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MEDICARE PARTICIPATION OPTIONS FOR PHYSICIANS[1]

Prior to adjourning for the year, in late December 2007, Congress passed legislation that would provide physicians with a 0.5 percent payment increase through June 30, 2008; thus temporarily cancelling a 10.1 percent cut that was scheduled to take effect January 1, 2008. However, Congress will have to address this issue again in mid-2008 to avoid yet another payment cut for doctors from taking effect on July 1, 2008. The way in which Congress financed this temporary reimbursement increase also means that absent Congressional action, the payment cut in July will be greater than 10 percent and the cut in 2009 may be as much as 15 percent.

Despite this 0.5 percent increase in the 2008 conversion factor, neurosurgeons face an additional 2 percent cut due to other changes in the Medicare fee schedule. Because of these reductions and the uncertain future of Medicare reimbursement in the latter half of 2008, many physicians may wish to review their current Medicare participation options.

Physicians who wish to change their current Medicare participation or non-participation status for 2008 must do so before December 31, 2007. Medicare carriers should have provided each physician in their area with a CD-ROM containing information about the 2008 participation sign-up and a "Medicare Participating Physician/Supplier Agreement." Actual payment rates may or may not be included this year so physicians will need to check the carrier web site or request that the carrier mail payment rates to them at no charge.

To help ensure that neurosurgeons are making informed decisions about their contractual relationships with the Medicare program, this document outlines the various participation options that are available to physicians. **The AANS and CNS do not endorse, encourage or support one particular Medicare option over another. It is up to individual neurosurgeons to make their own decisions about which option best meets the needs of their practices and patients. The purpose of the document is to ensure that neurosurgeons' decisions about Medicare participation are made with complete information about the available options.**

Special considerations in the 2008 participation decision

As noted above, there is no guarantee that Congress will act before July 1, 2008 to prevent additional reimbursement cuts and **once finalized, Medicare participation and non-participation decisions are binding for the entire year**.

Physicians who are currently participating (PAR) and who want to remain PAR for 2008 do not need to do anything to maintain their current status. Likewise, physicians who are currently nonparticipating (non-PAR) and who want to remain non-PAR for 2008 do not need to do anything to maintain their current status. To switch from being PAR to non-PAR for the coming year, however, or from non-PAR to PAR, physicians will need to notify their Medicare carrier in writing before January 1, 2008.

[1] This document is drawn from a document prepared by the American Medical Association, which contained excerpts from the AMA-published "*Medicare RBRVS: The Physicians' Guide 2007".* The complete guide is available from AMA Press by calling toll free 800-621-8335.

The Three Options

There are basically three Medicare contractual options for physicians. Physicians may sign a PAR agreement and accept Medicare's allowed charge as payment in full for all of their Medicare patients. They may elect to be a non-PAR physician, which permits them to make assignment decisions on a case-by-case basis and to bill patients for more than the Medicare allowance for unassigned claims. Or they may become a private contracting physician, agreeing to bill patients directly and forego any payments from Medicare to their patients or themselves.

Physicians who wish to change their status from PAR to non-PAR or vice versa will need to do so before December 31st. Once made, the decision will be binding throughout the calendar year exceptwhere the physician's practice situation has changed significantly, such as relocation to a different geographic area or a different group practice. To become a private contractor, physicians must give 30 days notice before the first day of the quarter the contract takes effect. **Those considering a change in status should first determine that they are not bound by any contractual arrangements with hospitals, health plans or other entities that require them to be PAR physicians. In addition, some states have enacted laws that prohibit physicians from balance billing their patients.**

Participation

PAR physicians agree to take assignment on all Medicare claims, which means that they must accept Medicare's approved amount (which is the 80% that Medicare pays plus the 20% patient co-payment) as payment in full for all covered services for the duration of the calendar year. The patient or the patient's secondary insurer is still responsible for the 20% co-payment but the physician cannot bill the patient for amounts in excess of the Medicare allowance. While PAR physicians must accept assignment on all Medicare claims, Medicare participation agreements do not require physician practices to accept every Medicare patient who seeks treatment from them. Medicare provides a number of incentives for physicians to participate:

- The Medicare payment amount for PAR physicians is 5% higher than the rate for non-PAR physicians.
- Directories of PAR physicians are provided to senior citizen groups and individuals who request them.
- Carriers provide toll-free claims processing lines to PAR physicians and process their claims more quickly.

