

# Dateline Washington

prepared by the Division of Advocacy and Health Policy

## **CMS issues 2006 Medicare fee schedule**

On November 1, the Centers for Medicare & Medicaid Services (CMS) released a final rule on Medicare physician payment policies for 2006. The new regulations—which, at press time, were scheduled to take effect January 1—address several key issues first raised in a proposed rule published in August 2005. Of particular importance, CMS announced an across-the-board 4.4 percent reduction in physician payments, with a fee schedule conversion factor of \$36.1770 (compared with \$37.8975 in 2005). The pay cut is attributable to the fee schedule's use of the sustainable growth rate (SGR) as a prospectively determined expenditure target for restraining the rate of growth in Medicare spending for physician services. For more information about the 2006 fee schedule, see the article on page 8.

## **Congress poised to act on Medicare and trauma funding**

At press time, Congress was still debating legislation centered on issues of concern to surgeons. Following is a brief summary of some of the more pertinent bills awaiting passage by the end of the year.

- *Medicare.* During the last week of October, the Senate Finance Committee approved a broad budget bill that includes a 1 percent increase in Medicare payment to physicians in 2006. The 1 percent increase would replace the 4.4 percent cut in 2006 described previously. However, the budget package fails to address prospective cuts of 4 to 5 percent per year in 2007 and beyond because it allows Medicare to retain the SGR. In addition, the budget bill includes quality-reporting requirements for physicians in 2007 and 2008 and establishes a pay-for-performance (P4P) program starting in 2009.

A related bill, H.R. 3617, the Medicare Value-Based Purchasing for Physicians' Services Act of 2005, would not only stop Medicare payment cuts in 2006 but would repeal the SGR to avert cuts in 2007 and subsequent years and would base future Medicare payments on rising practice costs. In addition, this legislation would implement P4P based on quality measures such as those developed through the Surgical Care Improvement Project and the ACS National Surgical Quality Improvement Program.

- *Trauma funding.* On October 27, 2005, the Senate approved its version of the fiscal year (FY) 2006 Labor-Health and Human Services (HHS)-Education appropriations bill (H.R. 3010), which allocates \$3.5 million to the Health Resources and Services Administration's Trauma-Emergency Medical Services (EMS) Program. However, this program remained in jeopardy because the House version, passed June 24, 2005, provided no financial support for it. At press time, the legislation was under review in a conference committee charged with reconciling the disparities between the Senate and House versions of the legislation, both of which provide \$141.7 billion in discretionary spending for the Departments of Labor, HHS, and Education.

More up-to-date information on these and other bills was published in December 2005 issues of *ACS NewsScope*.

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## **CMS establishes voluntary quality-reporting program**

CMS has established a voluntary program to report evidence-based, consensus quality measures for Medicare beginning January 1. During the first phase of implementation, CMS is collecting information on a set of 36 measures using a dedicated set of Healthcare Common Procedure Coding System (HCPCS) codes, called G-codes, which will supplement the claims data physicians currently submit to CMS with clinical data. The goal of the program is to introduce a process for participating physicians to begin reporting quality data and receiving feedback on their performance. Participation in the program or relative performance on the measures will not affect reimbursement, nor will the information be publicly reported. A fact sheet describing both the program and the measures is posted at <http://www.cms.hhs.gov/media/press/release.asp?Counter=1701>.

## **EMTALA TAG makes recommendations**

The Emergency Medical Treatment and Active Labor Act (EMTALA) technical advisory group (TAG) met October 26–28, 2005, to consider proposals aimed at addressing the shortage of specialists who take emergency call. The TAG also discussed inappropriate transfers and the effect of specialty hospitals on EMTALA-mandated care. After hearing testimony from several organizations, the TAG offered the following recommendations to CMS: (1) hospitals with specialized capabilities should not be required to maintain dedicated emergency departments (DEDs), and (2) hospitals with specialized capabilities that do not have DEDs should have the same responsibilities under EMTALA as those with DEDs. The TAG also called for CMS to move from the EMTALA regulations to Medicare a requirement that hospital emergency departments maintain a list of on-call physicians.

The EMTALA TAG advises CMS on regulations related to EMTALA and their application to physicians and hospitals. It comprises 19 members, including four College Fellows: general surgeon Richard Perry, MD, FACS, Phoenix, AZ; pediatric surgeon David Tuggle, MD, FACS, Oklahoma City, OK; orthopaedic trauma surgeon James Nepola, MD, FACS, Iowa City, IA; and neurosurgeon John Kusske, MD, FACS, Orange, CA. For more information about the TAG, go to <http://www.cms.hhs.gov/faca/emtalatag/default.asp>.

## **HHS to issue e-prescribing rule**

HHS Secretary Mike Leavitt recently announced adoption of “foundation standards” for the electronic prescribing (e-prescribing) of Part D drugs covered by Medicare. The final rule regarding the standards was published in the *Federal Register* on November 7, calling for e-prescribing to coincide with the implementation of Medicare’s new prescription drug benefit beginning January 1. E-prescribing enables a physician to transmit a prescription electronically to a patient’s pharmacy of choice. It is not only easier than paper prescriptions but may also improve patient safety and reduce costs by decreasing prescription errors and automating the process of checking for drug interactions and allergies. E-prescribing also will allow physicians, pharmacies, and patients to obtain timely evidence-based information on drugs and on patient eligibility.