



Radiation Oncology

POLICY UPDATE

DECEMBER 2010

1. Medicare Physician Pay-Rate Update

On November 30, President Obama signed into law “The Physician Payment and Therapy Relief Act of 2010.” This law extends through Dec 31, 2010, the 2.2 percent update to the Medicare Physician Fee Schedule (MPFS) that has been in effect for MPFS claims and averts a 23 percent cut that was scheduled to take effect December 1. Payments for 2010 services under the MPFS will continue without delay. The bill ([H.R. 5712](#)) passed both the House of Representatives and the Senate by unanimous consent.

House and Senate Democrats also recently introduced legislation to extend physician payment rates for an additional 12 months. The introduced measures do not include offsets which are still being negotiated.

2. CY 2011 Physician Fee Schedule Final Rule Released

On November 2, 2010, the Centers for Medicare and Medicaid Services (CMS) released the [CY 2011 Physician Fee Schedule Final Rule](#). In the Final Rule, CMS indicates that the primary impacts to specialties are due to:

- Rebasing of the Medicare Economic Index (MEI)
- The second year of the four-year transition to the utilization of new Physician Practice Information Survey (PPIS) data
- Code changes resulting from CMS’s review of AMA RUC recommendations relating to work RVU and direct PE inputs

As with the Proposed Rule, the positive impact of MEI rebasing on radiation oncology offsets the RVU decreases resulting from the second year of the PPIS transition. However, code changes relating to CMS’s review of the AMA RUC recommendations result in a somewhat less favorable impact on “radiation oncology” and “radiation therapy centers” compared to the Proposed Rule. For CY 2011, the specialty impact table in the Final Rule shows a + 3 percent increase for “radiation therapy centers,” and a – 1 percent reduction for “radiation oncology.” These impacts likely will vary depending on a provider’s case mix.

The comment period for this rule closes on January 3, 2011.

3. CY 2011 Hospital Outpatient PPS Final Rule Released

On November 2, 2010, CMS released the CY 2011 Hospital Outpatient PPS Final Rule. Among other things, the final rule modifies physician



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supervision requirements for outpatient therapeutic services as follows:

- For certain non-surgical services, requires direct physician supervision for only the initiation of services and allows general supervision once the treating practitioner deems the patient medically stable.
- Extends through CY 2011 the notice of non-enforcement regarding the direct supervision requirements for outpatient therapeutic services furnished in critical access hospitals (CAHs). Expands the scope of the notice to include small rural hospitals with 100 or fewer beds.
- Redefines direct supervision for all hospital outpatient services to require “immediate availability” without reference to the boundaries of a physical location.

The comment period for this rule closes on January 3, 2011.

4. National Commission on Fiscal Responsibility Proposes Restrictions on Payments

[The Moment of Truth](#) has arrived. On December 1, the National Commission on Fiscal Responsibility and Reform released its final report which builds off the previously released [Co-Chair's Draft Proposal](#). The final version largely retains the earlier draft's proposals to pay for a long-term fix to the Medicare physician reimbursement formula though savings elsewhere within Medicare – coupled with the development of a new formula that “encourages care coordination across multiple providers...and pays doctors based on quality instead of quantity of services.”

On December 3, it was announced the commission failed to reach a consensus, falling three votes short of a 14-vote goal. Had the goal been reached, it may have pressured congressional leaders to vote on the proposal.

5. Berwick Calls for Removal of Current Physician Payment Formula

Testifying before the Senate Finance Committee, CMS Administrator Donald Berwick, said healthcare providers need “stable and predictable payments” to weather changes as healthcare reforms begin to be implemented. The [New York Times](#) provides an overview of the CMS Director's brief appearance. Berwick's 15-page testimony can be found [here](#).

6. FDA Says CT Scan Overdoses Likely Stemmed From Improper Use

On November 9, the Food and Drug Administration (FDA) said cases in which at least 385 patients received excessive radiation during CT scans likely stemmed from improper use of the scanners involved rather than malfunctions of the machines themselves.

