



Dear ENT Advocacy Network Member:

August 9, 2019

Legislative and political activity directly affects our practices and our patients. As a leading advocate for otolaryngology-head and neck surgery, we hope you enjoy reading this edition of The ENT Advocate, your premier source of advocacy information for the specialty!

Lead Story

What You Should Know! Advocacy Update from James C. Denny III, MD

Several notable legislative and regulatory events have occurred recently that have the potential to profoundly affect otolaryngology and the practice of medicine in general. The Centers for Medicare & Medicaid Services (CMS) released their [2020 Medicare Physician Fee Schedule](#) proposed rule, as well as the Hospital Outpatient Prospective Payment System (OPPS) proposed rule for the coming year. [The Medicare Audiologist Access and Services Act of 2019](#) (H. R. 4056) was introduced by Representative Tom Rice (R-SC) in the U.S. House of Representatives. [A companion bill](#) is expected to be introduced in the U.S. Senate by Senator Elizabeth Warren (D-MA). Legislation designed to remedy “Surprise Billing” is advancing in both houses of Congress but contains payment options unfavorable to physicians.

Collectively, these three seemingly unrelated actions continue alarming trends that inappropriately devalue surgical services, fail to provide any relief for constantly increasing practice expense, expand scope of practice for nonphysicians, and further limit physicians’ rights to negotiate for their services. Unfortunately, these trends seem to have accelerated in recent years.

As always, we will strongly advocate for guiding principles of fair payment for physicians no matter what healthcare regulatory or legislative proposals or systems emerge, so that our members can continue to provide the best medical care possible for their patients. We will also continue to advocate for patient safety, ensuring those diagnosing and treating medical problems have adequate training to do so, and we will continue to identify important principles and concepts that we feel are important for optimizing patient care. Those related to the above issues are contained in the detailed summaries below.

Legislative & Political Reports

Medicare Audiologist Access and Services Act of 2019 (H.R.4056): Introduced in the U.S. House of Representatives on July 25, 2019

[H.R. 4056](#), sponsored by U.S. Representative Tom Rice (R-SC), would:

- Designate audiologists as “practitioners” under Medicare.
- Allow audiologists direct access to Medicare beneficiaries without the current patient protections that require a physician referral.

The House and Senate bills stand in direct opposition to the AAO-HNS principles on the necessary treatment of the medical conditions associated with hearing loss or balance disorders. These long-standing principles include:

- A physician-led hearing healthcare team, with coordination of services, is the best approach for providing the highest quality care to patients. Granting audiologists direct access to Medicare beneficiaries would remove existing physician referral requirements
- Hearing and balance disorders are medical conditions that require a full patient history and physical examination by an MD/DO.
- While audiologists are valued health professionals who work for and with physicians, they do not possess the medical training necessary to perform the same functions as physicians, nor are they able to provide patients with the medical diagnosis and treatment options they deserve.

Bipartisan Congressional Efforts to Address “surprise billing” for Services Continue to Gain Momentum

The AAO-HNS is very concerned about the impact of surprise or unanticipated medical bills on our patients. Surprise bills only add to patients’ already unbearable out-of-pocket costs, threaten to impede a patient’s decision to seek care, as well as disrupt the physician-patient relationship.

- The AAO-HNS supports legislation that protects patients by removing them from billing disputes, increases insurer and hospital accountability, maintains access to care, and ensures greater transparency. We also support an independent dispute resolution process that allows a neutral third party to choose between the physician charge or the plan’s initial payment amount. This “baseball style” arbitration is efficient and encourages both parties to make reasonable offers at the outset.
- We believe that any legislative solution should require hospitals that advertise themselves as participating in insurance networks only bill patients in-network rates, irrespective of whether the provider has joined their network.

While we are pleased that all the legislative proposals introduced in this Congress seek to remove patients from post-care billing disputes and increase hospital and insurer accountability, we oppose those which tie physician reimbursement to a benchmark such as Medicare or an insurer’s in-network contracted rate. Doing so would potentially lead to the unilateral devaluation of physician services by eliminating negotiating ability with private insurers. An example of this is recent legislation enacted in California that limits reimbursement to 125 percent of the Medicare fee schedule. Network fee schedules affect all medical and surgical services, not just hospital and emergency care. A significant reduction can result in an inability to keep pace with technical advances and decrease overall access to services.

Other News

New Position Statement on In-Office Placement of Tubes in Pediatric Patients While Awake

Following an extensive review process by multiple AAO-HNS committees and the Physician Payment Policy (3P) Workgroup, the Executive Committee approved a new [Position Statement on In-Office Placement of Tubes in Pediatric Patients While Awake](#). The new statement and its references, which was also endorsed by the American Neurotology Society (ANS), the American Otological Society (AOS), and the American Society of Pediatric Otolaryngology (ASPO), is available on the Academy’s website.

Official Statement:

The position of the AAO-HNS is that tympanostomy tubes are safe and effective for managing otitis media in children who meet current guidelines for tube insertion [Rosenfeld 2013]. Although insertion of tympanostomy tubes in children is generally accomplished in the operating room under general anesthesia, insertion in the clinic in appropriately selected patients using shared decision making between clinicians and families can be appropriate.

CMS 2020 Medicare Physician Fee Schedule Proposed Rule Released July 29, 2019

The Centers for Medicare & Medicaid Services (CMS) released their [2020 Medicare Physician Fee Schedule](#) proposed rule, as well as the Hospital Outpatient Prospective Payment System (OPPS) proposed rule for the coming year.

The proposed rule would:

- Devalue surgical care through large increases in E/M services not uniformly applied across the fee schedule.
- Include a conversion factor of \$36.09 for 2020, a slight increase from the \$36.04 factor in 2019, but virtually unchanged dating back to 1998 (\$36.69) or 2008 (\$38.09).
- Implement many of the changes to E/M codes first introduced in last year's regulations, adopt the CPT-recommended updates to E/M visits approved for 2021, as well as the RUC-recommended values for these codes. The E/M values approved by the RUC are substantially higher than the current reimbursement rates. However, the rule **does not extend these values to the postoperative office visits included in global surgery bundled payments.**
- Result in an estimated zero percent update for 2020 for otolaryngology. CMS projects a five percent increase for otolaryngology if the proposed changes to the E/M payment and coding policies scheduled for 2021 were adopted in 2020. This is based on increased billing of high-level E/M services by otolaryngologists and the reduced rate of surgery for Medicare patients. **When applied to the non-Medicare population, this results in a decline in payment for otolaryngology.**

We will provide comments to CMS addressing issues impacting the specialty prior to the September 27 comment deadline.

Action Requested

AAO-HNS Needs Your Support! Say No to H.R.4056

Now, more than ever, the AAO-HNS needs your support. Legislation has been introduced ([H.R. 4056](#)) that seeks to designate audiologists as "practitioners" and allow them direct access to Medicare beneficiaries without a physician referral.

Take action and sign up for our "Calls to Action" by **texting "otoadvocate" to 313131**. With your support, we can make a difference. **Tell Congress to say no to H.R.4056** "The Medicare Audiologist access and Services Act of 2019"

Sincerely,

David Boisoneau, MD
BOG Legislative Affairs Committee Chair
and the AAO-HNS Advocacy Team

For more information, contact govtaffairs@entnet.org. Don't forget to bookmark [The ENT Advocate!](#)

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