


**Centers for Medicare & Medicaid Services
(CMS) Programs Update**

Region E State Offices of Rural Health (SORHs)
Annual Meeting
Astoria, Oregon

September 1, 2010

CMS Regional Offices
Denver & Seattle

1



Topics

- Health IT
- Legislative Highlights
- Highlights of Recent Regulations
- Key Policy & Memos for CAHs
- Frequently Asked Questions (FAQs)
- Useful Resources

2



**Health Information
Technology (HIT)**


- CMS's role in supporting growth in HIT
 - Encourage hospitals & eligible professionals to adopt/use EHR technology (enhanced payments)
 - Supporting nationwide HIT information exchange
 - Promoting interoperability in clinical data registries
- Collaboration with other agencies
 - Within HHS
 - Rural HIT Coordinating Committee: HHS, FCC, VA, Commerce, Agriculture

3

 **HIT: Where to get Information**


- www.healthit.hhs.gov
 - A great site to bookmark, provides a variety of links to other resources
 - Outreach section with fact sheets & FAQs
 - Sign up for email alerts

4

 **...HIT: Where to get Information**

- www.cms.gov/EHRIncentivePrograms/
 - Fact sheets and FAQs on meaningful use, payments
 - Spotlight and Upcoming Events section
 - Scroll down to the "Downloads" section to find comprehensive training materials
- www.raconline.org
 - Information Guides section (Health IT)

5




**American Recovery & Reinvestment Act
(ARRA) of 2009**
PL 111-5

Enacted February 17, 2009


*Includes HIT for Economic & Clinical Health (HITECH) Act:
Medicare & Medicaid Incentive Payments for
Meaningful Use of Certified EHRs*

6



Temporary Extension Act (TEA) of 2010
 PL 111-144
Enacted March 2, 2010


7



TEA Highlights

- **Medicare Physician Fee Schedule (MPFS)**
 - Extends through 03/31/2010 (30 days) the zero% update the DOD Act of 2010 (PL 111-118 , 12/19/09) authorized for DOSs 01/01-02/28/2010
 - **UPDATES**
 - Continuing Extension Act (CEA) of 2010 later extends MPFS zero% update through 05/31/2010
 - Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010 (PL 111-192 , 06/25/2010) later provides 2.2 % update for period 06/01/2010-11/30/2010


8



TEA Highlights


- **Outpatient (OP) Therapy CAP Exceptions**
 - Extends through 03/31/2010 exception process for claims reaching annual cap, retro to 01/01/2010
 - 2008 MIPPA extended through 12/31/09
 - Affected providers may submit claims for exceptions with dates of service (DOSs) 01/01-03/31/2010
 - Use the KX modifier
 - Follow pre-01/01/2010 requirements for cap exceptions
 - **UPDATE**
 - Section 3102 of Patient Protection & Affordable Care Act of 2010 (ACA) (PL 111-152 , 03/23 & 03/30/2010)
 - Extends exceptions process for DOSs through 12/31/2010

9

 **Patient Protection & Affordable Care Act**
PL 111-148
Enacted March 23, 2010


Amended by
Health Care & Education Affordability Reconciliation Act
PL 111-152
Enacted March 30, 2010

Collectively, Affordable Care Act (ACA)¹⁰

 **Affordable Care Act (ACA) Highlights**


- **Ambulance Provisions**
 - Extends, retroactive to 01/01/2010 & through 12/31/2010
 - Increases in fee schedule amounts for ground transports originating in
 - Rural areas by 3%
 - Urban areas by 2%
 - MMA of 2003 rural air ambulance provisions
 - MMA of 2003 "super rural" bonus
- **Outpatient Therapy Cap Exceptions Process**
 - Extends through 12/31/2010

