



Dear ENT Advocacy Network Member:

November 05, 2021

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

FDA Releases Long-Awaited Over-The-Counter (OTC) Hearing Aids Regulation

On October 19, the Food and Drug Administration (FDA) [released](#) its highly anticipated proposed regulations on over-the-counter (OTC) hearing aids. The rule, which implements the OTC Hearing Aid Act included as part of the FDA Reauthorization Act of 2017, creates a regulatory pathway for a new category of air conduction hearing aids for adults age 18 and older with perceived mild-to-moderate hearing loss. Following enactment of the final rule, air conduction hearing aids will be available for OTC purchase without a medical exam or fitting. Hearing aids for children under age 18 and adults with higher levels of hearing loss will still require a prescription. The AAO-HNS has long supported establishing a category of “basic” hearing aids available OTC for adults/seniors with bilateral, gradual onset, mild-to-moderate age-related hearing loss. While Academy leadership and staff are currently performing a thorough analysis of the rule’s contents, an initial cursory review demonstrates a commitment by the FDA to include Academy-supported patient protections in the regulation. The AAO-HNS will develop an in-depth summary of the proposed regulations in the coming weeks. Comprehensive comments will be submitted to the agency prior to the close of the 90-day public comment period.

Legislative and Political Reports

AAO-HNS Lauds Bipartisan Support for Critical 2022 Medicare Reimbursement Updates

On October 14, U.S. Representatives Ami Bera, MD (D-CA), and Larry Bucshon, MD (R-IN), led a [sign-on letter](#) to leadership of the U.S. House of Representatives urging immediate Congressional action to halt pending cuts to Medicare reimbursement. Advocacy staff partnered with Dr. Bera and Dr. Bucshon, along with many other physician organizations, to support this letter and lobbied Congressional offices to sign on in support. The bipartisan letter was cosigned by 246 members of the U.S. House of Representatives, more than half of the entire body. The AAO-HNS and our coalition partners will continue advocating for Congressional intervention to address the scheduled January 1, 2022, 9.75% Medicare reimbursement reduction.

Federal Legislative Update

With November upon us, the U.S. Congress still faces a long list of legislative items to address before the end of the year. The House and Senate are continuing to negotiate on legislation that could expand access to hearing health services for Medicare beneficiaries. This legislation does not yet have a clear path toward passage and enactment into law. The Academy is actively engaged with the Congressional leadership and the committees of jurisdiction to communicate the views of the specialty and work to ensure patient protections are included in this bill.

PAC Update

ENT PAC had a successful round of fundraising at the AAO-HNSF 2021 Annual Meeting & OTO Experience. However, we need your help to fight a looming 9.75% cut to Medicare reimbursement and to continue to grow otolaryngology's visibility on Capitol Hill and **STOP THESE CUTS**. If you have not contributed in 2021, [we hope that you will consider investing](#). Please [see how your investments](#) help elect Members of Congress who will support otolaryngologists and their patients.

Regulatory Reports

Interim Final Rule Released for No Surprises Act

On September 30, the Department of Health and Human Services (HHS) and three additional federal agencies of jurisdiction [released](#) a second interim final rule (IFR) related to the No Surprises Act. Initial analysis indicates the IFR is not consistent with Congressional intent in its application of the Independent Dispute Resolution (IDR) process, specifically the Administration's decision to require that "a certified IDR entity must look first to the Qualifying Payment Amount (QPA)." As such, the AAO-HNS will advocate with Congressional champions to ensure that regulators follow Congressional intent in defining the IDR process. The Academy will continue to analyze the rule's impact on the specialty and will submit comments by the December deadline.

CMS Updates 2020 MIPS Performance Feedback and 2022 MIPS Payment Adjustments

The Centers for Medicare & Medicaid Services recently released Merit-Based Incentive Payment System (MIPS) performance feedback for performance year (PY) 2020. The targeted review period is now open. CMS identified two issues and made subsequent corrections to MIPS scoring logic, resulting in changes to performance feedback for 2020 final scores and 2022 MIPS payment adjustments. Specifically, CMS corrected errors related to the complex patient bonus and patient-reported outcome measures.

[Quality Payment Program](#) (QPP) participants may request review of their MIPS payment adjustment factor(s), if they believe there is an error with their final score. The targeted review deadline is extended, and reviews will be accepted through November 29, 2021, at 8:00 pm (ET) on the Quality Payment Program website. CMS encourages participants to submit reviews promptly to help ensure timely corrections to 2022 payment adjustments.

CMS Accepting Performance Category Reweighting Requests Due to COVID-19

As part of ongoing support for clinicians during the ongoing Public Health Emergency (PHE), CMS is now accepting MIPS performance category reweighting requests for PY 2020 under the Extreme and Uncontrollable Circumstances (EUC) policy. CMS previously reviewed EUC exception requests before the PY 2020 reporting deadline and applied an automatic exemption to all individual eligible clinicians for PY 2020, reweighting all performance categories for which data was not received to 0%. CMS encourages consideration for the current reweighting requests by small practices that reported Medicare Part B claims measures for the quality performance category but did not report group-level data for other performance categories and virtual groups that were unable to submit either an EUC application or their PY 2020 data by the March 31 deadline. PY 2020 EUC reweighting requests are being accepted via the [Targeted Review form](#) by November 29, 2021, at 8:00 pm (ET).

Action Requested

New Volunteers Needed to Strengthen PROJECT 535

Successful legislative advocacy starts with a solid grassroots foundation. Given Congressional focus on legislation addressing health policy and physician reimbursement in the 117th Congress, it's now more important than ever for the Academy to strengthen its key contacts network via PROJECT 535. In addition to the Academy's overall advocacy efforts, PROJECT 535 volunteers help reinforce our message by establishing personal relationships with federal elected officials. Federal lawmakers want to hear from YOU—their

physician constituents! The commitment is minimal, but the impact is immense. To help further strengthen our collective advocacy efforts, [sign up](#) today or contact govtaffairs@entnet.org for more information.

Sincerely,

Yolanda L. Troublefield, MD, JD
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!](#)

If you no longer wish to receive important legislative and political updates via *The ENT Advocate*, please reply to this email with CANCEL ADVOCATE in the subject line.

*Contributions to ENT PAC are not deductible as charitable contributions for federal income tax purposes. Contributions are voluntary, and all members of the American Academy of Otolaryngology-Head and Neck Surgery have the right to refuse to contribute without reprisal. Federal law prohibits ENT PAC from accepting contributions from foreign nationals. By law, if your contributions are made using a personal check or credit card, ENT PAC may use your contribution only to support candidates in federal elections. All corporate contributions to ENT PAC will be used for educational and administrative fees of ENT PAC, and other activities permissible under federal law. Federal law requires ENT PAC to use its best efforts to collect and report the name, mailing address, occupation, and the name of the employer of individuals whose contributions exceed \$200 in a calendar year.

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