RADIATION THERAPY ALLIANCE
21st Century Oncology, Oncure Medical Corp.,
Radiation Oncology Services of America, Vantage Oncology, Inc.
1050 K Street | Suite 315 | Washington, DC 20001 | 202 442-3710

December 8, 2011

Marilyn Tavenner
Acting Administrator
Centers for Medicare and Medicaid Services (CMS)
Attention: CMS-1524-FC
Mail Stop C4-26-05
7500 Security Boulevard
Baltimore, MD 21244-1850

RE: Final Rule: Medicare Program; Payment Policies Under the Physician Fee Schedule for CY 2012 [CMS-1524-FC]

Dear Ms. Tavenner:

The Radiation Therapy Alliance (RTA) appreciates the opportunity, on behalf of physicians and staff at over 207 freestanding radiation therapy facilities in 21 states serving approximately 75,000 patients annually, to comment on the 2012 Physician Fee Schedule (PFS) Rule. The RTA is an organization that represents for-profit, freestanding radiation therapy facilities, including 21st Century Oncology, Oncure Medical Corp., Radiation Oncology Services of America, and Vantage Oncology, Inc.

The members of the RTA strongly believe that fair, stable, and predictable reimbursement policy is critical for the development and delivery of the community-based cancer care that we and other freestanding radiation oncology providers offer to patients. The nature of quality cancer care in the radiation oncology sector requires acquisition and financing of expensive radiation therapy equipment. Transparency, payment stability, and predictability can reduce this risk and lead, over time, to greater patient access to quality cancer care.

While the RTA continues to pursue opportunities with CMS to develop innovative payment reform through a bundled payment approach, we also provide this comment letter to express our concern with the impact of the CY 2012 PFS Final Rule in two regards. First, changes implemented in the Final Rule result in significant cuts in excess of the proposed cuts, and these adversely affect our ability to provide care. The uncertainty posed by the Final Rule cuts also could discourage investment in new equipment and construction of new facilities. Second, given the significance of the cuts to radiation oncology, the RTA finds the lack of transparency regarding the reasons for these cuts to be especially concerning.

Overview

We offer comments herein relating to aspects of the PFS that are opaque to many Medicare provider stakeholders and have resulted in payment instability and unpredictability in the CY 2012 PFS Final Rule.

In short, important changes occurred between the Proposed and Final Rules that resulted in a net additional decrease in radiation oncology payments beyond the cuts that were proposed. According to the Final Rule, these changes reduce total payments for radiation oncology in 2012 by an additional 2% in aggregate, beyond the 4–5% reduction imposed in the Proposed Rule. CMS has not justified these cuts other than by providing scant public information regarding actions taken by the AMA RUC.

1. Key Radiation Oncology Codes Further Reduced Between the Proposed and Final Rules

Five important codes were negatively impacted between the Proposed and Final Rules and appear to account for the additional negative impacts to radiation oncology. Three of these five codes (77014, 77418, and 77421) are responsible for the bulk of the reduction.

Specifically, between the Proposed and Final Rules, CMS made the following changes, apparently as a result of CMS's acceptance of the AMA RUC's recommendations:

- **77014, Ct scan for therapy guide.** CMS reduced "non-facility time" from 26 minutes to 14 minutes for the "room, CT" equipment direct practice cost input. (The AMA RUC had apparently recommended that it be reduced to 18 minutes.)
- **77418, Radiation tx delivery IMRT.** CMS removed a number of direct practice cost inputs for 77418 in the equipment category. Specifically, between the Proposed and Final Rules, CMS removed 7 of the 10 equipment direct practice cost inputs for 77418.
- **77421, Stereoscopic x-ray guidance.** CMS reduced "non-facility time" from 34 minutes to 24 minutes for the "portal imaging system (w-PC work station and software)" equipment direct practice cost input.
- **76950, Echo guidance radiotherapy.** CMS removed a number of equipment and supply direct practice cost inputs for 76950.
- **77435, Sbrt management.** The majority of the impact between the Proposed and Final Rules to 77435 appears to be due to CMS's acceptance of an AMA RUC recommendation to reduce work RVUs for 77435 from 13.00 to 11.87. Because work RVUs are an input into the PE methodology, there also were corresponding, smaller reductions in this code's PERVUs.

