POLICY & PRACTICE

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Knee Scope: Nope
Officials at the Centers for Medicare and Medicaid Services are instructing Medicare contractors not to pay for most knee arthroscopy for osteoarthritis. In its July decision memo, the CMS wrote that arthroscopic lavage is not reasonable or necessary for patients with the condition, and debridement shouldn't be covered in patients presenting only with knee pain or even severe osteoarthritis (Outerbridge classification III or IV). Other indications of debridement for beneficiaries with knee osteoarthritis will at the discretion of contractors. The report cited the American College of Rheumatology's position that routine arthroscopic lavage with or without debridement should not be routine for patients with knee osteoarthritis. The college told the CMS, however, that arthroscopic debris removal can be useful for pain relief and improving joint function.

FDA to Review Bisphosphonates
Two expert panels will meet Sept. 9 to advise the Food and Drug Administration on the benefits and risks of long-term treatment of osteoporosis using bisphosphonates, the FDA announced. The agency's Advisory Committee for Reproductive Health Drugs and the Drug Safety and Risk Management Advisory Committee will discuss concerns that cases of osteonecrosis of the jaw and atypical femur fractures may be associated with the long-term use of the osteoporosis drugs.

Many Power Chairs Unneeded
Medicare spent about $95 million in the first 6 months of 2007 for power wheelchairs that were either not medical necessary or had no proof of being so. The figures come from an audit by the Health and Human Services' Office of Inspector General. The investigation of 375 claims for power wheelchairs found that 9% of those provided were medically unnecessary. In some cases, beneficiaries needed only less-expensive equipment, such as a scooter or manual wheelchair, while other beneficiaries should have received a different type of power wheelchair. Another 52% of the claims for power wheelchairs did not have adequate documentation to show they were medically necessary.

Medicare Moves Against Fraud
Medicare is turning to the technology of credit card companies to fight fraud. The CMS has started using "predictive modeling" technology to look for beneficiary, provider, and other patterns suggesting fraudulent billing. Alerts should prompt CMS officials to deny payment and investigate, the agency said. Meanwhile, the HHS Office of Inspector General said that it expects to recover up to $3.4 billion from fraud investigations concluded October 2010 to March 2011. The bulk of those funds, $3.2 billion, resulted from criminal investigation. About $222 million was recovered after audits of health care providers.

FDA May Change Consumer Ads
The FDA is considering changing how it regulates direct-to-consumer drug ads to reflect results of agency studies of how patients perceive and recall ad information. The research found that people better understood the "brief summary" section of prescription drug ads that are presented in a format similar to the simpler labels on over-the-counter drugs. In contrast, prescription drug ads use densely packed, small-type paragraphs to describe a drug's risks. The studies also found that noting a serious risk or providing extra details on side effects didn't hinder consumers' understanding of overall risk information.

Maine Repeals Disclosure Laws
Maine's legislature has voided provisions of three laws that required prescription drugmakers to disclose marketing costs, prices, and details of clinical trials. The repealed provisions, similar to those still in effect in several other states, required drugmakers to report gifts to health care professionals and travel support valued at more than $25. The laws required manufacturers to disclose all costs of marketing drugs to Maine residents, unless those costs were part of a regional or national ad campaign, and to disclose data that could affect prices paid by the state's Medicaid program. The clinical trials disclosures covered any drug marketed in Maine.

Managers Face Challenges
Managers of group practices say that preparing for risk-based reimbursement and implementing electronic health records are their biggest challenges, according to a survey from the Medical Group Management Association. Dealing with rising operating costs and implementing an accountable care organization or a patient-centered medical home are also significant challenges, according to the MGMA survey. Electronic health records and other technologies are increasingly problematic, said MGMA President and CEO Dr. William Jessee. "The pressure to adopt technology and the morass our members face in determining the best systems for their practices, and then complying with the various government programs to receive incentives and avoid penalties, are proving to be of particular concern," he said in a statement.

–Mary Ellen Schneider

Doctors Could Face More Fee Cuts in Debt Deal

BY MARY ELLEN SCHNEIDER

Legislation to raise the debt ceiling and cut the deficit, signed by the president Aug. 2, leaves physicians in limbo regarding their Medicare payments next year and in the future.

The biggest question is whether the 29.5% cut to Medicare physician fees scheduled for Jan. 1, 2012, will go into effect. This massive payment cut is called for under the Sustainable Growth Rate (SGR) formula, the formula used to set Medicare payments to physicians.

