The Role of Congress in Medicare Physician Payment

THE LAW

Congress created the payment systems (Medicare Physician Fee Schedule and Hospital Outpatient Prospective Payment System) and the Sustainable Growth rate (SGR) formula that serves as the underpinning of Medicare physician payment. The SGR is an expenditure target formula. Physician payments are cut if the growth in physician services exceeds expenditure targets.

STOP-GAP FIXES

Over the last several years, physicians have faced deep payment cuts under the flawed SGR formula. With one exception when payment cuts were temporarily allowed to take effect, each year Congress has acted, often multiple times, to provide temporary payment "fixes" so that physician reimbursement under Medicare is either frozen or provided with a small increase. This was the case most recently in January 2013 when Congress voted to avert the -26.5 percent cut in reimbursement for services provided under the Medicare Physician Fee Schedule in 2013. Congress included a provision to extend current Medicare physician payment rates for one year.

As part of the package of offsets to defray the costs of this extension, lawmakers included a provision to increase the equipment utilization rate assumption for advanced diagnostic imaging services provided in the physician office. This policy increases the utilization factor used in setting payment for imaging services in Medicare from 75 percent to 90 percent. This drives down practice expense values and ultimately reduces reimbursement for these services. The Congressional Budget Office estimates this provision will save \$0.8 billion.

In addition, lawmakers were unable to find consensus on how to avoid the two percent across-the-board budget cuts mandated under federal budget sequestration procedures. Physicians who participate in Medicare are subject to a two-percent provider payment cut effective April 2013.

OUTLOOK

There was substantial momentum in the 113th Congress to address Medicare payment reform. However, at the last minute, much anticipated agreements unraveled and Congress was forced to consider another temporary fix for Medicare physician payment.

Congress passed, and President Obama signed into law, the "Protecting Access to Medicare Act of 2014." The law provides a reprieve from the 24 percent Medicare physician payment cut that was slated to take effect on April 1, 2014. A 0.5 percent positive payment update will remain in force through the end of this year. A payment freeze will be in place from January - March 2015.

Of specific interest to the cardiac CT community, the legislation includes appropriate use criteria for advanced diagnostic imaging. The legislation also includes technical component reimbursement reductions for CT equipment that does not meet certain radiation dose optimization standards.

1) Effective for services furnished on or after January 1, 2016, there will be payment reductions for the technical component of CT imaging services performed on equipment not meeting certain equipment standards. This applies to codes 70450-70498, 71250-71275, 72125-72133, 72191-72194, 73200-73206, 73700-73706, 74150-74178, 74261-74263, and <u>75571-75574</u> (and any succeeding codes).

Specifically, the payment reduction would apply to services performed on machines that do not meet the NEMA Standard XR-29-2013 -- Standard Attributes on CT Equipment Related to Dose Optimization and Management. Through rulemaking, the Secretary of the U.S. Department of Health and Human Services (HHS) may apply successor standards.

The technical component payment reduction would be 5 percent for 2016 and 15 percent for years 2017 and beyond. This would apply to both the physician fee schedule and the hospital outpatient prospective payment system.

2) The law establishes an appropriate use criteria program for ordering and furnishing professionals, to take effect January 1, 2017. This applies to advanced diagnostic imaging in physician offices, hospital outpatient settings, ambulatory surgical centers, and other outpatient settings deemed appropriate by the Secretary of Health and Human Services.

By November 2015, the HHS Secretary is required to consult with physician stakeholders and other groups and specify applicable appropriate use criteria. By April 2016, the Secretary must specify a list of clinical decision support mechanisms for providers to reference. The ordering professional would be required to consult with appropriate use criteria and provide the furnishing professional with the following information:

- which decision support mechanism was consulted
- whether the service would adhere or not adhere to appropriate use criteria standards
- whether criteria was not applicable to the service being ordered
- the NPI of the ordering physician

This provision would not apply to the hospital inpatient setting. Payment would only be made to the furnishing provider if the above information is included with the claim. Based on 2 years of data, outlier ordering professionals would be subject to prior authorization for advanced imaging services provided to Medicare beneficiaries. This provision would take effect January 2020.