American Academy of Physical Medicine and Rehabilitation

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Seema Verma, MPH
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attn: CMS-1693-IFC
P.O. Box 8010
Baltimore, MD 21244-8016

Re: CMS-1693-IFC Medicare Program; Revisions to the Payment Policies Under the Physician Fee Schedule and Other Revisions to Part B for CY 2019

Dear Administrator Verma:

On behalf of the more than 9,000 physiatrists of the American Academy of Physical Medicine and Rehabilitation (AAPM&R), we appreciate the opportunity to submit comments addressing policies in the calendar year (CY) 2019 Medicare Physician Fee Schedule final rule. AAPM&R is the national medical specialty organization representing physicians who are specialists in physical medicine and rehabilitation (PM&R). PM&R physicians, also known as physiatrists, treat a wide variety of medical conditions affecting the brain, spinal cord, nerves, bones, joints, ligaments, muscles, and tendons. PM&R physicians evaluate and treat injuries, illnesses, and disability, and are experts in designing comprehensive, patient-centered treatment plans. Physiatrists utilize cutting-edge as well as time-tested treatments to maximize function and quality of life. We appreciate CMS's consideration of the comments we submitted in response to the proposed rule. Based on the policies as finalized for 2019 and 2021, we are providing some additional feedback for your consideration.

2019 Documentation Changes

On behalf of our members, ***thank you for approving several documentation changes for 2019 which will reduce burden.*** In our comment letter to the proposed rule, AAPM&R supported the following proposed changes:

1. Changing the required documentation of the patient's history to focus only on interval history since the previous visit;
2. Eliminating the requirement for physicians to re-document information that has already been documented in the patient's record by practice staff or by the patient; and

3. Removing the need to justify providing a home visit instead of an office visit.

We appreciate your consideration of comments submitted by the Academy as well as other specialties in support of these changes.

Joint CPT RUC Workgroup Proposal
As CMS is aware, the American Medical Association's (AMA) Current Procedural Terminology (CPT) and Relative Value Scale Update Committee (RUC) are working closely on a proposal to revise E/M codes and documentation guidance. AAPM&R has been engaged in this work and continues, along with numerous other medical specialties, to provide input on the proposal. AAPM&R supports this multi-society effort, which includes many changes that are in line with CMS's Patients Over Paperwork initiative. ***We urge CMS to consider the joint CPT/RUC Workgroup proposal that results from this effort as an alternative to the 2021 finalized policy, as we believe the input of the broad spectrum across the medical community will likely result in a policy that better works for patients and physicians, while maintaining the integrity of the office/outpatient E/M code set and reducing administrative burden .***

Specialized Care Add-On Code
Upon review of the finalized 2021 policy for E/M documentation and payment, we have noted that PM&R has been excluded from the non-procedural specialized care add-on code, GCG0X. ***We believe this is a significant oversight as physiatrists see some of the most complex patients with significant needs during E/M encounters.*** Per the final rule, the list of specialties included in GCG0X was identified because, "given their billing patterns, we believed that these are the specialties that apply predominantly non-procedural approaches to complex conditions that are intrinsically diffuse to multi-organ or neurological diseases."

As we described in our comment letter to the proposed rule, and similar to neurologists and rheumatologists, physiatrists treat patients with substantial cognitive and physical impairments. These impairments are associated with medical comorbidities and high care needs. For example, many of our members are treating patients with stroke, traumatic brain injury, and neuromuscular disease. It takes more time to care for these patients than it does to address basic care in the general population. Further, evaluation, diagnosis and development of a treatment and management plan for chronic pain – which

regularly accompanies the above conditions – is complicated and time consuming. CMS' finalized policies fail to account for this level of complexity that is inherent in the care that our members provide. ***Therefore, should CMS move forward with implementation of payment changes tied to differential complexity by specialty, we recommend that any articulation of high-resource, high-complexity specialties acknowledge and include physiatry.***

General Process and Administrative Procedure Request

In future rulemaking, AAPM&R asks that CMS proceed with more precision and clarity in proposed rules. Engaging in the rulemaking process is a time-consuming and laborious process for stakeholders. It is important that stakeholders are able to decipher between that which CMS is providing informationally or as background and that which is an actual CMS proposal. Being clear about whether CMS is actually making a proposal is something that is key to the comment development process and ensuring that our members are spending time reviewing the most relevant information. For example:

- In the CY 2019 MPFS proposed rule, CMS reiterated its process for placing codes on the Potentially Misvalued Code list, *"we publish the list of nominated codes* ***and indicate whether we proposed each nominated code as a potentially misvalued code****. The public has the opportunity to comment on these and all other proposed potentially misvalued codes. In that year's final rule, we finalize our list of potentially misvalued codes*." CMS then reviewed a list of codes provided by a submitter **and made no proposal** regarding whether the codes should be placed on the potentially misvalued code list. Then, in the final rule, "*As previously indicated, in the proposed rule we publish the list of codes nominated as potentially misvalued, which allows the public the opportunity to comment on these codes; then, in the final rule, we finalize our list of potentially misvalued codes*." First, CMS neglects to correctly repeat its policy as articulated in the proposed rule. Then, CMS goes on to finalize a list of codes on the potentially misvalued codes list that it never officially proposed for inclusion on this list.
- In the CY 2019 OPPS proposed rule, CMS officially proposes several codes for removal from the Inpatient Only list. Then, in reviewing CPT 0266T (in a section that states only "Solicitation of Public Comments"), CMS states only that "we are seeking public comments" on CPT 0266T with no formal proposal, going so far as to create a table of CY 2019 proposed changes to the IPO list (Table 29) with no mention of CPT

0266T. Yet in the CY 2019 final rule, CMS finalized the removal of a code from the IPO list that it had never proposed for removal. This extends even further to CMS finalizing the removal of a code (CPT 00670 (*Anesthesia for extensive spine and spinal cord procedures (eg, spinal instrumentation or vascular procedures*) never mentioned for a comment solicitation in the proposed rule and done in response to a request received in between the proposed rule and final rule.

While we understand the immense resources required on the part of the Agency to promulgate regulations, the integrity of the rulemaking process can only be maintained if the Agency is precise and clear in its intentions in order to facilitate meaningful feedback from the stakeholder community. We respectfully request that CMS be mindful of this as well as its obligations under the Administrative Procedure Act as it engages in future rulemaking.

Thank you for the opportunity to comment on this important rule. If the Academy can be of further assistance to you on this or any other rule, please contact Carolyn Winter-Rosenberg at 847-737-6024 or by email at cwinterrosenberg@aapmr.org for further information.

Sincerely,

Annie Davidson Purcell, D.O.
Chair
Reimbursement and Policy Review Committee