The RTA believes that the impact tables provided by CMS underestimate the impact for providers using the most effective radiation therapy techniques. In many cases, these freestanding radiation therapy center providers will experience cuts well beyond the 6% reduction reflected in the Final Rule for 2012.

2. Radiation Oncology PERVU Development Suffers from Lack of Transparency

Given the significance of the cuts to radiation oncology, the RTA is compelled to raise several concerns. First, the RTA has significant concerns regarding the transparency with which the Final Rule payment rates were adopted. This lack of transparency and inconsistency between PERVU direct cost inputs and actual clinical requirements is exemplified in a review of CPT Code 77418. Second, in the interim, CMS has implemented a process in the Final Rule that forces radiation therapy providers to accept Final Rule

payment rates for 2012 regardless of whether the inputs used to develop the payment rates are appropriate.

A. RTA has concerns regarding transparency with which Final Rule payment rates were adopted

The RTA understands that, as a prerequisite for the AMA RUC to recommend changes to code valuations, a specialty society survey must be undertaken in order to derive appropriate direct cost inputs. However, the RTA, which represents physicians in 21 states, is unaware of any surveys that may have taken place in the last few years relating to any of the radiation oncology codes that experienced a reduction in the Final Rule. Given the lack of transparency in the current PERVU input process, the RTA would welcome the possibility of alternative collection of appropriate PE data and is currently researching alternative data collection options.

PERVU Inputs for CPT Code 77418 Exemplify Problems with the PERVU Input Process

It appears for the CY 2012 PFS Final Rule that CMS adopted the AMA RUC's October 2010 recommendations for 77418. These recommendations resulted in the dropping of 7 equipment direct cost inputs as shown in Table 1 below.

Table 1

Direct Cost Inputs for CPT Code 77418		
Input	CY2012 PFS Proposed Rule	CY2012 PFS Final Rule
accelerator, 6-18 MV	X	X
collimator, multileaf system w-autocrane (MIMiC)	X	X
camera, digital (6 mexapixel)	X	X
computer system, record and verify	X	
video camera	X	
video printer, color (Sony medical grade)	X	
intercom (incl. master, pt substation, power, wiring)	X	
IMRT physics tools	X	
isocentric beam alignment device	X	
laser, diode, for patient positioning (Probe)	X	

Although it is unclear to the RTA whether the dropping of these seven direct cost inputs was a procedural mistake, the RTA notes, from a clinical perspective, that the delivery of IMRT cannot, in fact, be performed without the seven direct cost inputs that were dropped in the Final Rule. **Thus, the RTA strongly urges CMS to consider adding the seven dropped equipment direct cost inputs for 77418.**

B. Radiation oncology providers forced to adopt "interim" rates for 2012

Based on the notation in the "public use tables" available on the CMS website, it appears the input changes for these codes occurred as a result of a "CPT12, Oct 8" RUC meeting. Given the AMA RUC's typical two-year calendar cycle, the RTA believes this means that these apparent RUC recommendations were made during an October 8, 2010, RUC meeting for the CY 2012 PFS. If this is the case, the RTA objects that these values were incorporated subsequent to the release of the CY 2012 Proposed Rule and, therefore, subsequent to an opportunity for values to be appropriately revised for CY 2012.

While CMS has finalized the values for these codes as "interim," which allows stakeholders to comment on the codes, any changes CMS might choose to accept would not be incorporated in the PFS until the 2013 NPRM cycle, unless it can be demonstrated that the reimbursement rate is the result of a technical error. Without direct access to the AMA RUC, the RTA finds it challenging to determine if any of these changes may have been technical errors.

Conclusion

We thank CMS for the opportunity to comment on the CY 2012 Physician Payment Rule. We would be happy to discuss any of these matters further. If you have additional questions regarding these matters and the views of the RTA, please contact RTA Executive Director Andrew Woods at (202) 442-3710.

Sincerely,

Christopher M. Rose, M.D., FASTRO
Chair, Radiation Therapy Alliance Policy Committee