11

 **...Affordable Care Act Highlights**


- **Medicare Primary Care & Prevention**
 - No deductible & coinsurance for most preventive services 01/01/2011
 - Annual wellness visit with personalized prevention plan 01/01/2011
 - Incentive payments to primary care practitioners for primary care services 01/01/2011
 - Includes physicians, NPs, CNSs, & PAs
 - 10% of allowed charges for primary care services
 - Incentive payments for major surgical procedures in HPSAs 01/01/2011
 - Enrolled as general surgeon
 - 10% of the MPFS payment for the surgical services

12

 **...Affordable Care Act Highlights**


- Physician assistants (PAs) authorized to perform level of care certification required for Medicare skilled nursing (SNF) benefit 01/01/2011
- Payment for certified nurse-midwife (CNM) services increased 01/01/2011
 - From 80% of lesser of actual charge or 65% MPFS
 - To 100% of MPFS (or 80% of actual charge if less)
- Amends in-office ancillary services exception to physician self-referral law 01/01/2011
 - For MRI, CT, & PET
 - Must disclose at time of referral there are alternative suppliers
 - Provide list of 10 others within 25 mile radius of physician's office

13

 **...Affordable Care Act Highlights**

- **Maximum period for submission for Medicare claims reduced to not more than 12 months (from current 15-27)**
 - Claims furnished on or after 01/10/2010 must be filed no later than 1 calendar year from the DOS
 - With claims for DOSs in last 3 months of 2009 to be filed NLT 12/31/2010

14

 **Continuing Extension Act (CEA) of 2010**
PL-111-157
Enacted April 15, 2010

15

CMS/ **CEA Highlights**

- Extends through 05/31/2010 zero% update to conversion factor in Medicare physician fee schedule (MPFS)
 - UPDATE
 - 06/25/2010 Preservation of Access to Care for Medicare Beneficiaries & Pension Relief Act of 2010 (PL 111-192) gives 2.2 % update for 06/01-11/30/2010
- Amends Medicare & Medicaid re prohibition re EHR meaningful use (MU) incentive payments to hospital-based eligible professionals (EPs)
 - Redefines "hospital-based" EPs
 - An EP may not be hospital-based, defined as practitioner performing 90% or more of his/her services in hospital inpatient or ER setting

16

CMS/

Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act of 2010

PL 111-192


Enacted June 25, 2010

17

CMS/ **Preservation of Access to Care for Medicare Beneficiaries and Pension Relief Act Highlights**


- Sets 2.2% as update to single conversion factor in formula for determining physician payment rates under MPFS for 06/01/2010-11/30/ 2010

18

 **FY 2010 Medicare Inpatient Rule**


- Medicare FY 2010 Final IPPS & Long-term Acute Hospital Rule (CMS-1406-F & IFC; CMS-1493-F; CMS-1337-F)
 - Final Rule published in FR on 08/27/09 at http://www.access.gpo.gov/su_docs/fedreg/a090827c.html
- HIGHLIGHTS
 - Lab tests for patients NOT physically present in CAH when specimen collected paid on reasonable costs 07/01/09 (MIPPA sect. 148)
 - Must be considered CAH outpatient
 - » Receives OP services in CAH on same day specimen collected or
 - » Specimen collected by CAH employee
 - For this purpose, facility provider-based to CAH is considered a CAH
 - When specimen collected, if patient in facility wherein consolidated billing (CB) applies, payment via lab fee schedule

19

 **...FY 2010 Inpatient Rule CAH Highlights**


- Scope change for CAH provider-based designations
 - CAH labs must satisfy provider-based requirements (42 CFR 413.65) 10/01/2010
 - If lab OFF campus & created/acquired on or after 01/01/2008, also must meet CAH distance requirements (42 CFR 485.610(e)(2)-(3))
- Change for CAH Optional Method for OP Services (Method II), to reconcile regs w/statute
 - 101% > 100% reasonable costs for facility component
 - Cost years starting on or after 10/01/09
 - UPDATE
 - ACA of 2010 corrects to 101% as if part of 2003 MMA
- CAHs in counties rural in FY 2009 but urban in FY 2010
 - OMB 11/20/2008
 - CAHs treated rural until earlier of rural redesignation or 09/30/2011
 - Two years to seek & obtain rural redesignation (42 CFR 412.103)

