# CMS Change Could Cut Cardiologists' Pay

BY MARY ELLEN SCHNEIDER
*New York Bureau*

A new proposal from the Centers for Medicare and Medicaid Services could result in a better bottom line next year for physicians who spend a lot of time on evaluation and management services but is expected to mean a slight cut in payments for cardiologists.

CMS officials are seeking to increase the work component for relative value units (RVUs) for a number of evaluation and management service codes. For example, Medicare is proposing to increase the work RVUs for the commonly used established office visit codes 99213 and 99214. The proposed changes, which are the result of a mandatory 5-year review by the CMS, would take effect in January 2007.

The proposed rule, issued on June 29, also calls for changes in the practice expense methodology that would involve the use of practice expense survey data from eight specialties, including cardiology, to better calculate the costs incurred by physicians. These changes would begin in January but would be phased in over 4 years.

To pay for the proposed increases in reimbursement, the CMS is required to impose across-the-board cuts in work RVUs. This could mean payment cuts for physicians who provide fewer evaluation and management services.

Moreover, the expected increase for primary care physicians could be offset by the end of the year if physicians are unable to get a temporary fix to the sustainable growth rate formula, which is expected to cut physician payments under Medicare by nearly 5%.

"The CMS proposal reinforces the urgent need for Congress to act to stop the Medicare physician payment cuts and ensure that payments keep up to practice costs," Dr. Cecil Wilson, AMA board chair, said in a statement.

For cardiologists, CMS estimates that there will be a 1% drop in allowed Medicare charges in 2007 based on the combined impact of the work and practice expense RVU changes. By 2010, when the practice expensive methodology changes are fully implemented, the cut will be about 4% compared with allowed charges in 2006.

This proposed cut will mean that physicians will put off acquiring new technology such as electronic medical records and that they will be looking for ways to cut costs, said Dr. James Blankenship, who serves as the American College of Cardiology representative on the Relative Value Update Committee (RUC) of the American Medical Association. The RUC is a 29-member multispecialty committee that makes recommendations to the CMS annually on payment issues.

However, the impact could be more dramatic if cuts are coupled with the planned 4.6% Medicare payment cut that all physicians are expected to face at the beginning of 2007 if changes are not made to the Sustainable Growth Rate formula. In addition, under the Deficit Reduction Act of 2005, physicians who perform imaging services in their offices are facing additional payment cuts under Medicare. If all of these cuts go into effect, cardiologists may consider early retirement and Medicare patients may face decreased access, Dr. Blankenship said.

Despite the gloomy outlook for Medicare payments in 2007, things could have been worse, Dr. Blankenship said. Without the ACC commissioned survey of cardiologist practice expenses, which is being used by CMS in determining payments, the cuts could have been even deeper, he said.

The CMS proposal was praised by primary care groups, which stand to benefit from the changes. Dr. J. Leonard Lichtenfeld said the proposed changes to evaluation and management services would help address the underfunding of primary care. Dr. Lichtenfeld, a medical oncologist, is the American College of Physicians' representative on the RUC.

But although these changes go a long way in helping struggling physicians, it's not a complete solution, Dr. Lichtenfeld said, because it doesn't solve the underlying problem of inadequate funds in Medicare.

"Someone's got to be there to be the captain of the ship," he said.

Primary care physicians aren't the only ones who will benefit from the increases for evaluation and management codes, he noted. Surgeons will see some benefit because of increases for surgical postoperative care, as well as physicians in cognitive specialties such as neurology, he said.

For Dr. Douglas Leahy, an alternate delegate to the RUC for the ACP and a general internist, the proposed increases would mean the chance to spend more time with patients. Dr. Leahy, who works in a large multispecialty practice in Knoxville, Tenn., said that with better reimbursement for evaluation and management services, he could devote more time to important areas such as diabetes prevention or counseling family members of an Alzheimer's patient.

Although the increased payments for evaluation and management services and surgical postoperative care are needed, they are accompanied by an average 5% across-the-board cut in payments, according to the AMA.

That cut is the result of the budget neutrality adjustment that the CMS is required by law to make whenever changes in RVUs cause an increase or decrease in overall physician fee schedule outlays of more than $20 million. The proposed work RVU changes are estimated to increase expenditures by about $4 billion, according to the CMS.

