

CMS Releases 2011 Medicare ASC Rule

On July 2nd, the Centers for Medicare and Medicaid Services released the CY 2011 proposed payment rule for hospital outpatient departments and ambulatory surgery centers. 2011 marks the end of the transition to the revised ASC payment system: this will be the first year in which payments to ASCs will be based solely on the basis of the outpatient prospective payment system (OPPS) relative weights. After taking into account the scheduled increase in the update factor and decrease resulting from the productivity adjustment, the result will be a zero percent increase in ASC payments next year.

As you know, CMS has used the Consumer Price Index for all Urban Consumers (CPI-U) to update ASC payments since the payment system was originally implemented. Although MedPAC took a significant step forward this year in declaring the CPI-U an inaccurate index for updating ASC payments, we are disappointed that CMS did not propose to replace the CPI-U with the hospital Market Basket for purposes of updating ASC payments, a change which would provide a positive update for ASC payments consistent with MedPAC's recommendation. We have made significant strides in urging the agency to move in that direction and will continue to do so this summer by advancing the issue in the Senate with the help of Senators Wyden and Crapo.

There are several important issues in the rule that we will be evaluating as we review the proposal in detail. In the interim, below is a brief recap of a few key issues.

1. **Inflation Update:** CMS estimates the CPI-U for 2011 will be 1.6 percent. The hospital market basket is projected to be 2.4 percent, but the reform bill requires it to be reduced by 0.25 percent, leaving the HOPD update at 2.15 percent.
2. **Productivity Adjustment:** As required by the health reform bill, ASC rates will be reduced by a measure of economy-wide productivity gains (a 10-year rolling average calculated the Bureau of Labor Statistics). CMS estimates this adjustment will be 1.6 percent in 2011, meaning the ASC update will effectively be zero percent. This is inconsistent with MedPAC's recommended update of 0.6 percent and an outcome we will vigorously protest.
3. **Conversion Factor:** After taking into account the update and productivity adjustments, CMS further adjusts the conversion factor to account for budget neutrality in the recalibration of the wage index. This recalibration is slightly positive, so the ASC conversion factor for 2011 will rise from the CY 2010 ASC conversion factor of \$41.873 to \$41.898 for CY 2011.
4. **Scaling of ASC Relative Weights:** Each year, CMS applies a 'secondary' budget neutrality calculation to the ASC relative weights to ensure that changes to the APC relative weights under the OPPS do not

result in an aggregate increase or decrease in payments. CMS estimates the scaling factor for 2011 to be 0.9090 (the final CY 2010 scaler was 0.9567). The significantly higher scaler is partly due to the fact that these are the fully transitioned weights and partly due to increases in the OPPI relative weights for ASC procedures.

5. **Wage Index:** CMS continues to use the pre-floor, pre-reclassified wage index to adjust ASC payments for geographic differences in the relative cost of labor. The differences in some markets starting in 2011 will be particularly pronounced because of a policy in the health reform bill that sets the hospital wage index for inpatient and outpatient services in so-called “frontier states” at 1.0. The states affected by the frontier wage index policy include Montana, Wyoming, North Dakota, South Dakota, and Nevada.

6. **Quality Reporting:** CMS has had authority since 2008 to implement a quality reporting system for ASCs and reduce payments to providers who do not report quality data to the agency. The industry has developed quality measures that have been endorsed by the National Quality Forum. We have also urged the agency to create an infrastructure for ASCs to report quality data and demonstrate their superior performance on these metrics. Once again, the agency has declined to establish such a system. CMS will, however, be developing a report to the Congress as directed by the reform bill articulating a path toward implementing value-based purchasing in ASCs. We expect the agency to provide more detail on their plans for quality reporting in this document.

7. **Waiver of Beneficiary Cost-sharing for Certain Services:** The health reform bill waives the deductible and coinsurance for certain preventive services that are paid under the ASC payment system and have been recommended by the United States Preventive Services Task Force with a grade of A or B for any indication or population. This will affect several HCPCS codes for colonoscopies.