20

 **CY 2010 Medicare Outpatient Rule**


- Medicare CY 2010 Final Hospital Outpatient PPS (OPPS) & ASC Rule (CMS-1413-FC)
 - Final Reg published 11/20/09 in FR at http://www.access.gpo.gov/su_docs/fedreg/a091120c.html
- HIGHLIGHTS
 - Clarification/revision of supervision requirements for OP hospital/CAH therapeutic services

21




CY 2010 Medicare Physician Fee Schedule (MPFS) Rule

- Medicare CY 2010 Payment Policies Under PFS & Other Part B Revisions (CMS-1413-FC)
 - Published in FR 11/25/09 at http://www.access.gpo.gov/su_docs/fedreg/a091125c.html
- HIGHLIGHTS
 - Absent legislative action, -21.2% update for CY 2010 (1997 BBA, SGR)
 - UPDATES
 - DOD Act of 2010
 - » Zero% update for 01/01-02/28/2010
 - TEA of 2010
 - » Extends zero% update through 03/31/2010
 - » Retro to 01/01/2010, extends through 03/31/2010 OP therapy cap exception process
 - CEA of 2010
 - » Extends zero% update through 05/31/2010
 - Preservation of Access to Care for Medicare Beneficiaries & Pension Relief Act of 2010 (06/25/2010)
 - » 2.2% update for DOSs 06/01-11/30/2010




...CY 2010 MPFS Rule Highlights

- Removes physician-administered drugs from "physicians' services"
 - Positive effect, post-CY 2010
- Makes refinements to improve payment rates for primary care
- Discontinues payment for consultation codes, EXCEPT for G code telehealth consults
 - Uses savings to increase payments for existing E&M services
 - Adjusts payment for surgical global period to reflect higher value of office visits in global period
- Payments to GPs, family physicians, internists, & geriatric specialists projected to increase 5-8% (pre-negative update)




...CY 2010 MPFS Rule Highlights

- Implements several MIPPA 2008 provisions
 - Adds & defines new benefit categories 01/01/10
 - Cardiac & pulmonary rehab services
 - Chronic kidney disease (CKD) education
 - Increases Medicare share for outpatient MH services from 50% > 55% (gradual transition to 80%)
 - Requires accreditation for suppliers of technical component of advanced imaging services 01/01/12
 - Applies to mobile units, physicians' offices, & IDTFs (NOT to interpreting physician)
 - Additional CMS guidance coming
 - supplier accountability,
 - business integrity
 - physician & technician training
 - service quality
 - performance management


 **...CY 2010 MPFS Rule Highlights**

- **Makes revisions to E-Prescribing Incentive Program & Physician Quality Reporting Initiative (PQRI)**
 - Promotes improved quality & patient outcomes
 - Simplifies reporting requirements for E-Prescribing
 - EPs or group practices that meet requirements eligible for incentive payments for both programs
 - 2.0% total estimated allowed charges for reporting period
 - Adds measures for EPs to report under PQRI
 - Provides mechanism for participants to submit quality measure data from qualified EHR
 - Creates process for group practices to use for reporting quality measures

