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prepared by the Division of Advocacy and Health Policy

2004 Medicare physician payment update announced

On Friday, November 7, the Centers for Medicare & Medicaid Services (CMS) published a final rule announcing that Medicare physician payments will be reduced by 4.5 percent in 2004. The across-the-board payment reduction, which had been projected earlier in the year, is the result of a statutory payment formula that takes into account inflation, the health of the domestic economy, the number of Medicare fee-for-service enrollees, and the rate of growth in total Medicare physician spending.

The regulation also revised a number of other policies affecting Medicare fee schedule payments. Of particular interest to surgeons, changes made in the way CMS calculates the Medicare Economic Index led to slight increases in the relative value units used to reimburse physicians for their medical liability premium costs. Revisions were also made in the geographic adjustment factors that are intended to reflect geographic differences in medical liability costs. Of additional interest, a proposal made this summer to revise Medicare payments for benign and malignant skin lesions was not implemented.

The fee schedule changes take effect on January 1, unless Congress intervenes and establishes a different payment update by passing legislation. College comments that were submitted in early October in response to a proposed rule on the 2004 fee schedule can be viewed at <http://www.facs.org/ahp/views/medicare2004.html>.

New Jersey surgeons make house calls

Facing a stalemate in state tort reform efforts, members of the New Jersey Chapter of the American College of Surgeons took their concerns directly to patients by going door to door in key legislative districts on October 7. "Operation House Call," initiated by the Medical Society of New Jersey, proved to be an important way for physicians to illustrate the urgency of persuading the state assembly to support a reasonable cap on noneconomic damages. The American College of Surgeons Professional Association (ACSPA) provided needed support for the public education efforts. Surgeons who are interested in ongoing grassroots programs may be interested in the newly launched Web-based state affairs newsletter, *ACS Cross Country*. To access the newsletter, go to <http://www.facs.org/ahp/ACScrosscountry/>.

Fellow testifies before FDA medical devices panel

On October 14, general surgeon Shawna Willey, MD, FACS, testified before the General and Plastic Surgery Devices Panel of the Food and Drug Administration's Medical Devices Advisory Committee. In her testimony, Dr. Willey explained how access to silicone gel-filled breast implants enhances the quality of life for breast cancer patients. According to Dr. Willey, "Breast reconstruction provides enormous benefits to women, including an improved self-image, greater confidence, a sense of normalcy, and an ability to enjoy life more fully. These procedures should not be held to a higher standard without science-based evidence."

Since 1992, the National Institutes of Health (NIH) has been conducting clinical trials and various studies on silicone breast implants.

Medicare, Blues implement HIPAA TCS contingency plans

A report, "Follow-Up of Women with Augmentation Mammoplasty," revealed that "...researchers found no significant increase in breast cancer incidence or mortality among women with implants."

After two days of testimony and deliberation, the panel voted 9-6 in favor of FDA approval. It is now up to the FDA to either reject or accept the panel's recommendation for approval of the implants. This decision is expected by January.

For a copy of the College's statement, go to www.facs.org/ahp/testimony/101403.html/.

On September 23, CMS and the National Association of Blue Cross and Blue Shield Plans announced that they will implement contingency plans to continue to process all electronic claims after the October 16 deadline for complying with the Transaction and Code Set Standards (TCS). The standards were developed as mandated by the Health Insurance Portability and Accountability Act. All Medicare fiscal intermediaries and carriers and all 24 Blue Cross and Blue Shield plans will participate. The contingency plans allow the payors to process and pay claims that are submitted in electronic formats currently in use ("legacy claims"), as well as those submitted in HIPAA-compliant formats. In addition, providers will have sufficient time to complete the process of testing HIPAA-compliant electronic transactions with any payors that have announced a contingency plan. CMS has encouraged all private payors to assess the readiness of their trading partners and implement contingency plans if appropriate.

Both CMS and the Blues plans will regularly reassess the readiness of the provider and payor communities to determine how long the contingency plans will remain in effect. The College urges Fellows to continue their testing processes with all payors and to document their efforts to comply so that they can appropriately respond in the unlikely event of a postpayment audit.

Number of U.S. uninsured continues to grow

A U.S. Census Bureau report showed that the number of uninsured Americans increased 5.7 percent from the last time the data were collected to a total of 43.6 million individuals. The overall percentage of uninsured people in the U.S. rose from 14.6 percent in 2001 to 15.2 percent in 2002. The largest jump occurred among individuals who previously had employer-based health benefits, the result of companies laying off workers or reducing coverage. The report can be found at <http://www.census.gov/hhes/www/hlthin02.html>.