



## Legislative and Regulatory Update

*December 2013*

### **Physician Fee Schedule for 2014 Released**

CMS has released the final Physician Fee Schedule for CY 2014, including the final Relative Value Units (RVUs) for transplant procedures. [A chart setting forth the final RVUs for transplant procedures is available on ASTS.org.](#) The final rule announces a 20.1 percent reduction to the conversion factor used to determine Medicare rates as a result of the flawed SGR formula. However, due to rescaling of the RVUs, the aggregate impact for 2014 is closer to a 24 percent reduction. This means that if Congress freezes next year's conversion factor at this year's level, as it has in the past, there would be an estimated 4 percent reduction in aggregate Medicare payment for physicians' services next year.

The total RVUs for kidney transplantation (CPT 50360) will be reduced by about 10 percent as the result of revaluation by the CMS. Both CMS and the RUC recognize that the work associated with the procedure itself is more extensive than the current fee schedule recognizes, but this factor is offset by a reduction in the number of post-surgical visits recognized by CMS. Under the circumstances, this result is exemplary. Many procedures that go through the revaluation process are reduced much more substantially.

Generally, the RVUs for other transplant services will undergo marginal adjustment in 2014 (in the range of -3 percent to -5 percent), as the result of various policy changes and revaluations of other services, which must be done in a budget neutral manner.

### **ACA Implementation**

The Affordable Care Act has frequently been in the news lately, but while most of the coverage has focused on the launch of the [healthcare.gov](#) site, implementation of the law has many implications. [Click here for a](#)

[summary of the law's provisions and how they are being implemented.](#)

### **Clinical Data Registries**

In the 2014 Physician Fee Schedule Final Rule, CMS also addresses the criteria for being a qualified clinical data registry (QCDR). Unfortunately, CMS did not substantially modify the QCDR requirements that it had proposed earlier this year. There are a number of elements of the final QCDR requirements that ASTS is concerned with, including the requirement that quality measures be reported on an individual basis. In addition, the final QCDR regulations remain focused on reporting of process measures, requiring the reporting of at least nine measures across three NAQF "quality domains."

Generally, under the program, physicians will be subject to penalties and eligible for incentives of up to 4 percent in 2017 (increasing to 10 percent over time) based on the physician's composite score in a number of domains, and, initially, 30 percent of a physician's score is to be determined based on the physician's performance with regard to quality measures. Current legislation provides that a physician's participation in a QCDR "counts" toward compliance with PQRS requirements.

On the legislative side, the SGR bill language considered by the House Ways and Means Committee appears to provide a solution for this problem, since the legislation would specifically make group reporting available for QCDRs. (However, QCDRs would still be required to provide feedback to physicians at the individual level.) In addition, the draft SGR legislation provides that physicians may form a "virtual group" for the purposes of quality measurement and for the purposes of the resource use component of the new Value Based Payment system.

On December 26, 2013, President Obama signed into law the Pathway for SGR Reform Act of 2013. This new law prevents a scheduled payment reduction for physicians and other practitioners who treat Medicare patients from taking effect on January 1, 2014. The new law provides for a 0.5 percent update for such services through March 31, 2014. This 3-month fix is a strong indicator that Congress and the Administration remain focused on a permanent solution to the SGR and will continue work on this issue in early 2014.

ASTS will continue to monitor the SGR legislation and work with CMS to explore ways to fit the "team sport" model of transplantation into the QCDR requirements.

### **OPO Conditions of Participation**

In the Hospital Outpatient Prospective Payment System (HOPPS) Final Rule for 2014, CMS finalized a proposal that requires OPOs to meet only two out of three outcomes measures (rather than all three) in order to maintain Medicare certification. CMS had proposed this rule change in

order to avoid the need to de-certify a large number of OPOs that do not meet all three outcomes standards. While ASTS is sympathetic with the need to avoid massive de-certification of OPOs, ASTS had opposed CMS' proposal, urging the agency to institute a process for OPOs similar to the mitigating circumstances process currently available to Transplant Centers that do not meet CMS outcomes standards. ASTS has convened a joint task force to further address the need to reform the OPO and Transplant Center conditions of participation so that the objectives and incentives created by both sets of standards are more consistent with each other.

### **Immunosuppressive Drug Coverage Bill**

The Comprehensive Immunosuppressive Drug Coverage for Kidney Transplant Patients Act of 2013 (H.R. 1428/S. 323) has passed the 100-cosponsor mark! ASTS will continue to encourage members of Congress to sign on to this common-sense, bipartisan legislation and look for ways to attach it to a legislative package.

### **ASTS Comments**

Recently, ASTS submitted [comments on Oregon's 24-month waiting period for transplantation](#) in its benchmark insurance plan and on [six proposed OPTN policies](#).

### **Missed an Issue?**

All issues of the ASTS Legislative and Regulatory Update are now [archived on ASTS.org](#).