

October 9, 2003

Thomas A. Scully
Administrator
Centers for Medicare and Medicaid Services
U.S. Department of Health and Human Services
P.O. Box 8013
Baltimore, MD 21244-8013

Attention: CMS-1229-P

Dear Mr. Scully:

On behalf of the more than 170,000 physicians represented by the Alliance of Specialty Medicine, we are submitting comments on the Center for Medicare and Medicaid Services (CMS) proposal on payment reform for Part B drugs. The Alliance was founded in 2001 to serve as a strong voice for specialty medicine and is dedicated to addressing many of the tough and complex health care issues debated in Washington today, such as this proposed rule on payment reform for Part B drugs.

The Alliance's Key Concerns with Payment Reform for Part B Drugs

We have two overriding concerns with this proposal. First, it is essential to the integrity of the Medicare program that adjustments in practice expense payments for the administration of drugs be made in a way that does not favor one specialty over the others that also administer Part B covered drugs. Second, it is just as essential that these adjustments be permanently exempted from the budget neutrality requirement for the purpose of determining the expenditure target for Medicare spending for physician services in the Sustainable Growth Rate (SGR) formula.

Proposed Options for Change

In brief, the notice published by CMS on August 20 contains four alternatives to the average wholesale price (AWP) reimbursement formula currently used by Medicare to pay for Part B covered drugs. These options are (1) comparability with the amount that Medicare contractors pay for the same drug when it is provided to their private sector policyholders and subscribers, (2) an average discount of approximately 10-20% off the AWP price for most drugs, (3) the Widely Available Market Price, or WAMP, which would be equivalent to the price a prudent buyer would pay when buying drugs from common sources such as wholesalers, manufacturers, specialty pharmacies and group purchasing organizations, and (4) a competitive purchasing program based on the Average Sales Price (ASP) of covered drugs. Each of these options generates savings, although options #3 and #4 would generate the most savings for the Medicare program, according to CMS.

The Alliance is unable to choose one option over any other at this time. This is because the proposal does not give sufficient data to assess specialty-level impacts for any specialty other than oncology. It is also unrealistic to expect that any of these options could become effective at once, as envisioned in the proposal.

However, no matter what option might be eventually chosen, it is vital that Medicare payments adequately cover the physician's acquisition cost for Part B drugs and the costs for administering these drugs to patients. Physicians must have a stable payment system that covers the real acquisition and administration costs to know if it is economically feasible to continue furnishing these drugs to their patients.

Adjustments in Payments for Drug Administration Codes

The proposal would result in increased physician fee schedule expenditures without applying the budget neutrality requirement for adjustments made to the practice expense relative value units (RVUs) for drug administration. The Alliance strongly supports this element of the proposal because these practice expense adjustments should count towards determining the expenditure target for spending on physician services in the Sustainable Growth Rate (SGR) formula.

Furthermore, the Alliance agrees that the drug payment changes and drug administration changes must be made simultaneously, as CMS proposes. This is important because without more realistic payments for the practice costs associated with administering drugs, stand alone cuts in Medicare drug payments could force many physicians to stop furnishing drugs in their offices.

It is also essential that no one specialty receive preferential treatment if and when the proposed adjustments in practice expense payment are established. This is because adjustments will affect Medicare reimbursement for urologists, orthopaedic surgeons, cardiologists, dermatologists, gastroenterologists, ophthalmologists, and radiologists, and other specialists, as well as oncologists. It is important to note, however, that it is unclear how long the budget neutrality waiver will be extended. This is the case as other specialties that are negatively impacted may submit alternative proposals or supplemental practice expense data that if accepted would not be implemented until years beyond 2004.

CMS Should Reconsider this Proposal

If the proposal is clarified regarding the waiver, we believe that CMS is adopting the right approach with respect to the budget neutrality issue as it applies to adjustments that would be made to practice expense RVUs for drug administration.

However, the lack of specialty-specific data on the impact of the four drug payment options is of such consequence that we urge CMS to withdraw this proposal, or else release it as an interim final rule once the agency has chosen an option. An interim final rule should include specialty-specific impact data as well as the revised practice expense RVUs for all of the CPT codes that would be adjusted as a result of the proposal.

The Alliance welcomes the opportunity to work with the CMS staff on addressing our concerns in a final rule to revise payments for the acquisition and administration of Part B drugs. Please contact Robin Hudson at rhudson@auanet.org or (410) xxx-xxxx, or Laura Saul Edwards at ledwards@aad.org or (202) 842-3555 if we can answer questions or provide additional information or to assist you.

Thank you for considering our views.

Sincerely,