28


 **Final FY 2011 Inpatient Rule**

- Medicare & Medicaid: Changes to Hospital Inpatient PPSs for Acute Care & LTC Hospitals and FY 2011 Rates; Provider Agreements & Supplier Approvals; Hospital CoPs for Rehab & Respiratory Care; Medicaid: Accreditation for Providers of Inpatient Psych Services (CMS-1498-F, CMS-1498-F2, & CMS-1498-IFC; CMS-1406-F)
 - On display 07/30/2010 at http://www.ofr.gov/OFRUpload/OFRData/2010-19092_PL.pdf, with publication in 08/16/2010 FR
- HIGHLIGHTS
 - Reimbursement for CRNA Services
 - Geographically urban hospitals/CAHs designated rural per 42 CFR 412.103 may qualify for reasonable cost (RC) payment for CRNA anesthesia & related care
 - Removal of Annual Election for Maintaining CAH Method II (M-II)
 - Clarification re Which Provider Taxes May Be CAH Allowable Costs
 - On case-by-case basis, based on RC principles, contractors to determine allowability and if a reduction of allowable tax expenses is proper to account for payments which providers receive & which are associated with the assessed tax
 - Technical correction re CAH services via ACA section 3128 ^{§ 220}
 - 101% RC for facility services (M-II) & for ambulance services (as in 2008 MMA)


 **Recent Proposed Rules**
Credentialing & Privileging of Telemedicine Practitioners

- Medicare & Medicaid Programs: Proposed Changes Affecting Hospital & CAH Conditions of Participation (CoPs): Credentialing & Privileging of Telemedicine Physicians & Practitioners (CMS-3227-P)
 - Published in FR 05/26/10 at <http://edocket.access.gpo.gov/2010/pdf/2010-12647.pdf>
 - Comment period closure 07/26/2010


30

 **Recent Proposed Rules**
CY 2011 MPFS Rule

- Medicare Program: Payment Policies Under the Physician Fee Schedule & Other Revisions to Part B for CY 2011 (CMS-1503-P)
 - Published in FR 07/13/2010 at <http://edocket.access.gpo.gov/2010/pdf/2010-15900.pdf>
 - Comment period closes 08/24/2010, with final rule by 11/01/2010
- HIGHLIGHTS
 - Implements several ACA benefits
 - Improves primary care access via incentive payment for primary care services by primary care practitioners (Drs, NPs, CNSs, & PAs)
 - Implements payment incentive program for general surgeons performing major surgery in Secretary-designated HPSAs
 - Allows PAs to order post-hospital extended care in SNFs
 - Provides certified nurse midwives to be paid at same rates as Drs
 - Adds to list of covered telehealth services...

 **Recent Proposed Rules**
....CY 2011 MPFS Rule

- Proposed Telehealth Additions Include
 - Individual & group kidney disease education (KDE) services (HCPCS codes G0420 & G0421, respectively)
 - Individual & group diabetes self-management training (DSMT), with minimum of 1 hour in-person instruction to be furnished in year following the initial DSMT service to ensure effective injection training (HCPCS codes G0108 & G0109, respectively)
 - Group medical nutrition therapy (MNT) and health & behavior assessment and intervention (HBAI) (CPT codes 97804, and 96153 and 96154, respectively)
 - Subsequent hospital care services, with limitation for patient's admitting practitioner of one telehealth visit every 3 days (CPT codes 99231, 99232, and 99233)
 - Subsequent nursing facility care services, with limitation for patient's admitting practitioner of one telehealth visit every 30 days (CPT codes ³² 99307, 99308, 99309, and 99310)

 **Recent Proposed Rules**
Hospital/CAH Patient Visitation Rights

- Medicare and Medicaid Programs: Changes to Hospital & CAH CoPs To Ensure Visitation Rights for All Patients (CMS-3228-P)
 - Published in FR 06/28/2010 at <http://edocket.access.gpo.gov/2010/pdf/2010-15568.pdf>
 - Comment period closes 08/27/2010
- HIGHLIGHTS
 - Revises CoPs to ensure all patients' visitation rights
 - Medicare & Medicaid-participating hospitals/CAHs to have written policies & procedures
 - Including those detailing any clinically necessary or reasonable restriction/limitation the facility may need to place on such rights, as well as the reasons for such