Physicians' groups, led by the American Medical Association, lobbied Congress to include a permanent fix to the SGR in the deficit reduction package. They argued that while fixing the SGR carries a $300 billion price tag, getting the job done now would save the government money down the road. Instead, lawmakers left the SGR out of the package completely.

The new law of the land, the Budget Control Act of 2011, puts into place about $1 trillion in spending cuts over the next decade from the discretionary side of the federal budget. While these immediate cuts do not directly affect physicians, they do impact graduate medical education: Medical students who take out subsidized graduate student loans on or after July 1, 2012, will have to start paying the interest on those loans earlier.

The next round of budget cuts will be determined by the Joint Select Committee on Deficit Reduction, also known as the super committee. The 12-member panel will be comprised of legislators from both parties and both houses of Congress.

Party leaders have named the first nine members of the joint committee. Senate Majority Leader Harry Reid (D.-Nev.) appointed the first members of the committee. He chose Sen. Patty Murray (D.-Wash, who serves on both the Senate budget and appropriations committees, to co-chair the Joint Select Committee on Deficit Reduction. Sen. Reid also tapped Sen. Max Baucus (D.-Mont.), chairman of the Senate Finance Committee and an architect of the Affordable Care Act, and Sen. John Kerry (D.-Mass.), who was the 2004 Democratic presidential nominee, to serve on the joint committee.

Senate Minority Leader Mitch McConnell (R.-Ky.) appointed Sen. Jon Kyl (R.-Ariz.), a member of the Senate Budget Committee, Sen. Pat Toomey (R.-Pa.), a member of the Senate Budget Committee, and Sen. Rob Portman (R.-Ohio), a former director of the Office of Management and Budget, to serve on the joint committee. House Speaker John Boehner (R.-Ohio) also named three members of the joint committee. He appointed Rep. Jeb Hensarling (R.-Tex.), the House Republican Conference chairman, to serve as co-chair of the joint committee. He will be joined by Rep. Dave Camp (R.-Mich.), the chairman of the House Ways and Means Committee, and Rep. Fred Upton (R.-Mich.), chairman of the House Energy and Commerce Committee.

Rep. Nancy Pelosi (D.-Calif.), the House Minority Leader, has until Aug. 16 to choose the last three members of the joint committee.

Before the joint committee can forward its recommendations to the full Congress, those recommendations must be approved by a majority vote.

"There's a lot of concern that the committee will be deadlocked," said Edwin Park, vice president for health policy at the Center on Budget and Policy Priorities. The law requires the joint committee to draft legislation cutting another $1.2 trillion to $1.5 trillion in federal spending over 10 years. The committee has broad authority to consider spending cuts, taxes, and other changes across both discretionary and mandatory government programs. Funding for Affordable Care Act programs is also on the table.

The joint committee must vote on recommendations by Nov. 23, and lawmakers must vote on the joint committee's bill by Dec. 23.

To keep the legislation from getting bogged down in the Senate, the Budget Control Act requires that the joint committee's bill be given a fast-track, up-or-down vote requiring a simple majority to pass each chamber.

Should the joint committee's bill fail, or if the committee deadlocks, the Budget Control Act calls for automatic cuts across the federal government totaling $1.2 trillion over 10 years.

Those cuts would include up to a 2% reduction in Medicare physician payments beginning in 2013. Under a worst-case scenario, physicians could face not only the 29.5% SGR cut in January 2012, but another 2% annual fee cut starting the following year. "I don't know anyone who can continue very well with a 30% reduction in payment for a significant segment of their business," said Dr. Roland Goertz, president of the American Academy of Family Physicians. "It just makes it very, very tough."

Physicians won't stop practicing medicine, Dr. Goertz said, but they may move into another community with fewer Medicare patients or join a group that sees fewer Medicare patients.

Dr. Timothy J. Laing, a rheumatologist at the University of Michigan and chairman of the government affairs committee for the American College of Rheumatology, agreed that physicians would be forced to make tough choices if the cuts went into effect.

"I think it would make a lot of rheumatologists think very hard about access for Medicare patients," Dr. Laing said. "What had always been taken for granted since the inception of the program – that Medicare was welcome in every office – would now begin to be questioned." The hope for physicians, Dr. Laing said, is that the 29.5% cut mandated by the SGR is simply so large that it would be unthinkable for members of Congress to let it go into effect. ■