Non-Participation

Medicare approved amounts for services provided by non-PAR physicians (including the 80% from Medicare plus the 20% co-payment) are set at 95% of Medicare approved amounts for PAR physicians, although non-PAR physicians can charge more than the Medicare approved amount.

Limiting charges for non-PAR physicians are set at 115% of the Medicare approved amount for PAR physicians. However, because Medicare approved amounts for non-PAR physicians are 95% of the rates for PAR physicians, the 15% limiting charge is effectively only 9.25% above the PAR approved amounts for the services. Therefore, when considering whether to be non-PAR, physicians must determine whether their total revenues from Medicare, patient co-payments and balance billing would exceed their total revenues as PAR physicians, particularly in light of collection costs, bad debts, and claims for which they do accept assignment. The 95% payment rate is not based on whether physicians accept assignment on the claim, but whether they are non-PAR physicians; when non-PAR physicians accept assignment for their low-income or other patients, they still receive only 95% of the amount PAR physicians receive for the same service. Non-PAR physicians would need to

collect the full limiting charge amount roughly 35% of the time they provided a given service in order for the revenues from the service to equal those of PAR physicians for the same service.

Assignment acceptance, for either PAR or non-PAR physicians, also means that the Medicare carrier pays the physician the 80% Medicare payment. For unassigned claims, even though the physician is required to submit the claim to Medicare, the program pays the patient, and the physician must then collect the entire amount for the service from the patient.

Example: A service for which Medicare fee schedule amount is $100			
Payment Arrangement	**Total Payment Rate**	**Payment Amount from Medicare**	**Payment Amount From Patient**
PAR Physician	100% Medicare fee schedule = $100	$80 (80%) carrier direct to physician	$20 (20%) paid by patient or supplemental insurance (i.e., Medigap)
Non-PAR/Assigned Claim	95% Medicare fee schedule = $95	$76 (80%) carrier direct to physician	$19 (20%) paid by patient or supplemental insurance (i.e., Medigap)
Non-PAR/Unassigned Claim	Limiting Charge/109.25% Medicare Fee Schedule = $109.25	$0	$76 (80%) paid by carrier to patient + $19 (20%) paid by patient or supplemental insurance + $14.25 balance bill paid by patient

Private Contracting

Provisions in the Balanced Budget Act of 1997 give physicians and their Medicare patients the freedom to privately contract to provide health care services outside the Medicare system. Private contracting decisions may not be made on a case-by-case or patient-by-patient basis, however. Once physicians have opted out of Medicare, they cannot submit claims to Medicare for any of their patients for a two-year period.

Private contracts must meet specific requirements:

- The physician must sign and file an affidavit agreeing to forego receiving any payment from Medicare for items or services provided to any Medicare beneficiary for the following 2-year period (either directly, on a capitated basis, or from an organization that received Medicare reimbursement directly or on a capitated basis);
- Medicare does not pay for the services provided or contracted for;
- The contract must be in writing and must be signed by the beneficiary before any item or service is provided;
- The contract cannot be entered into at a time when the beneficiary is facing an emergency or an urgent health situation.

In addition, the contract must state unambiguously that by signing the private contract, the beneficiary:

- gives up all Medicare payment for services furnished by the “opt out” physician;
- agrees not to bill Medicare or ask the physician to bill Medicare;
- is liable for all of the physician’s charges, without any Medicare balance billing limits;
- acknowledges that Medigap or any other supplemental insurance will not pay toward the services; and
- acknowledges that he or she has the right to receive services from physicians for whom Medicare coverage and payment would be available.

To opt out, a physician must file an affidavit that meets the above criteria and is received by the carrier at least 30 days before the first day of the next calendar quarter. There is a 90-day period after the effective date of the first opt-out affidavit during which physicians may revoke the opt-out and return to Medicare as if they had never opted out.

More Information

For more information about the status of legislation to reform the Medicare physician payment system or Medicare’s participation options, contact:

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