



# Radiation Oncology

**POLICY UPDATE**

OCTOBER 2010

## 1. New Cancer Legislation Introduced.

- **Rep. Capps ALERT Act.** Representative Capps (D-CA) introduced the Access to Life-Saving Early Detection, Research, and Treatment (ALERT) Act, HR 6224. Among other things, this legislation would provide coverage for comprehensive cancer care planning under the Medicare Program. The bill establishes a new pool of grants for cancer identification, survivorship programs, and targeted cancer programs. Additionally, the bill seeks to reauthorize the National Cancer Program within the National Institute of Health (NIH). The bill has been referred to both the House Energy and Commerce and Ways and Means Committees although it is unlikely to see any further action this legislative year. [Section-by-Section Attached]
- **Sen. Tester Prostate Legislation.** In the Senate, Sen. Tester (D-MT) introduced the Prostate Act of 2010, S. 3775. This legislation would authorize appropriations for prostate cancer research (including registries) and the incorporation of prostate cancer treatment into telehealth programs. The bill is an attempt to coordinate all Federal activities relating to prostate cancer by creating a task force between the Veterans Administration (VA), Department of Defense, and Health and Human Services (HHS). Led by the VA, the task force will establish and carry out a program to coordinate and intensify prostate cancer research. Program activities include research to develop advances in early detection and preventative measures. While the bill has been referred to the Senate Health, Education, Labor, and Pensions Committee we don't expect further movement this year. [Bill Attached]

**2. AMA Letter to Congress.** On September 29, the American Medical Association (AMA) sent a letter to Speaker Pelosi and Republican Leader Boehner urging Congress to take action during the lame duck session and avert cuts under the Medicare physician access crisis. The letter reminds Congress that Medicare payments for physician services will be slashed by more than 23 percent after November 30 of this year and asks Congress to pass legislation providing stability for the program at least through 2011. [Letter Attached]

**3. HHS OIG Office Releases 2011 Work Plan.** The HHS Office of Inspector General (OIG) released its [FY 2011 Work Plan](#). The work plan provides brief descriptions of activities OIG plans to initiate or continue with respect to the programs and operations of HHS in fiscal year 2011.



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Select descriptions include:

- **Medicare Payments for Part B Imaging Services.** We will review Medicare payments for Part B imaging services. Physicians are paid for services pursuant to the Medicare physician fee schedule, which covers the major categories of costs, including the physician professional cost component, malpractice costs, and practice expense. The Social Security Act, § 1848(c) (1)(B), defines “practice expense” as the portion of the resources used in furnishing the service that reflects the general categories of expenses, such as office rent, wages of personnel, and equipment. For selected imaging services, we will focus on the practice expense components, including the equipment utilization rate. We will determine whether Medicare payments reflect the expenses incurred and whether the utilization rates reflect industry practices. (OAS; W-00-11-35219; various reviews; expected issue date: FY 2011; new start).
- **Hospitals’ Compliance with Medicare Conditions of Participation for Intensity-Modulated and Image-Guided Radiation Therapy Services.** We will review hospitals’ compliance with Medicare requirements concerning the safety and quality of intensity modulated radiation therapy (IMRT) and image-guided radiation therapy (IGRT) services. Pursuant to 42 CFR § 482.26, therapeutic radiological services, such as IMRT and IGRT, must meet professionally approved standards for safety and personnel qualification. Hospitals must maintain appropriate radiologic services to ensure safety for patients and personnel in compliance with Medicare CoP. We will also assess CMS’s oversight of IMRT and IGRT services provided in hospitals. (OEI; 00-00-00000; expected issue date: FY 2012; new start)
- **Medicare Brachytherapy Reimbursement.** We will review payments for brachy- therapy, a form of radiotherapy where a radiation source is placed inside or next to the area requiring treatment, to determine whether the payments are in compliance with Medicare requirements. Pursuant to the Social Security Act, § 1833 (t)(16)(C), as amended by the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), § 142, Medicare pays for radioactive source devices used in treatment of certain forms of cancer. (OAS; W-00-10-35520; W-00-11-35520; various reviews; expected issue date: FY 2011; work in progress)

**4. HHS Seeks Input.** The HHS announced it is [seeking public input](#) in the development of a National Health Care Quality Strategy and Plan. This document identifies specific areas where public feedback is being sought. The deadline for comments is 5 p.m. on October 15, 2010.

**5. CMS SDP Guidance.** The Centers for Medicare and Medicaid Services (CMS) released guidance on a new [voluntary self-disclosure protocol](#) pursuant to Section 6409 of the Patient Protection and Affordable Care Act (ACA). The ACA requires the HHS secretary to establish a Medicare self-referral disclosure protocol (“SRDP”) that sets forth a process to enable providers of services and suppliers to self-disclose actual or potential violations of the physician self-referral statute.

## 6. New AHRQ Reports on Radiation Treatments for Prostate Cancer.

- **AHRQ Updated Report.** The Agency for Healthcare Research and Quality (AHRQ) released an updated report on comparative effectiveness for radiation therapy for localized prostate cancer: [“Comparative Evaluation of Radiation Treatments for Clinically Localized Prostate Cancer: An Update.”](#) This report is similar to a report released earlier this year by AHRQ.



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- **AHRQ Highlights Future Research Needs.** AHRQ also released a report entitled: “Future Research Needs for Comparative Effectiveness of Treatments of Localized Prostate Cancer.” The report attempts to identify and prioritize research gaps and suggest a list of potential research studies to address the gaps. Comments to the report may be submitted [here](#).

**7. HITECH Act Update.** The Office of the National Coordinator for Health Information Technology (ONC) within HHS announced a third certification body for Electronic Health Record (EHR) certification under the Health Information Technology for Economic and Clinical Health (HITECH) Act. Certification bodies now include InfoGard Laboratories, Inc., the Drummond Group, Inc., and the Certification Commission for Health Information Technology (CCHIT).

**8. Upcoming AHRQ/NIH Conference.** AHRQ and NIH announced [a conference](#) on “Methodological Challenges in Comparative Effectiveness Research on December 2-3, 2010. The agenda includes a session on the comparative effectiveness of surgical and radiotherapy treatments for prostate cancer.

## **9. CMS Listening Sessions on ACA Regulations.**

- **September 20 Session.** On September 20, CMS held a listening session to receive comments regarding implementation of section 10332 of the ACA regarding the availability of Medicare data for performance measurement. Here is a [link to the backgrounder](#) on the listening session as well as the [Power Point slides](#).
- **September 24 Session.** On September 24, CMS held an all day listening session regarding confidential physician feedback reports that will serve as the basis for a value payment modifier called for in the ACA. [Click here](#) for the slides and background information for this event.

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