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prepared by the Division of Advocacy and Health Policy

Delayed Medicare rule raises new concerns

The Centers for Medicare & Medicaid Services (CMS) released the 2003 Medicare fee schedule for physician services on December 20, 2002. As a result, the payment update for physician services has been delayed until March 1. The regulation, which was published in the *Federal Register* on December 31, 2002, includes an across-the-board 4.4 percent reduction in the fee schedule conversion factor, which is caused by the flawed formula used to calculate the annual pay updates. However, the delay in implementation has had other effects that surgeons and their practice managers need to understand. These ill effects are summarized below.

Enrollment period. The enrollment period (that is, the period in which physicians can decide whether to be “participating” or “nonparticipating”) will now run from January 9 through February 28, 2003. The enrollment notice sent by carriers incorrectly states that changes in participation status must be made by December 31, 2002. Carriers will not send another mailing to provide the correct dates.

Surgeons who want to retain their existing participation status need *not* take any action. However, those who do want to change their status should consult the material they received from their carrier. Any participation decisions made will be irrevocable for 2003 services. (See “Selecting the best Medicare payment option” in the August 2002 *Bulletin* for details about these options, or view the article on the College’s Web site at <http://www.facs.org/dept/hpa/pubs/bullet.html>.)

Surgeons who change their participation status should start to prepare claims using that status immediately after submitting their participation agreement or disenrollment request to the carrier. Claims that are misprocessed will be automatically adjusted after July 1, 2003.

Claims processing. The delay in implementing the lower 2003 payment rates applies only to claims paid under the physician fee schedule. Claims for other services, such as drugs, diagnostic clinical laboratory tests, and durable medical equipment, will be paid at 2003 rates effective January 1, 2003.

Claims for physician fee schedule services in January and February will be paid at the higher 2002 rates. The new, lower rates will become effective for services provided on or after March 1, 2003. The higher 2002 rates also will be applied to the deductible for services rendered in January and February, and the 2003 rates will be applied on or after March 1. Copayments, of course, will be 20 percent of Medicare’s allowed amount regardless of when the service is rendered.

Local carriers ask that claims for services provided in January and February be submitted as quickly as possible. Rapid claims submission will allow carriers to process and use 2002 pricing before March 1.

Claims submitted in January and February using new CPT codes will not be processed until after March 1 and will be paid at the 2003 rate. Because surgeons have until April 1 to convert to CPT 2003, they should avoid using new CPT codes until sometime in March.

A direct link to the Medicare program memorandum describing these changes can be found at http://cms.hhs.gov/manuals/pm_trans/AB02181.pdf.

New Congress proposes Medicare fixes

Shortly after the 108th Congress was sworn in on January 7, two bills were introduced to address the impending 4.4 percent cut in Medicare physician payments scheduled to take effect on March 1. House Ways and Means Committee chair Rep. Bill Thomas (R-CA) introduced a joint resolution that would invoke the Congressional Review Act and essentially dismiss the 2003 fee schedule—effectively freezing 2003 payments at 2002 rates. Rep. Ben Cardin (D-MD), a member of the Ways and Means Committee, introduced the “Medicare Payment Restoration and Benefits Improvement Act,” which would revise the physician payment update for three years, beginning with a 2 percent update for 2003. While these actions strongly indicate that members of Congress are aware of the serious effects that the Medicare payment situation is having on physicians, the outlook for passage before the reductions take effect on March 1 is uncertain.

Medical liability insurance crisis continues

It is clear that the rapid increase in the cost of medical liability insurance continues to be a looming crisis for surgeons across the nation. A breaking point was reached recently in West Virginia, where a number of surgeons took leaves of absence from their hospitals.

Congress is expected to begin debating this issue early this year. Last year, the House passed a strong medical liability reform bill, but the Senate rejected a weaker proposal, and a compromise was never reached. President Bush and new Senate Majority Leader Bill Frist, MD, FACS (R-TN), have said liability reform is a major legislative priority for the new Congress. There will also be an effort in many state legislatures to enact reforms similar to those passed in California in 1975.

The College applauded the President’s call to address medical liability insurance reform and increased funding for the Medicare program in the State of the Union address. Thomas R. Russell, MD, FACS, said, “Congress must pass legislation that halts runaway litigation and guarantees that injured patients are fairly compensated.” Noting that “the liability lottery is driving surgeons out of business,” Dr. Russell added that “the liability reform called for by the President in his State of the Union address must work toward stabilizing premiums and keeping surgeons in the operating room where they belong.”

Loan repayment programs announced

The National Center for Minority and Health Disparities recently announced the availability of programs that would provide repayment of educational loan debt for qualified health professionals who agree to conduct either health disparities or clinical research for two years. The objective is to recruit and retain highly qualified health professionals for research careers that focus on minority health or other health disparities issues. The program provides for the repayment of the principal and interest of the educational loans, up to a maximum of \$35,000 per year. The online application and additional information regarding both programs may be obtained at www.lrp.nih.gov.