this PC payment reduction would reduce payments for these services by approximately \$100 million.

Background

Imaging providers and suppliers have been subject to multiple rounds of reimbursement reductions in recent years which, especially in the aggregate, have been significant. For example, the Deficient Reduction Act of 2005 cut imaging by \$1.7 billion in a single year and the Patient Protection and Affordable Care Act (PPACA) included an estimated \$3 billion in imaging cuts. Under current imaging MPPR policy, full payment is made for the technical component (TC) of the highest paid procedure, and payment is reduced by 50% of the TC for each additional procedure when the MPPR standards for payment reduction are met. The stated rationale behind this is that certain efficiencies exist in subsequent imaging procedures (ie, labor, equipment, supplies, etc) and, thus, certain costs merely are incremental, and thus are not borne to the same extent for each subsequent procedure; accordingly, based on such reasoning, reimbursement should be reduced to account for these efficiencies. In the 2012 PPFS, CMS proposes to extend this reduced reimbursement to the PC of advanced imaging services (CT, MRI, and ultrasound).

Expanding the MPPR Policy

CMS' proposal applies Section 3134(a) PPACA to justify reducing reimbursement for the PC of advanced imaging services. Section 3134(a) requires that the Secretary of the Department of Health and Human Services review and make appropriate adjustments to services identified as being potentially misvalued (ie, those codes for which there has been the fastest growth, those codes that have experienced substantial changes in practice expenses, multiple codes that are frequently billed in conjunction with furnishing a single service, etc).

With this rulemaking, CMS proposes to apply the MPPR to the PC of advanced imaging services (CT, MRI, and ultrasound). The MPPR PC proposal applies to the same list of codes to which the MPPR on the TC of advanced imaging services already

applies. Thus, if finalized, the MPPR would apply to both the PC and the TC of the codes. Specifically, CMS proposes to expand the 50% payment reduction that is currently applied to the TC also to the PC of the second and any subsequent advanced imaging services furnished in the same sessions.

Notably, in the comments to the 2012 PPFS, CMS states that this reduction represents an initial step in connection with the reduction of the government's imaging and diagnostic testing expenditures, as it will be "aggressively looking for efficiencies in other sets of codes during the following years and will consider implementing more expansive reduction policies."

Although any specific regulatory proposals would be presented in future rulemaking and would be subject to further public comment. CMS, at this times, has invited public comment on the following MPPR policies that are under consideration:

- Applying the MPPR to the TC of all imaging services. This approach would define imaging consistent with the existing definition of imaging for purposes of the statutory cap on payment at the OPPS rate (eg, x-ray, ultrasound, ECG, nuclear medicine, PET, MRI, CT, and fluoroscopy, but excluding diagnostic and screening mammography);
- Applying the MPPR to the PC of all imaging services; and
- Applying the MPPR to the TC of all diagnostic tests (eg, radiology, cardiology, audiology, etc).

Clearly, many industry insiders believe that CMS' proposal to expand the MPPR to the PC of imaging services is based upon an incorrect assumption that there are efficiencies when radiologists interpret successive imaging studies on the same patient during the same session. CMS' assumption fails to take into account that radiologists presumably expend the same intensity of time and effort interpreting a similar type of imaging study, and variations in time and effort are a product of the complexity of the read, rather than whether or not the patient received multiple exams on the same day.

Moving Forward

CMS is accepting comments to the 2012 PPFS until August 30, 2011. Imaging providers and suppliers should consider submitting comments to CMS before the deadline in order to ensure that CMS is fully apprised of all concerns about this new MPPR PC expansion. As developments in the diagnostic imaging arena continue to surface and undermine the provision of diagnostic imaging services, imaging providers and suppliers must remain attentive to such developments and the impacts they may have on their practices. This is especially true in the instant case in view of CMS' announced intent that this represents solely the initial step in a broader reimbursement-reduction plan.