AFROC
ASSOCIATION OF FREESTANDING RADIATION ONCOLOGY CENTERS
Our Voice in Washington

The Source

August 2005

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Final Chance to Pay 2005 Dues

AFROC is the only organization that solely focuses on the regulatory, legislative, and socioeconomic issues of freestanding radiation oncology centers and is **your only voice in Washington**. Your continued participation is critical to its future and to the future of your freestanding radiation center.

Final invoices for 2005 dues have been mailed. It is estimated that 95% of your dues can be taken as a business expense. Thank you.

Check out AFROC's website
www.afroc.org

LEGISLATIVE NEWS

AFROC is busy this summer monitoring potential legislative and regulatory changes to Medicare payment policy. With Congress considering a Medicare bill this fall, some proposals currently being debated may significantly alter how physicians and radiation oncology treatments are reimbursed. The biggest and most controversial issue is so-called "pay for performance" where reimbursement is linked to quality and outcomes data. Though Congress may ultimately pass some form of this, the impact will not be felt until the Centers for Medicare and Medicaid Services (CMS) promulgates regulations.

PAY FOR PERFORMANCE EXAMINED IN CONGRESS, LEGISLATION INTRODUCED

On June 30, 2005, Senate Finance Committee Chairman Charles Grassley (R-IA) and Ranking Member Max Baucus (D-MT) introduced the Medicare Value Purchasing Act of 2005. The bill is aimed at promoting efficiency and quality in health care through the use of a modified "pay for performance" (P4P) reimbursement system. The bill marks the first time the "pay for performance" proposal has been drafted into legislative language. With speculation regarding a potential Medicare bill later this year, P4P has emerged as a viable model to begin restructuring physician payments in light of severe projected declines in reimbursement under the Sustainable Growth Rate model.

If you are planning to attend the Annual ASTRO Meeting in Denver, Colorado in October, do not miss the AFROC reception and update by Diane Millman on Sunday, October 16th from 6:00 to 8:00 pm.

This will be your chance to ask questions regarding Medicare reimbursement and legislative developments that impact your freestanding radiation oncology practice.

See pages 5 and 6 for more details.

Ultimately, any P4P system must pass Congress and be implemented through regulation by CMS. There are competing proposals on P4P, but we choose to examine this legislation in detail since it represents the consensus of the leading legislators on the issue.

The bill not only outlines an evolving performance-based payment method, it also mandates the development of quality and efficiency measurement standards and explores the implementation of proven technology systems that can be used to enhance patient care. Little is known at this point what impact P4P would have on radiation oncologists though there has been some discussion on how to conceptualize quality and outcomes data in the oncology field as it relates to P4P. The legislation does not specifically mandate any measures to oncology or free-standing centers specifically, but there are two provisions that would attempt to study oncology reimbursement through a three-state demonstration project to promote awareness and gather data and a MedPAC study to assist in designing a quality data gathering methodology.

The following is a brief summary of the provisions of the legislation that are most likely to impact AFROC members.

The bill instructs the Secretary to develop a quality measurement system for use in the P4P program. The Secretary's measures must incorporate measures of process, structure, outcomes, beneficiary experience, efficiency and equity, and they must be evidence-based and feasible to collect and report. The systems must also include at least one measure of health information technology infrastructure in the first year and incorporate additional technology measures in subsequent years. Data on any measure included under the systems must be collected for at least one year prior to use of the measure to determine whether a provider receives a P4P payment. The bill also grants the Secretary discretion to vary system measures applicable to physicians and practitioners depending on specialty area, type of practitioner or volume of services.

The weight of the individual measures within the system as a whole will be determined by the Secretary within these parameters: 1) Measures of clinical effectiveness must be weighted more heavily than measures of beneficiary experience; and, 2) Measures of risk adjusted outcomes must be weighted more heavily than measures of process.

The system would be updated by the Secretary once each 12 month period through the addition of more precise measurement tools and adjustment of the weight assigned to each measure. The update must also allow for the comparison of data from one year to the next for use in providing P4P payments. In developing the measurements, the Secretary must take into consideration quality measures used by nationally recognized organizations, the views of provider-based groups and clinical specialty societies, the MEDPAC report and results of the demonstration projects also required under the legislation, as well as the advice of a body specifically created under the legislation for purposes of providing recommendations on P4P measures.

The bill establishes an entity that is specifically charged with providing advice to the Secretary regarding the development and update of the measurement system. The entity will be a private non-profit organization governed by an executive director and a board, and will be composed of members who include the following: health plans and providers subject to the P4P legislation and groups representing such health plans and providers, groups representing Medicare beneficiaries, purchasers and employers, organizations that focus on quality improvement and measures, state government health programs, researchers with expertise in outcomes and effectiveness and technology assessment, and persons involved with developments of standards and certification of health information technology systems and clinical data.