The proposal was published in the June 29 issue of the Federal Register. The CMS is accepting comments until Aug. 21. ■

*The proposed rule is available online at www.cms.hhs.gov/PhysicianFeeSched.*

## POLICY & PRACTICE

### Hold Sought on Imaging Pay Cuts

With Medicare due to slash payments for imaging services by 35%-55% in January 2007, provider organizations are rallying to delay or repeal the cuts, which call for payments for the technical component—equipment, supplies, and overhead for imaging services—to be reimbursed at the hospital outpatient payment rate if it is lower than the physician fee schedule. At a hearing of the House Energy and Commerce Health Subcommittee, Democrats and Republicans said they were concerned the reductions were enacted without public input and without any assessment of the impact on beneficiaries. The cuts were inserted into the Deficit Reduction Act during a House-Senate conference; the act was signed in February 2006. "We don't know exactly what we've done, or how well or how poorly we've done it," said Rep. John Dingell (D-Mich.) at the hearing. H.R. 5704, sponsored by Rep. Joseph Pitts (R-Penn.), would institute a 2-year moratorium. Many medical organizations voiced objections to the cuts, including the American College of Cardiology, the Society for Vascular Surgery, and the Society for Cardiovascular Angiography and Interventions. The ACC "cautiously supports" the Pitts bill, said Dr. Kim A. Williams, director of nuclear cardiology at the University of Chicago and cochair of the ACC's Cardiovascular Imaging Collaborative, at a briefing with reporters. It's not clear how the cuts could be eliminated without causing reductions in other areas, he said. Rep. Carolyn McCarthy (D-N.Y.) has introduced a bill that would repeal the cuts (H.R. 5238).

### Call to Action on Risk Factors

The American Heart Association and the American Diabetes Association have issued a call to action to assess patients for their global risk of cardiovascular disease and diabetes. The groups cowrote a document published in both Circulation and Diabetes Care in part to dispel the notion that there is disagreement between them about the need to assess patients for risk factors such as prediabetes, hypertension, dyslipidemia, obesity, and smoking. The debate between the groups has been specifically about the clinical utility of the term "metabolic syndrome," not about the overall need to screen patients' risk for cardiovascular disease (CVD), they said. "We are concerned that the presumed dispute will lead to a reduction in the favorable trend of many aspects of CVD risk factor reduction," said AHA president Dr. Robert H. Eckel and ADA president Dr. Robert Rizza, along with science advisers Richard Kahn, Ph.D., of the ADA and Dr. Rose Marie Robertson of the AHA. Risk assessment and adherence to national guidelines remains "woefully suboptimal," they said.

### Postmarketing Study Failure

The Food and Drug Administration is doing a poor job of ensuring that pharmaceutical companies live up to postmarketing study commitments, according to a new report by the Department of Health and Human Services' Office of Inspector General. Among the findings: that the FDA can't easily identify if the studies are progressing or what stage they are in, and that monitoring postmarketing studies "is not a top priority at FDA." The OIG reviewed new drug applications from 1990 to 2004; 48% of those applications had at least one postmarketing study commitment. Drug makers are required to submit annual status reports. The OIG found that 35% of the reports that should have been submitted in fiscal 2004 were missing or had no information on the study commitments. The OIG noted that the FDA has limited enforcement power in this area, but suggested that the agency require more, and more relevant, information from drug makers. In response, the FDA said it could not do that without additional regulations, but agreed that it needed to do more to improve its monitoring and to ensure that commitments are honored and that annual reports are thorough.

### Supplement Side Effects

Dietary supplement makers and producers of over-the-counter drugs would be required to report serious adverse events to the FDA within 15 business days, under the Dietary Supplement and Nonprescription Drug Consumer Protection Act (S. 3456), currently pending in the U.S. Senate. The bill was introduced by strange bedfellows: Sen. Orrin Hatch (R-Utah), who crafted the 1994 Dietary Supplement Health and Education Act (DSHEA), which is widely seen as a loophole for the products, along with two frequent critics of DSHEA: Sen. Tom Harkin (D-Iowa) and Sen. Richard Durbin (D-Ill.). The proposal also has the backing of consumer advocates such as Consumer Reports and the Center for Science in the Public Interest, and of several industry groups. The bill has been reported out of the Senate Health, Education, Labor, and Pension Committee and next will go before the full Senate.

### Latest Vioxx Ruling

Merck has collected another win in its defense of Vioxx. A jury last month rejected the charge that the company was liable for a New Jersey woman's heart attack after nearly 3 years of taking Vioxx. Elaine Doherty of Lawrenceville said she took Vioxx daily from June 2001 until her heart attack in January 2004 at age 65, and then continued on the drug until it was withdrawn from the market in September 2004. But Merck attorneys countered that she had multiple risk factors for heart disease, such as high cholesterol, diabetes, high blood pressure, and obesity. "The company acted responsibly, the science was on our side, and the jury agreed," said Jim Fitzpatrick of Hughes Hubbard and Reed, a member of the Merck defense team in the case, in a statement.

**—Alicia Ault**