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Key Decisions Scheduled for Medicare Physician Payments

Over the next 18 months Congress and a variety of governmental agencies will be making decisions about Medicare that could drastically impact physician reimbursement. To provide clarity on the upcoming “what and when”, we have summarized the known dates and decisions below.

SGR

This has become an annual fixture on the legislative docket, and the next scheduled date for an SGR mandated reduction in physician payment rates is January 1, 2012. As physicians are all too well aware, this has been the case every year since 2002, and from 2003 through present, the cuts have been averted by legislative action. CMS officials and numerous legislators have voiced strong opposition to the 29.5% physician payment reduction, and there is consensus that a permanent fix to this problem is both in order and overdue. Time will tell as to whether future actions will be consistent with recent pronouncements.

CMS Proposed Rule

On July 1st, 2011, CMS released the proposed rule for the 2012 Medicare physician reimbursement schedule. The proposed rule includes changes to the Medicare conversion factor as well as to proposed changes to the Relative Value Units (RVU) for certain codes. As noted above, the 2012 conversion factor includes the 29.5% reduction, lowering it to \$23.96.

The proposed rule also includes changes in RVU values in two key areas of emergency medicine: observation services and evaluation and management services. Observation codes received the most drastic cuts in the proposed rule, with CPT 99234-99236 being cut 15% to 25% in RVU total value. Additionally, CMS proposed reducing RVUs for emergency medicine evaluation and management codes by 1%. Unless CMS changes its position, these cuts in RVU value will go into effect January 1, 2012.

Debt Ceiling Deal and Medicare Reimbursement

We must wait until the second phase of the ‘Debt Ceiling Deal’ to know whether Medicare physician payments will become part of the overall deficit reductions. The Deal, which was signed into law August 2, 2011 by President Obama, requires spending cuts in two stages. Stage one does not include Medicare or Medicaid cuts.

Stage two is more relevant to physicians. A specially-appointed 12-member Congressional committee (or “super committee”) is charged with recommending \$1.5 trillion in deficit reductions over the next 10 years. The Committee has until November 23rd to make its recommendations, which could include cuts to Medicare and Medicaid in the form of provider reimbursements. Congress will vote on the committee’s recommendations by December 23, 2011. If the committee gridlocks and fails to act, a trigger will be activated to cut federal spending by \$1.2 trillion across the board for a wide array of programs, including a 2% cut to Medicare provider payments. Should this happen, the 2% cuts would go into effect January 1, 2013.

3% IRS Withhold

The IRS has delayed enforcement of a rule that would require a 3% withhold on Medicare provider payments of \$10,000 or more. Originally enacted as part of the Tax Increase Prevention and Reconciliation Act of 2005 (TIPRA), this law requires all federal agencies withhold an amount equivalent to 3% of the federal payments made to individuals or corporations providing services to the federal government (including Medicare). According to the rule, payments received in aggregate, containing reimbursement for multiple claims, will still be subject to the 3% IRS withhold. Enforcement of the rule has been delayed until January 1, 2013.