Overall, this legislation appears to be a limited phase-in of a P4P system that provides a great deal of leeway to CMS in implementing the program. It is difficult to determine from the legislation itself how the program will actually function once it is implemented and, more importantly, how much of an impact the program will have on radiation oncology. In particular, there is nothing in the bill which requires that Secretary to develop quality measures for all physician specialties or ensures that all specialties will share equally in P4P funds.

Although the language of the bill indicates that collection and submission of quality data under the program is "voluntary," a physician would experience a reduction in scheduled payments if he or she chooses not to submit data. The P4P payments themselves will not be punitive in nature as physicians will receive additional payment amounts for quality improvement or for meeting certain threshold quality standards. However, the pool of funds for the additional payments will be financed by a small percentage reduction in Medicare physician payments so, in effect, all physicians will experience a slight reduction in payment once the program is implemented.

As for the quality measures used to determine the P4P payments to physicians, once again the bill provides the Secretary broad discretion to create and develop these measurements with the input of affected and interested parties. As such, it will be important that AFROC be allowed to play an active and vocal role in the development process to ensure these measures are logical, effective, fair and not overly burdensome.

The bill does not provide any incentive payments for adoption of implementation of additional technologies in physician offices. It does authorize a number of information technology studies and provide a fraud and abuse safe harbor to allow other parties to assist physicians with the adoption of new information technologies targeted to improving quality of care and the exchange of health care information. Also, the bill does have "partner" legislation sponsored by Senators Enzi and Kennedy to provide for

implementation of and payment for advanced health care information technologies.

Finally, the bill does not directly address the currently scheduled physician fee schedule reductions or provide a fix for the sustainable growth rate (SGR) formula. However Senate Finance Committee Chairman Chuck Grassley (R-IA) recently announced that he expects to introduce legislation at the end of the year to protect physicians from the 4.3 percent Medicare pay cut next year although this is unlikely to be a long-term fix of the flawed SGR formula.

Congressional Action on Physician Fee Schedule Payment Cut in 2006

At a recent House Ways and Means Subcommittee hearing on P4P and physician payment, Subcommittee on Health Chairwoman Nancy Johnson (R-CT) told CMS Administrator Mark B. McClellan that projected cuts in physician payment will "wipe out" P4P bonuses, while P4P programs are likely to increase physician spending, resulting in further pay cuts under the physician fee schedule.

CMS is projecting negative physician payment updates of about minus 5 percent annually for the next seven years, beginning in 2006, unless Congress authorizes a change. While generally agreeing that the current physician payment system is broken, McClellan explained to Johnson that P4P programs could provide some part of the answer toward reducing volume increases that have produced negative payment updates.

The American Medical Association, which testified at the hearing, speculated that P4P programs for physicians under Medicare may prevent or shorten hospitalizations under Part A, which would entail more care delivered in physicians' offices, raising physician spending and resulting in further cuts in physician payment under the SGR.

The Ways and Means Committee is currently drafting legislation similar to the Senate bill discussed above to implement P4P programs and to repeal the SGR formula. The SGR portion of that bill has been estimated by the Congressional Budget Office to cost about $154 billion over 10 years, a very steep price tag (equivalent to ¼ of the entire Medicare drug benefit's projected cost) that Congress is not likely to agree to in the tight fiscal climate.

The Committee is also considering whether to ask CMS to administratively remove prescription drug expenditures from the SGR. The drug component has been increasing at a faster rate than physician spending and is exacerbating the negative updates. Taking drugs out of the calculation would reduce the cost of Johnson's bill to about $45 billion.

Proposed 2006 HOPPS Rule - Radiation Oncology Codes

The proposed APC rates for hospital-based outpatient services (including radiation oncology services) were released on July 18. On the whole, while certain services will be reduced, the proposed rates would, in the aggregate, improve Medicare payment for most hospital-based radiation oncology centers, since many of the higher volume services (e.g. intermediate treatment delivery and many of the physics and dosimetry codes) will increase. The primary losers appear to be brachytherapy services.

