

# Dateline Washington

prepared by the Division of Advocacy and Health Policy

## Medicare overhaul signed into law

President George W. Bush signed the Medicare Prescription Drug, Improvement, and Modernization Act on December 8, 2003, marking the largest benefit expansion in the Medicare program's history. In addition to reversing the physician payment cut announced by the Centers for Medicare & Medicaid Services (CMS) in November (and discussed in the article on page 8 of this issue), the new law contains other provisions of interest to surgeons, including:

- *Rural providers.* Medicare will pay a 5 percent bonus to physicians providing care in scarcity areas from 2005 through 2007. In addition, geographic adjusters in the physician fee schedule for 2004 through 2006 have been changed to increase Medicare payments in areas where reimbursement for physician work is less than the national average.

- *Graduate medical education.* The indirect medical education (IME) adjustment factor is increased from 5.5 to 6.0 percent for the last half of fiscal year (FY) 2004, 5.8 in FY 2005, 5.55 in FY 2006, 5.35 in FY 2007, and 5.5 percent for FY 2008 and thereafter. In addition, unused resident positions will be redistributed, giving priority to rural/small urban area hospitals.

- *Specialty hospitals.* The "whole hospital" exception to physician self-referrals limits is amended to exclude, for 18 months, facilities with physician owners that are devoted primarily to cardiac, orthopaedic, surgical, or other designated specialties. This provision does not affect specialty hospitals in operation or under development as of the date of enactment. The bill also asks the Medicare Payment Advisory Commission (MedPAC) to conduct a study of physician ownership of specialty hospitals.

- *Ambulatory surgery centers (ASCs).* The bill alters the payment rate for services provided in ASCs. Next year, they will be updated by the percent increase in the Consumer Price Index for all urban consumers (CPI-U), less 3 percent. Starting in the fourth quarter of 2005 and extending through 2008 the updates will be frozen. In addition, the General Accounting Office (GAO) will study ASC payments.

- *Average wholesale price (AWP) reform.* The bill decreases the reimbursement rate for drugs administered in a physician's office from 85 percent of the AWP in 2004 to the Average Sale Price plus 6 percent in 2005. It also initiates competitive bidding as a physician choice beginning in 2006 and increases practice expense reimbursements for drug administration.

- *Thoracic surgery practice costs.* MedPAC will conduct a study on whether Medicare payments for thoracic and cardiac procedures adequately reflect the cost of physician-employed clinical staff who provide services in the hospital setting.

- *Emergency care.* The bill appropriates \$250 million for each fiscal year beginning with 2005 through 2008 for allotments to the states to pay providers for emergency services furnished to undocumented aliens. Two-thirds of this money will be distributed to states based on the number of undocumented alien residents.

- *Quality initiatives.* The bill establishes a five-year demonstration program to examine health delivery factors that improve patient

---

care, including the provision of incentives to enhance quality and safety and promote the appropriate use of best practices. In addition, the bill mandates that the Institute of Medicine issue a report on leading health care performance measures used in the public and private sectors and options to implement policies aligning performance with payment in the Medicare program.

- *Systemic interoperability.* The bill provides for the establishment of an 11-member commission on systemic interoperability to develop a comprehensive strategy for adopting and implementing health care information technology standards, including a timeline and an agenda for implementation.

The text of the legislation is available online at <http://thomas.loc.gov/cgi-bin/query/C?c108:./temp/~c108A6zaOo>.

## **Survey of Fellows indicates troubling trends**

Preliminary results of the College's Workforce Access Survey, published in the December issue of the *Bulletin*, suggest that many Fellows plan to make changes in their practices to compensate for current socioeconomic pressures. For example, more than 40 percent of the respondents as of press time said they had stopped performing high-risk procedures, and about one-third said they may stop performing them within the next two years. About one-third also indicated that they had already limited the number of Medicare patients they see, and 7 percent said they had stopped accepting Medicare patients altogether.

This summary is based on approximately 750 responses. Of course, more input from surgeons is needed to illustrate the need for regulatory and legislative changes to improve the practice climate and maintain widespread access to care. Fellows who have not yet participated in the survey are encouraged to complete the online questionnaire, which can be accessed at <http://www.facs.org/ahp/workforcesurvey/index.html>.

## **CMS releases Medicare improper payment rate for 2003**

CMS estimates that the national Medicare payment error rate for fiscal year 2003 was 5.8 percent or \$11.6 billion, an amount comparable to last year. As shown by the new detail in this year's report, the provider types that had the most errors nationally were chiropractors (11.3%), physical therapists (18.2%), and internists (13.5%). Providers with the lowest errors were ambulance services (4.7%), podiatrists (4%), and urologists (5.3%). The findings also indicate that contractors have a large number of providers that submit improper claims. For more information go to: <http://www.cms.gov/media/press/release.asp?Counter=905>.