33

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Recent Proposed Rules

CY 2011 OPPTS/ASC Rule

- Medicare Program: Changes to Hospital OPPTS & ASC Payment Systems and CY 2010 Payment Rates (CMS-1504-P)
 - Published in 08/03/2010 FR at http://www.access.gpo.gov/su_docs/fedreg/a100803c.html
 - Comments close 08/31/2010, w/final rule by 11/01/2010
- HIGHLIGHTS
 - ACA's cost sharing waiver (practitioner & facility) for most preventive services (e.g., "Welcome to Medicare Visit")
 - Modifies supervision requirements for OP therapeutic services to require direct supervision of initiation, followed by general supervision for limited set of non-surgical extended duration services, including observation
 - ACA's GME provisions
 - Unused residency slots redistribution to certain hospitals w/qualified residency programs, w/emphasis on increasing primary care physicians
 - Residency slots from hospitals which close to be given to other teaching hospitals in same or contiguous area

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CAH Relocation or Relative Location Questions?

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35

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Key CAH Survey & Certification (S&C) Policy & Memos

- #S&C letter 07-35 "Critical Access Hospitals (CAHs): Distance from Other Providers and Relocations of CAHs with a Necessary Provider Designation" (09/07/07) at <http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter07-35.pdf>

Summary

Revises & replaces prior interpretive guidance on

- For necessary provider (NP) CAHs, relocations (see 42 CFR 485.610(d))
- For other CAHs, location relative to other hospitals/CAHs (see 42 CFR 485.610(c))

36

CMS | ...Key CAH S&C Policy & Memos

- #S&C-09-15 "New Critical Access Hospital (CAH) Requirements under 42 CFR 485.610(e) related to CAH Co-Location and CAH Provider-based Locations" (11/21/08) at <http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter09-15.pdf>

Summary
 Final reg in FR 11/27/07 & effective 01/01/08

- NPs cannot co-locate with other hospitals or CAHs
- Existing co-located NPs may retain CAH status only if co-located before 01/01/08 AND there is no change to type/scope of services offered by facility co-located with NP
- CAH off-campus provider-based facilities (excluding RHCs but including CAH psych/rehab DPUS) created or acquired 01/01/08 or later must comply with CAH location requirements
- CAH with arrangements not meeting requirements will have provider agreement terminated, unless arrangement ended

37

CMS | ...Key CAH S&C Policy & Memos

- #S&C-10-10-CAH "Critical Access Hospital (CAH) Regulatory Changes" (12/31/09) at: http://www.cms.hhs.gov/SurveyCertificationGenInfo/downloads/SCLetter10_10.pdf

Summary
 Final reg in FR 07/31/09 & effective 10/01/09

- Until 09/30/2011, permits CAH continued participation in areas no longer rural (OMB 11/20/08)
 - Two years to obtain rural redesignation via 42 CFR 412.103
- Effective 10/01/2010, ALL CAH-owned clinical labs must satisfy provider-based & CAH location requirements
 - State Operations Manual (SOM) (Pub. 100-07) Section 2256H revised per Transmittal #49 at <http://www.cms.hhs.gov/transmittals/downloads/R49SOMA.pdf>

CMS | **FAQ: ICD-10 Clinical Modification Procedure Coding System?**

- Final Rule 01/16/09 - HIPAA Administrative Simplification: Modifications to Medical Data Code Set Standards to Adopt ICD-10-CM and ICD-10-PCS (CMS-0013-F)
 - ICD-10 effective 10/01/2013 for all covered entities,
 - Important, related Version 5010 transition 01/01/2012
 - E-health transaction standards change from Version 4010/4010A1 to Version 5010 (e.g., for claims, eligibility queries, & remittance advices)
 - 5010 permits ICD-10 codes & MUST be in place first
 - Transition well before ICD-10 compliance date, to allow adequate V-5010 testing & implementation time
 - Recommend Level I internal tested completed by 12/31/2010
 - Resources
 - CMS national conference calls with providers
 - Visit <http://www.cms.gov/ICD10/>
 - See MLN Matters #SE1019 at <http://www.cms.gov/MLNMattersArticles/downloads/SE1019.pdf>

