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December 3, 2018

SUBMITTED VIA ELECTRONIC MAILING

Ms. Seema Verma
Administrator
Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1695-P
P.O. Box 8016
Baltimore, MD 21244-8013

[Submitted online at:

https://www.regulations.gov/document?D=CMS_FRDOC_0001-2517]

Re: CMS-1695-FC Medicare Program: Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs

Dear Administrator Verma:

On behalf of the American Academy of Otolaryngology—Head and Neck Surgery (AAO-HNS), I am pleased to submit the following comments on the “Medicare Program: Changes to Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs” (Final Rule) published in the Federal Register on November 21, 2018. Our comments will address the following issues included in the rule: 1) removal of CPT Code 31241 from the Inpatient Only (IPO) list, 2) site of service parity adjustments, 3) creation of a new level III comprehensive APC (C-APC) for ENT procedures, and 4) APC assignment and payment for HCPCS C9749.

I. Removal of CPT Code 31241 from IPO List

For CY 2019, CMS proposed the removal of CPT Code 31241 *Nasal/sinus endoscopy, surgical; with ligation of sphenopalatine artery* from the IPO list. The AAO-HNS had previously requested that this code be removed from the IPO list, and thus fully supported the agency’s proposal. **The AAO-HNS appreciates CMS’ consideration of our input in finalizing the removal of CPT Code 31241 from the IPO list for CY 2019.** By removing this code from the list of procedures which can only be performed in the inpatient setting, physicians are now given the option to exercise their clinical judgment as to whether a patient requires an inpatient admission.

II. Site of Service Differentials

For CY 2019, CMS proposed to apply a Physician Fee Schedule (PFS)-equivalent payment rate for an Evaluation and Management (E/M) clinic visit when provided

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at an off-campus provider-based department (PBD). While non-expected off-campus PBDs already receive a reduced site-specific PFS rate for clinic visits (identified by HCPCS code G0463), CMS proposed to extend that reduced rate for clinic visits to *all* off-campus PBDs in CY 2019, even those excepted under Section 603 of the Bipartisan Budget Act of 2015. **In our comments on the proposed rule, the AAO-HNS stated our strong support for this policy change, which will help ensure services are performed in the most cost-effective setting. We appreciate the agency’s decision to finalize this proposal for 2019, utilizing a two-year phase in for equalizing the payments.**

In the proposed rule, CMS also noted its plan to explore other methods to control unnecessary increases in the volume of outpatient services. Specifically, CMS sought comments on the use of prior authorization (PA), which would require a physician to obtain approval of coverage for a certain service before furnishing that service, as an alternative way to control overutilization of services. The Final Rule did not determine whether or not to use PA as a method to manage overutilization for CY 2019, but the agency has agreed to consider comments in future rulemaking.

While the AAO-HNS shares CMS’ concerns with overutilization, **the Academy reiterates its strong opposition to the use of PA under the Medicare program due to the potential for delay in patient access to care and the extraordinary administrative burden placed upon physicians and their practices. Furthermore, past attempts to rely on prior authorization as a means to reduce inappropriate overuse have proven ineffective.** The AAO-HNS welcomes the opportunity to work with CMS to identify less burdensome proposals to curb overutilization in outpatient services.

III. New C-APC Level III ENT Procedures

For CY 2019, CMS proposed to create a new C-APC 5163 for Level III ENT Procedures. In our comments on the CY 2019 proposed rule, we stated our concerns regarding implementation and expansion of the C-APC payment methodology. **The AAO-HNS reiterates these concerns, given that the rates associated with the C-APCs may not adequately or accurately reflect *all* of the procedures and costs associated with these bundled payments.** While the Academy understands CMS’ desire to pay for services in a more prospective manner under the OPSS, doing so without accurate data may have unintended consequences. **The AAO-HNS remains concerned that for those procedures that are frequently billed in combination during the same outpatient session (i.e., those contained in Level III ENT Procedures), the new C-APC payment rates may not adequately reflect the true costs of all services provided.** The Academy urges CMS to reconsider the accuracy of the C-APC methodology in future rulemaking.

IV. APC Assignment & ASC Payment for HCPCS C9749

CMS created HCPCS code C9749 (*Repair of nasal vestibular lateral wall stenosis with implant(s)*) on April 1, 2018, to describe a repair procedure commonly performed by our specialty. In the proposed rule, CMS proposed to assign C9749 to APC 5164, an assignment which was concerning given the lack of clinical and cost similarity to other procedures assigned to this same APC. After reviewing stakeholder input, including comments provided by the AAO-HNS, CMS reassigned C9749 to APC 5165 (Level IV ENT Procedures) in the Final Rule. This assignment more appropriately reflects the costs and clinical complexities of the procedure. **The AAO-HNS thanks CMS for its consideration of our proposed rule comments. We believe this new classification more accurately reflects the clinical complexity of the procedure, as well as the associated costs incurred by hospitals and ambulatory surgery centers.**

Conclusion

The AAO-HNS appreciates the opportunity to provide comments and recommendations regarding these important policies on behalf of our members and the patients they serve. We look forward to working with CMS as it continues its efforts to reduce regulatory burdens for providers and improve patient access to quality care. If you have any questions or require further information, please contact healthpolicy@entnet.org.

Respectfully Submitted,



James C. Denny, III, MD
Executive Vice President and CEO