

HEALTH REFORM IMPACT

What you need to know NOW

NEWS FOR THE CLIENTS AND FRIENDS OF BASS, BERRY & SIMS PLC

The Primacy Of Primary And Preventive Care (And Other Health Reform-Related Highlights of the 2011 Medicare Physician Fee Schedule)

November 22, 2010

The 2011 Medicare Physician Fee Schedule (“MPFS”) implements a number of important aspects of the recent historic health reform legislation (the “Act”).¹ In our issue of Health Reform IMPACT published last week, we covered some of the changes affecting advanced imaging providers, such as the final physician disclosure rules and changes in imaging payment methodology.² In this issue of *Health Reform IMPACT*, we’ll address some of the other important health reform-related changes, including new financial incentives to promote preventive medicine and primary care services, new deadlines for submitting claims, and changes in payment for various services. These changes will have a significant operational and financial impact on many physicians, suppliers, and others in the healthcare industry.

Each of these changes goes into effect on January 1, 2011 unless otherwise noted. Watch for a separate forthcoming issue of *Health Law Update* that will address the non-health reform aspects of the 2011 MPFS.

Incentivizing Preventive Care

Coverage of Annual Wellness Visits

Medicare has historically provided beneficiaries with a one-time initial preventive care physical examination (known as an IPPE or “Welcome to Medicare” visit). However, as of January 1, 2011, Medicare will also provide coverage for annual wellness visits in which beneficiaries will receive personalized prevention plan services, including updating the beneficiary’s medical history, reviewing all prescribed medications, recording body size and vital statistics, and establishing a screening schedule for the next five to 10 years.

¹ The Patient Protection and Affordable Care Act as amended by the Health Care and Education Reconciliation Act of 2010 (collectively, the “Act”) mandated a number of the changes that now appear in the 2011 MPFS. The 2011 MPFS was released by CMS on November 2, 2010. It is scheduled to appear in the Federal Register on November 29, 2010.

² See “Part III Of Putting The Squeeze On Ancillaries,” [available here](#).

Elimination of Deductible and Coinsurance for Most Preventive Services

Medicare beneficiaries will no longer have to meet a deductible or make a 20% coinsurance payment when receiving most preventive services after January 1, 2011. The deductible and coinsurance obligation will be waived for all Medicare-covered preventive services that are “strongly recommended” or “recommended” by the U.S. Preventive Services Task Force.³ This waiver also applies to the “Welcome to Medicare” visit and the annual wellness visits described above. In addition, the waiver applies to tests that begin as colorectal screening tests but, based on findings during the test, become diagnostic services.

Promoting Primary Care and General Surgery in Rural Areas

Incentive Payments to Primary Care Practitioners

In order to promote primary care practice, the Act provides for incentive payments for primary care services equal to an additional 10% of the normal payment amount for such services. MPFS implements this incentive payment system and provides clarity about who qualifies for the payment. The incentive payment is available for primary care practitioners for whom primary care services accounted for at least 60% of the practitioner’s MPFS allowed charges for a prior period. Eligible providers include family medicine physicians, internal medicine physicians, geriatric medicine physicians, pediatricians, nurse practitioners, clinical nurse specialists, and physician assistants. The incentive payments will be made on a quarterly basis and they apply to services performed between January 1, 2011 and January 1, 2016.

Incentive Payments for Major Surgical Procedures Performed in Health Professional Shortage Areas

General surgeons who provide major surgical procedures in areas designated as Health Professional Shortage Areas will also be eligible for incentive payments after January 1, 2011. The incentive payments will be equal to 10% of the MPFS payment for the major surgical services, and they will only be available for physicians enrolled in Medicare as general surgeons. Like the primary care incentive payments, these incentive payments will be made on a quarterly basis over a five-year period from January 1, 2011 through January 1, 2016.

New Deadline for Submitting Claims

The MPFS, per a provision of the Act, requires that all Medicare fee-for-service claims for services furnished after January 1, 2010 be filed within one calendar year after the date of service. Previously, the maximum timely filing deadline was 15 to 27 months. In addition, any claims for services performed before January 1, 2010 must be submitted by December 31, 2010 (even if it might have been permissible under the old rules to submit the claims later). The MPFS also establishes three new exceptions to the timely filing requirements. The exceptions relate to retroactive enrollment situations, dual-eligible beneficiary situations, and retroactive disenrollment from Medicare Advantage plans or PACE provider organizations.

³ Some examples of these preventive services include influenza vaccinations, screening mammographies, prostate cancer screening tests, colorectal cancer screening tests, screening for glaucoma, cardiovascular screening blood tests, diabetes screening tests, medical nutrition therapy services, bone mass measurement, outpatient diabetes self-management training and other services.

Other MPFS Changes that were Mandated by the Act

Some of the other changes required by the Act that were implemented by the MPFS include:

- Increased payment for bone density tests.
- Increased payment for certified nurse-midwife services from 65% to 100% of the MPFS amount for the same service if it were furnished by a physician (or 80% of actual charges if that is less).
- An extension of the durable medical equipment (DME) competitive bidding program from the current 70 metropolitan statistical areas (MSAs) to 91 MSAs.
- Revisions to the practice expense geographic adjustments. This includes a permanent 1.0 floor for the geographic practice cost indices for frontier states (currently Montana, Wyoming, Nevada, North Dakota, and South Dakota).
- Identifying additional categories of services that may be misvalued, including codes with low work Relative Value Units (RVUs) commonly billed in multiple units per single encounter and codes with high volume and low work RVUs.
- Extension of Medicare reasonable cost payments for certain clinical diagnostic laboratory tests furnished to hospital patients in certain rural areas.
- Authorizing Physician Assistants to order post-hospital extended care services in skilled nursing facilities.
- Ending payment for the technical component of certain physician pathology services that the Centers for Medicare & Medicaid Services (CMS) considered to be duplicative of separate hospital payments.
- Changes in payment methodology for power-driven wheelchairs.
- Changes to the physician feedback program. This is a program that provides confidential cost-effectiveness feedback to physicians, and, under the MPFS, will now provide quality feedback as well. The data collected under the program is to be used to help develop a value-based payment modifier beginning in 2015.
- Revision of certain market basket updates and incorporation of productivity improvements into market basket updates that do not already incorporate such improvements.

If you have any questions about how these health reform changes and the 2011 Medicare Physician Fee Schedule impacts your organization, please contact any of the attorneys in our Healthcare Practice Group listed below.

Also, please [click here](#) to visit our special Web page for Health Reform IMPACT.

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