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Drug law's implementation affects Medicare in 2004

A number of provisions in the Medicare Prescription Drug, Improvement, and Modernization Act (MPDIMA) of 2003, P.L. 108-173, became effective on January 1, 2004. The resultant changes are as follows:

- The 2004 physician fee schedule conversion factor was increased 1.5 percent to \$37.34.
- The deadline for physicians to make their Medicare participation decision for 2004 was extended until February 17.
- Payment formulas were raised in several areas, providing that the work geographic practice cost index (GPCI) in any Medicare payment locality cannot be less than 1.00 (the national average), and in Alaska the work, practice expense, and malpractice GPCIs cannot be less than 1.67. As a result, physician payments in some areas of the country will increase by as much as 4.8 percent and in Alaska by 52 percent.
- In a complex set of provisions, the price paid for most physician-administered drugs was lowered, but that reduction was offset by an increase in payments for drug administration. Urology, which receives 43 percent of its Medicare money from drugs, loses 4 percent in this cost shift.

The law also amended the Emergency Medical Treatment and Labor Act (EMTALA) to allow emergency room services to be evaluated for medical necessity on the basis of information available to the treating physician *at the time the services were ordered*. Some carriers had been evaluating the services based on the principle or final diagnosis.

The new provisions are described in a rule that can be viewed at <http://www.cms.hhs.gov/physicians/pfs>. The complete MPDIMA, including the EMTALA provisions in section 944, is available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_cong_bills&docid=f:h1enr.txt.pdf.

Health care spending continued to climb in 2002

The Office of the Actuary at the Centers for Medicare & Medicaid Services (CMS) published a report in January indicating that health care spending in the U.S. climbed to \$1.6 trillion, or approximately \$5,440 per person, in 2002. This 9.3 percent increase in 2002, together with the 8.5 percent increase in 2001, has contributed to a spike of 1.6 percentage points for health care's share of the gross domestic product since 2000.

Spending accelerated for most services. Increases in hospital spending (\$486.5 billion) rose 9.5 percent following a period of managed care expansions (1993-1998) in which hospital growth averaged only 3.4 percent. Spending for physicians' services increased 7.7 percent in 2002 to \$339.5 billion, a decline from the 2001 growth rate of 8.6 percent. While Medicare payment accounted for only 20 percent of payment to physicians (\$68.8 billion), the 4.8 percent decline in the fee schedule conversion factor was the primary driver behind the spending deceleration for physicians in 2002.

HHS announces Medicare discount drug program

Health and Human Services (HHS) Secretary Tommy G. Thompson issued an interim final regulation for the Medicare prescription drug discount card program in December. This rule represents the first step toward implementation of the benefit expansions made through the MPDIMA and will allow seniors and individuals with disabilities to use these cards to save about 10 to 15 percent on their total drug costs. All Medicare beneficiaries, except those who already have Medicaid outpatient drug coverage, will be able to enroll in Medicare-approved drug discount card programs, with benefits beginning in June, and they may continue participating until the Medicare prescription drug benefit is implemented in 2006.

A key element of the Medicare prescription drug discount card program is a subsidy of up to \$600 a year for eligible low-income beneficiaries. Individuals who earn less than \$12,124 each year and married couples who have incomes of less than \$16,363 may qualify for this subsidy. In addition, Medicare will cover the cost of the enrollment fee for these low-income cardholders. For more information about the regulation, go to: <http://www.hhs.gov/news/press/2003pres/20031210a.html>.

Operating costs for orthopaedic surgeons increase 12.3 percent

A Medical Group Management Association study indicates that professional liability premiums and escalating staff costs are two factors contributing to a 12.3 percent rise in median operating costs for orthopaedic practices between 2001 and 2002. Staffing costs increased 8.1 percent, and professional liability insurance costs nationwide jumped 26.1 percent—with practices in many states absorbing even greater hikes. The study also found that Medicare payor charges were up 6.2 percent in the examined year, while total median medical revenue increased 6.6 percent. For most group practices, ancillary services, such as physical/occupational therapy, diagnostic X ray, and magnetic resonance imaging, appear to be keeping them afloat financially. For more information, visit <http://www.mgma.com/press/>.

AMA focuses on liability issues

During the American Medical Association's (AMA's) 2003 interim meeting of its House of Delegates (HOD), the College and a number of the surgical specialty societies successfully raised the profile of the need for stronger AMA policy regarding expert witness testimony. In response to a resolution authored by the College and subsequent reference committee testimony, the HOD has charged the AMA's Board of Trustees with developing recommendations for stronger expert witness standards for the HOD to review and approve at its 2004 annual meeting. In 2004, the College intends to center more of its state advocacy efforts on this particular aspect of liability reform.