

March 24, 2006

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**Re: Potential Revisions in Practice Expense
Methodology for Calendar Year 2007**

Dear Mr. Kay:

On behalf of the Association of Community Cancer Centers (ACCC), I appreciate this opportunity to comment on the potential changes in the methodology for calculating practice expense (PE) relative value units (RVUs) for the 2007 Medicare fee schedule for physicians' services that were presented by CMS during a Town Hall meeting on February 15, 2006.

ACCC's membership includes hospitals, physicians, nurses, social workers, and oncology team members who care for millions of patients and families fighting cancer. ACCC's 650 member institutions and organizations treat 45 percent of all U.S. cancer patients. Combined with our physician membership, ACCC represents the facilities and providers responsible for treating over 60 percent of all U.S. cancer patients.

ACCC is committed to ensuring that cancer patients have access to care, including access to the most appropriate cancer therapies. Accordingly, we are deeply troubled by the potential changes in payments for drug administration services that would be associated with revisions in the methodology for calculating practice expense (PE) relative value units (RVUs).

CMS Proposals and Their Impact

During a Town Hall meeting on February 15, 2006, CMS discussed the agency's plans to revise the methodology for calculating PE RVUs and presented the results and impacts of four different methods for those calculations. Under the four methods, the physician specialty of hematology oncology would experience reductions in total Medicare allowed charges of -2%, -5%, -3% and -7%, respectively. These significant reductions can be attributed largely to changes in payments for drug administration services described by CPT codes 90760 through 90775 and 96401 through 96542. The following table summarizes the impact of the proposed changes in PE RVUs for these drug administration services under each of the CMS methods:

CMS PE Method	Change in Total Payment for Drug Administration Services (millions)	Percent Change in Total Payment
1	-\$71.9	-7%
2	-\$132.2	-13%
3	-\$80.4	-8%
4	-\$176.4	-17%

We believe these reductions are unsupported and inconsistent with the intent of Congress to ensure that payments for drug administration are adequate to cover the costs of providing these services.

Addressing inadequate payments for drug administration was a critical component of drug payment reform under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) that changed the basis for paying for covered chemotherapy and supportive care drugs from an average wholesale price (AWP) methodology to an average sales price (ASP) methodology.

Beginning in 2004, CMS was required to make adjustments in PE RVUs for drug administration services when establishing the physician fee schedule. For example, CMS was required to use the survey data submitted by the American Society of Clinical Oncology (ASCO) in 2002 because it met criteria for use that was established under the Balanced Budget Refinement Act. The adjustments in practice expense relative value units for certain drug administration services based on ASCO survey data were exempt from the usual budget neutrality requirements. CMS also was required to add work relative value units to certain drug administration services, equal to the work relative value units for a level 1 office visit with an established patient. By exempting increased payment for drug administration services from the usual requirements for budget neutrality, CMS

essentially added funds to the physician fee schedule and earmarked those funds to pay for drug administration.

In addition, CMS was required to evaluate existing drug administration codes for physicians' services to ensure accurate reporting and billing for these services. Working with the American Medical Association's (AMA's) CPT Editorial Panel, the AMA/Specialty Society Relative Value Scale Update Committee (RUC) and organizations representing oncologists and other stakeholders, CMS revised and re-valued all the drug administration codes in time for implementation in 2004.

In view of all this work and the shared desire of Congress, CMS, the AMA and the oncology community to ensure fair payments for drug administration services, we simply do not understand why CMS would now propose to reduce payment for these critical services. ACCC does not believe it is appropriate for CMS to reduce payments for drug administration by taking the extra Medicare funds that were earmarked for drug administration services and spreading those earmarked funds across all other services on the fee schedule.

Recommendations and Conclusion

We recommend that CMS develop a methodology for calculating the PE RVUs so that payment for these codes is not reduced. We do not have the expertise to analyze the four proposed methods for revising the PE methodology so we do not have a specific recommendation which methods proposed at the Town Hall meeting are appropriate for implementation in 2007. However, we believe that none of them is acceptable to us because of the potential adverse impact on patient care. If an appropriate methodology cannot be identified before implementation of revised PE RVUs in 2007 then we recommend that in 2007 (and beyond) the RVUs for drug administration services be frozen at their 2006 level, pending identification of an appropriate methodology.

Alternatively, CMS should consider a delay in the implementation of all PE changes. Given the other changes that are anticipated in 2007, we believe such a delay is easily justified. Among the other changes scheduled for 2007 is the implementation of the results of the five-year review of work values and revisions to PE RVUs that would accompany revised work RVUs. Further, the Deficit Reduction Act of 2005 calls for reductions in the practice expense values for certain imaging services beginning in 2007. Finally, it is possible that the Medicare physician fee schedule update factor for 2007 could be quite negative. In light of all these changes, we believe it could be a mistake to simultaneously adopt a major change in practice expense methodology that is not mandated by the Medicare statute.

ACCC appreciates the opportunity to offer these comments and looks forward to continuing to work cooperatively with CMS to address these important issues. We trust you will find our comments compelling and that necessary and appropriate changes will be made in the proposed rule for 2007 that is under development by CMS. Please feel free to contact ACCC staff member, Daniel Vigil, at (301) 984-9496 ext. 244, if you have any questions or if we can be of further assistance. Thank you for your attention to this very important matter.

Sincerely,

A handwritten signature in cursive script that reads "James C. Chingos".

James C. Chingos, MD, CPE
President, Association of Community
Cancer Centers