The agency also released a [letter](#) listing potential changes to prevent user error in the future. Earlier this year Senator Harkin and Enzi introduced legislation (S. 3737) that would establish minimum education and credentialing standards for personnel who perform radiation therapy and medical imaging procedures.



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7. Request for Information Regarding Accountable Care Organizations and the Medicare Shared Saving Program Published

On November 17, a request for information regarding a CMS proposed rule was published in the Federal Register. The request ([found here](#)) is for comments regarding certain aspects of the policies and standards that will apply to accountable care organizations (ACOs) participating in the Medicare program under section 3021 or 3022 of the Affordable Care Act. For background information and the solicitation of comments, please find the link above.

8. IOM Begins Essential Health Benefits Study

The Institute of Medicine (IOM) began work on laying the ground rules for the “essential health benefits” package, the set of treatments reform requires insurers to cover. Over the next 16 months, a to-be-formed IOM committee will advise HHS in determining what counts and how the list ought to be updated. The IOM envisions their role as providing the best possible guidance, how to determine the essential benefits and update them. The IOM noted it will not define specific service elements of the benefit package.

The official activity description, a link to submit public comment, and a list of the committee members can be found at this summary page on the [IOM website](#).

9. PQRI Holds National Provider Call

On November 10, the Physician Quality Reporting System, previously known as PQRI hosted a national provider conference call. Program announcements and updates were presented, followed by an open Q&A session. CMS provides the following link to the power point and summary of the power point presentations used during the call. [National Provider Call Materials November 10, 2010 \[ZIP 901KB\]](#)

10. Oncology CER Summit Highlights CER Priorities, Methods and Policy

On November 1 and 2 the Center for Medical Technology Policy held its inaugural “National Leadership Summit on CER Priorities, Methods and Policy.” This event brought together clinicians, payers, manufacturers, researchers and patient advocates with the principal objective to address some of the issues confronting PCORI when making policy decisions and offer a strategic framework for Oncology CER to present to the PCORI governing board.

- CMTP’s President and CEO Sean Tunnis provided a [summary of the issues](#) for the event
- Dr. Amy P. Abernethy, the Program Director at the Cancer Care Research Program, discussed the need for improving clinical evidence for oncology by highlighting the [successes and failures of evidence development of off label prescribing](#).
- Peter Neumann, director of the Center for Evolution of Value and Risk in Health Institute for Clinical Research and Health Policy Studies, presented on the [values and costs in Oncology](#). The findings are supported by Neumann’s national survey “Cancer Therapy Costs Influence Treatment: A National Survey Of Oncologists”.



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- William McGivney, head of Clinical Policy at the National Comprehensive Cancer Network, [focused on the development of a system](#) that would support clinical and policy decision-making that was timely, evidence based, and supported by clinicians, patients, and payers.
- Steve Pearson, President for the Institute for Clinical and Economic Review, Harvard Medical School also focused on [CER and "Value" in Oncology](#).

11. Report shows end-of-life cancer care varies markedly across the nation's hospitals and academic medical centers

On November 16, the Dartmouth Institute's Atlas Project released their first-ever report on end-of-life cancer care. [The report](#) showed that whether Medicare patients with advanced cancer will die while receiving hospice care or in the hospital varies markedly depending on where they live and receive care.

12. Midterm Elections Brings Clinicians to U.S. House and Senate

Here is the list of new members of Congress who are clinicians:

- John Boozman (Senate-Arkansas-R) – Optometrist
- Rand Paul (Senate – Kentucky – R) – Ophthalmologist
- Paul Gosar (House-Arizona 1-R) – Dentist
- Larry Bucshon (House-Indiana 8-R) – Cardiothoracic Surgeon
- Andy Harris (House-Maryland 1-R) – Anesthesiologist
- Dan Benishek (House-Michigan 1-R) – General Surgeon
- Joe Heck (House-Nevada 3-R) – Emergency Physician
- Nan Hayworth (House-New York 19 – R) – Ophthalmologist
- Renee Ellmers (House-North Carolina 2- R) – Nurse
- Scott Desjarlais (House – Tennessee 4-R) – Physician
- Diane Black (House-Tennessee 6-R) – Nurse

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