

# Dateline Washington

prepared by the Division of Advocacy and Health Policy

## **Congress urges CMS to adjust Medicare payment formula**

Although the Medicare Prescription Drug, Improvement and Modernization Act of 2003 (MPDIMA) replaced scheduled physician payment reductions in 2004 and 2005 with modest increases in both years, it delayed resolving the fundamental problems with the physician fee schedule updating system. According to the Medicare trustees report issued in mid-March, Medicare's sustainable growth rate (SGR) formula for determining annual fee schedule updates will produce cuts in the range of 4 or 5 percent each year from 2006 through 2012.

Joining the College and other organizations that are pursuing both administrative and legislative solutions to this problem, Reps. Bill Thomas (R-CA) and Nancy Johnson (R-CT), who chair the House Committee on Ways and Means and its Health Subcommittee, respectively, sent a letter on April 4 to the newly-appointed Administrator of the Centers for Medicare & Medicaid Services (CMS), Mark McClellan, MD. In their letter, Representatives Thomas and Johnson urge CMS to consider making administrative changes to the payment formula that will ease the pressure on the physician payment system and thereby make the ultimate cost of legislative reforms more affordable.

More specifically, they asked the agency to:

- Remove the cost of prescription drugs from the calculation of Medicare physician expenditures under the SGR.
- Adjust annual expenditure targets to allow for spending growth resulting from benefit and coverage expansions.
- Examine actuarial assumptions made about physician behavioral responses caused by changes in law, and account for other changes in law that affect physician income.

To read a copy of the letter to Administrator McClellan, please link to <http://www.facs.org/ahp/views/sgr.html>.

## **Specialties join to oppose bundling assistant-at-surgery payments**

The College led 37 specialty societies in opposition to a recent General Accounting Office (GAO) report, which recommended that Congress consider consolidating all Medicare payments for assistant-at-surgery services under the hospital inpatient prospective payment system. In other words, no separate payment would be made for physicians or clinical staff providing these services.

The March 17 letter to the chairs and ranking minority members of the committees with jurisdiction over Medicare payment issues was drafted by the College and circulated among the specialty societies by the American Medical Association. It noted that the GAO's recommendations reach far beyond the scope of the original congressional request and present serious implications for the quality and safety of surgical patient care. The full text of the letter can be viewed on the College's Web site at <http://www.facs.org/ahp/views/assistants.html#1>.

## **FDA issues warning on absorbable hemostatic agents**

The Food and Drug Administration (FDA) recently issued an announcement to surgeons recommending caution when using absorbable hemostatic agents, particularly on or near a bony or neural space or for permanent placement inside the patient. Since the mid-1990s, 110 adverse events associated with the material have been reported.

---

## Trauma legislation progresses

The FDA recommends that users of absorbable hemostatic agents review the device labeling, especially the contraindications, warning, and precautions. They also suggest that physicians who use these agents on or near a bony or neural space should apply the minimum amount necessary to achieve hemostasis and remove as much of the agent as possible after hemostasis is achieved. Go to <http://www.fda.gov/cdrh/safety/040204-hemostatics.html> to view the alert.

Legislators in both the House and Senate are circulating sign-on letters to their colleagues encouraging support for increased fiscal year 2005 funding for the Trauma Care Systems Planning and Development Act. The letters, championed by Sens. Pat Roberts (R-KS) and Jack Reed (D-RI), and by Reps. James Greenwood (R-PA) and Luis Gutierrez (D-IL), urge legislators to support increased funding for the trauma program, which provides federal grants to assist states in developing, implementing, and monitoring statewide trauma care systems.

At press time, 31 senators and 90 House members had signed these letters. To encourage members of your state congressional delegation to sign on to the Roberts/Reed or Greenwood/Gutierrez letters, please access the College's Legislative Action Center at [http://capwiz.com/facs/mail/oneclick\\_compose/?alertid=5415381](http://capwiz.com/facs/mail/oneclick_compose/?alertid=5415381).

The College is also currently working to introduce and pass legislation to reauthorize HRSA's trauma care program through FY 2009. The Trauma Care Systems Planning and Development Act of 2003, S. 239, was introduced by Senate Majority Leader Bill Frist, MD, FACS (R-TN), and Sen. Edward Kennedy (D-MA) and passed by the Senate last year. A companion House bill, HR 3999, the Trauma Research & Access to Urgent Medical Attention (TRAUMA) Act, was introduced March 18 by Representative Greenwood and Reps. Gene Green (D-TX), Sherrod Brown (D-OH), and Michael Bilirakis (R-FL). This bill would reauthorize the trauma program through FY 2009 and provide a \$31 million authorization level.

## CMS issues specialty hospital moratorium

On March 19, CMS announced details of its plan to implement a moratorium on physician investment in and referrals to certain specialty hospitals. The moratorium prohibits a physician from referring patients to a specialty hospital in which he or she has an ownership or investment interest, and the hospital may not bill Medicare or any other payor for services provided as a result of a prohibited referral. The moratorium was initiated as part of the MPDIMA. It became effective December 8, 2003, and it will expire June 8, 2005.

The moratorium applies specifically to hospitals that are primarily or exclusively engaged in the care and treatment of patients with cardiac or orthopaedic conditions and patients receiving surgical procedures. It also excludes from the moratorium (or grandfathers) hospitals that were in operation before or under development as of November 18, 2003. For more information online, go to <http://www.cms.hhs.gov/media/press/release.asp?Counter=982>.