39

CMS **FAQ: Shingles Vaccine?**

- Medicare Part D covered 01/01/2008
 - Charges for vaccine & administration
 - *If given in a pharmacy*
Pharmacy electronically bills beneficiary's Part D plan for vaccine & administration
 - *If given in physician's office*
 - Beneficiary
 - » Gets prescription from doctor
 - » Takes prescription to network pharmacy
 - Pharmacy
 - » Provides vaccine directly to doctor's office
 - » Pharmacy bills Part D plan for vaccine
 - Physician
 - » Administers vaccine to beneficiary
 - » Bills beneficiary for administrative costs
 - Beneficiary
 - » Submits claim to Part D plan
 - » May have to pay provider up front

43

CMS **Ongoing Objectives**


- Improve quality & efficiency via
 - Partnerships
 - Financial incentives
 - Public reporting
 - Adoption of health IT
 - Promotion of innovation & evidence base for effective use of technology

44

CMS **Useful Resources**


- **Provider-based Designations**
 - 42 CFR 485.610(e)(2)-(3)
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=096bcd21b2744bfc1e731f1dcd9a1718&rgn=div8&view=text&node=42:4.0.1.5.24.4.203.7&idno=42>
 - 42 CFR 413.65
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=096bcd21b2744bfc1e731f1dcd9a1718&rgn=div8&view=text&node=42:2.0.1.2.13.5.53.3&idno=42>
 - CMS Program Memorandum A-03-030 (Change Request #2411 of 04/14/03) - "Provider-based Status On and After 10/01/02"
<http://www.cms.hhs.gov/Transmittals/CMSPM/itemdetail.asp?filterType=dual.%20keyword&filterValue=2411&filterByDID=0&sortByDID=4&sortOrder=ascending&itemID=CMS053068&intNumPerPage=10>
- **National S&C Letters**
 - All national S&C policy letters to States & Regions
<http://www.cms.hhs.gov/SurveyCertificationGenInfo/PMSR/list.asp#TopOfPage>

45

 **...Useful Resources**

- Medicare Claim Review Programs: MR, NCCI Edits, MUEs, CERT, and RAC (Oct 2008)
http://www.cms.hhs.gov/MLNProducts/downloads/MCRP_Booklet.pdf
- Medicare Learning Network (MLN) catalog of products available (downloadable , Nov 2009)
<http://www.cms.hhs.gov/MLNProducts/downloads/MLNCatalog.pdf>
- Medicare publications ordering
<http://pubordering.cms.hhs.gov/maillinglist/>
- MLN educational web guides & MLN Matters articles
<http://www.cms.hhs.gov/MLNGenInfo/>
- CMS Open Door Forums (sign up)
<http://www.cms.hhs.gov/OpenDoorForums/>
- CMS Website Rural Health Center
<http://www.cms.hhs.gov/center/rural.asp>
- ORHP Rural Assistance Center
<http://raonline.org>
- CMS CAH Center
<http://www.cms.hhs.gov/center/cah.asp>

46

 **...Useful Resources**

- Quality Initiatives
<http://www.cms.hhs.gov/QualityInitiativesGenInfo>
- Quality of Care Center
<http://www.cms.hhs.gov/center/quality.asp>
- Medicaid & CHIP Quality Practices
<http://www.cms.hhs.gov/MedicaidCHIPQualPrac/>
- Medicare Demonstration Projects
<http://www.cms.hhs.gov/DemoProjectsEvalRpts/MD/list.asp>
- Quarterly Provider Updates (view or subscribe)
<http://www.cms.hhs.gov/AboutWebsite/EmailUpdates/itemdetail.asp?itemID=CMS1205639>
- State Medicaid Director & State Health Official Letters
http://www.cms.hhs.gov/SMDL/01_overview.asp#TopOfPage
- "Innovators' Guide to Navigating CMS" (updated May 2010)
http://www.cms.gov/CouncilonTechInnov/Downloads/InnovatorsGuide5_10_10.pdf

 **THANK YOU**

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48
