



Association for Molecular Pathology
Promoting Clinical Practice, Translational Research, and Education in Molecular Pathology

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6 September 2013

Administrator Marilyn Tavenner
Centers for Medicare and Medicaid Services
Department of Health and Human Services
Room 445-G
Hubert H. Humphrey Building
200 Independence Avenue SW
Washington, DC 20201

RE: Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule, and Other Revisions to Part B for CY 2014, Proposed Rule (CMS-1600-P)

Dear Ms. Tavenner:

The Association for Molecular Pathology (AMP) appreciates the opportunity to comment on the proposed rule CMS-1600-P entitled "Medicare Program; Revisions to Payment Policies under the Physician Fee Schedule, Clinical Laboratory Fee Schedule & Other Revisions to Part B for CY 2014." AMP is an international medical and professional association representing approximately 2,000 physicians, doctoral scientists, and medical technologists who perform or are involved with laboratory testing based on knowledge derived from molecular biology, genetics and genomics. Membership includes professionals from the government, academic medicine and the *in vitro* diagnostics industry.

The Centers for Medicare and Medicaid Services (CMS) has proposed linking payment for over 200 services to hospital outpatient rates as part of its "misvalued code" initiative. If finalized as proposed, it will reduce the technical component (TC) and global payment of 38 pathology services billed for non-hospital patients by as little as 4% and as much as 80% depending on the services.

AMP is aware of the comments being submitted by the College of American Pathologists (CAP) and the American Clinical Laboratory Association (ACLA) and shares their concerns.

Specifically, AMP strongly urges CMS to withdraw its proposal to limit the non-facility PE RVUs for individual codes so that the total non-facility Physician Fee Schedule ("PFS") payment amount would not exceed the total combined amount Medicare would pay for the same codes in the facility setting. This proposal would be devastating to molecular pathology professionals and would negatively impact the care they are able to provide their patients.

The proposed policy is built upon the faulty assumption that facility cost reports yield more accurate data about the actual cost of providing a service and that the cost to perform a service in a physician's office always must be lower. The OPFS and PFS systems are hardly comparable, being derived through entirely different methodologies and for different purposes, and individual codes on the PFS cannot and should not be compared to Ambulatory Payment Classification ("APC") rates in the facility context. Not only does this proposal lack a sound policy basis, but it would discourage innovation and continued offering of certain assays by slashing reimbursement for tests that are vital to the treatment of Medicare beneficiaries with cancer and other serious diseases. Further, the proposed policy fails to take into consideration the technical costs associated with specific individual codes and it fails to recognize the distinct costs of physician services, which are required by law to be

based on the resources required to perform the service. AMP supports the existing AMA-RUC process for valuing physician service codes. This process involves many stakeholders across the payer community, government, and medicine. The AMA-RUC has shown itself to be accurate and fair, and has been thoroughly vetted over many years.

With respect to CMS's proposed review of technological changes that may affect the cost of performing some laboratory tests, AMP urges CMS to proceed with great caution in this effort, in order to ensure that it does not impose unreasonable cuts to laboratory reimbursement. In reviewing these technological changes, it is essential that CMS allow for public feedback and gather multi-stakeholder pathology and laboratory community input to advise it on this proposed new process. Such a process must include pathologists and other medical professionals with expertise in how the tests are used in the diagnosis and/or management of patients. Additionally, CMS should host open meetings on the technology reviews – before and during the exercise – to solicit broad input and feedback. Since this is an enormous undertaking, AMP recommends that CMS start with a pilot project in which it reviews a limited number of test codes. It also should spread its review over a greater number of years than currently proposed, balance its review of high-volume and low-volume codes, and cap and phase in fee adjustments.

The Association for Molecular Pathology is pleased to have the opportunity to comment and appreciates your consideration of our concerns and recommendations. Please direct questions to Mary Williams at mwilliams@amp.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Jennifer L. Hunt". The signature is fluid and cursive, with the first name "Jennifer" being the most prominent part.

Jennifer L. Hunt, MD, MEd
President