Specifically, the following procedures have reductions in payment proposed for 2006:

76950 Ultrasound Guidance (APC 268) $62.69--7% reduction in 2005 payment 77761-77763, 77776 & 77777 LDR Brachytherapy (APC 312) $295.60---7% reduction in 2005 payment

77778 Prostate Brachytherapy (APC 651) $717.53--42.6% reduction in 2005 payment

77781-77784 & 77799 HDR Brachytherapy (APC 313) $760.11--3.9% reduction in 2005 payment

The following radiation oncology codes have proposed increases greater than 10%:

77310 Isodose plan; intermediate +142.6%

77411 Radiation treatment delivery +50.6% 77520 & 77522 Proton treatment delivery; simple +36.2% 77600-77620 Hyperthermia codes +45.9% 77750 Infuse radioelement solution +50.6%

Please note the following APC changes--all are moving to higher paying APCs:

77310 Isodose plan; intermediate from APC 304 to 305

77411 Radiation treatment delivery from APC 300 to 301

77523 & 77525 Proton treatment delivery from New Technology APC 1510 to clinical APC 667 77750 Infuse radioelement solution from APC 300 to 301

Conclusion

AFROC will continue to monitor potential changes to physician reimbursement, particularly on pay for performance programs that could significantly impact the way physicians and freestanding centers are reimbursed. Though there is much flux in whether and how Congress will ameliorate the proposed cut in physician payments for 2006, health care observers are increasingly optimistic that some legislative change will occur this year, even if it is just a one or two year adjustment. Only once in the past five years of projected declines in reimbursement did Congress allow the cut to move forward. But the increasing price tag attached to a fix and the difficult fiscal climate may ultimately lead to a more long term solution, such as pay for performance.

PHYSICIAN PRESENCE: AN ERROR IN THE ELECTRONIC FORMAT CARRIER MANUAL

An Alert From Diane Millman

I recently had occasion to go back and check the Carrier Manual instruction on physician presence, and found that when CMS re-codified this in electronic format (the only format that is currently effective), it went back to the old verbiage from before the weekly treatment management codes were put in place. The current Manual provision provides the following example of how the physician presence requirement works:

Example:

A radiologist examines a patient on Monday prior to the first session of radiation therapy, is present in the facility to provide supervision during the patient's daily treatment sessions Monday through Friday, and examines the patient again on Friday to evaluate progress, makes any necessary changes in dosage, etc. Only the two visits on Monday and Friday represent billable physician's services, although the facility would bill for the technical component in the five sessions of therapy.

This is clearly a ministerial error, but could create confusion, since, after a while, folks will forget that this example was actually deleted and the following was substituted:

However, effective for radiation therapy services furnished on or after April 1, 1989, radiologists weekly treatment management services are payable as set forth in Section 5262.K.

We clearly need to get CMS to correct this ministerial error. The question is, while we are at it, should we try to get them to also clarify that the direct supervision requirement only applies to daily treatment and not to other services, like physics and block construction. We have typically stayed away from discussions of this Manual provision because of concerns that this may affect valuation of the weekly treatment management codes, but I think that the ministerial error made by CMS in putting Section 2075 into electronic format must be addressed in any event. Please let me know your thoughts. My email address is diane.millman@ppsv.com.

RECEPTION, PRESENTATION AND ROUNDTABLE DISCUSSION

The Association of Freestanding Radiation Oncology Centers Invites You to Participate in

A Reception and Roundtable Discussion
On Medical Reimbursement and Regulatory Issues

Sunday, October 16, 2005
6:00 to 8:00 pm

The Adam's Mark Hotel
Denver, Colorado

Presentation by Diane Millman, JD
followed by Q&A

IF YOU OWN OR WORK AT A FREESTANDING RADIATION ONCOLOGY CENTER, THIS IS A SESSION YOU CANNOT AFFORD TO MISS.

Space is Limited.

There is no charge but, you must register to attend.
A registration form is attached.

For more information please contact Sheila Gell at (202) 872-6767 or at sgell@ppsv.com.

This program is sponsored in part by Vantage Oncology.

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Reception, Presentation & Roundtable Discussion

October 16, 2005
6:00 to 8:00 pm
Adam's Mark Hotel
Denver, CO

Return form to: AFROC, 1875 Eye St. NW, 12th Floor, Washington, DC 20006 or fax to 202-466-5938, Attn: Sheila Gell

Full name:_____Title:_____

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Address:_____City_____State_____Zip_____

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- ☐ This is my first time attending an AFROC Conference
- ☐ AFROC member
- ☐ Non-member

This Event Is Sponsored In Part By Vantage Oncology.

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Dear AFROC Member:

Re: Contact Information Update

In preparation for the **2005-06 AFROC Membership Directory** publication and to be certain that you continue to receive important mailings and news from AFROC, please help us update our records. If you have not already done so and have moved, are planning to move or have changed any of the information listed below, please fax your updates to me at (202) 466-5938 or mail it to my attention at the address listed below.

☐ Changes are indicated in the space below.

Please complete only if there are changes. ***Please type or print clearly.***

Name: _____

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Please return this completed form by **AUGUST 26TH** via fax or mail to:

Sheila Gell, AFROC
1875 Eye Street, NW – 12th Floor
Washington, DC 20006
Fax. (202) 466-5938

Thank you!

Sheila Gell

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