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December 31, 2019

Seema Verma, MPH, Administrator
Centers for Medicare & Medicaid Services
U.S. Department of Health and Human Services
Hubert H. Humphrey Building, Room 445-G
200 Independence Avenue, SW
Washington, DC 20201

Submitted electronically via www.regulations.gov

Subject: CMS-1715-F Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule (PFS) and Other Revisions to Part B for Calendar Year (CY) 2020

Dear Administrator Verma:

On behalf of the American Association of Neurological Surgeons (AANS) and the Congress of Neurological Surgeons (CNS), representing more than 4,000 neurosurgeons in the United States, we appreciate the opportunity to provide our feedback on the evaluation and management (E/M) office/outpatient visit provisions open to comment in the above-referenced final rule.

Failure to Incorporate Increased E/M Values in Global Surgical Services

The AANS and the CNS strongly object to the continued failure of CMS to incorporate the CY 2021 increases in the evaluation and management (E/M) office visit codes into the 10- and 90-day global surgical codes. Organized medicine has spoken with a unified voice on this topic and it is difficult for us to understand the rationale for not incorporating those increases. We urge you to review comments in previous letters from members of Congress, the AANS, the CNS, the American Medical Association (AMA), the American College of Surgeons (ACS) and many other specialty societies asking the agency to reconsider this decision and to adjust the global codes to reflect the AMA/Specialty Society Relative Value Scale (RVS) Update Committee (RUC)-recommended increases in office visit work. We are deeply concerned that CMS has failed to heed the recommendations of virtually all medical specialties and the precedents set by the agency in ignoring the law and long-time practice regarding the Medicare PFS.

The excuse that CMS has used for disregarding the RUC-approved E/M work increases in the 10- and 90-day global codes is the agency's ongoing "consideration" of RAND data regarding number and level of post-operative visits for global codes. The AANS, the CNS, the RUC, the AMA, the ACS and most other specialty societies have provided strong evidence that the RAND reports have generated faulty data that led to erroneous conclusions. The RAND reports are not related to maintaining relativity across the Medicare PFS and not a valid rationale for CMS' failure to adopt the E/M increases in the global codes.

Per the Medicare statute, CMS is prohibited from paying physicians differently for the same work, and elimination of specialty differentials was a core reason cited for the creation of the original Medicare PFS. By not incorporating E/M office/outpatient visit increases into the global surgical codes, CMS undervalues E/M visit work performed by surgeons. This distorts the relativity of services, the very bedrock of the Medicare PFS.

Failing to adjust the global codes is tantamount to paying some physicians less for providing the same E/M services, in violation of the law. Since the inception of the fee schedule, E/M codes have been revalued three times — in 1997 (after the first five-year review, in 2007 (after the third five-year review) and in 2011 (after CMS eliminated consult codes and moved work RVUs into the office visit codes). When the payments for new and established office visits were increased in these instances, CMS also increased the bundled payments for these post-operative visits in the global period. We are simply asking CMS to follow its long-established practice for changes in E/M valuation.

Proposed Add-on Code GPC1X

The AANS and the CNS oppose the implementation of add-on code GPC1X, especially with the imminent changes to the coding structure for E/M codes. The rationale proposed is unclear, the work associated with the code is not well defined and the estimated negative impact on specialists that are less likely to report the code is excessive. This code is not necessary, as the new coding structure for E/M office/outpatient visits fully accounts for any additional work by permitting the reporting of a higher level code when supported by the medical record.

Conclusion

It has become apparent to the AANS and the CNS that CMS has disregarded the original intent of the agency and the CPT/RUC Workgroup on E/M Coding proposals, which was to reduce administrative and documentation burden for physicians. The CPT/RUC Workgroup specifically stated that its intention was to maintain relativity and not to redistribute payment between specialties. We urge CMS to acknowledge the overwhelming majority of the users of E/M codes and change the proposed policy regarding the global surgical code payments. Failing to increase the global surgical code values to account for the E/M office/outpatient visits destroys the relativity of the entire physician fee schedule and reinstates specialty differentials — counter to the law. The AANS and the CNS, therefore, urge CMS to increase the global surgical services to reflect increases in E/M office/outpatient visit codes.

Sincerely,



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American Association of Neurological Surgeons



Steven N. Kalkanis, MD, President
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