What the New Medicare Law Means for Your Practice

Thanks to your tireless advocacy, last week Congress successfully beat long odds and overrode the President's veto of the Medicare Improvements for Patients and Providers Act (MIPPA). The bill's enactment, and its inclusion of provisions of critical importance to psychology, is a compelling testament to the power of effective lobbying, grassroots mobilization and political giving. Now that implementation has begun, I wanted to provide you with further information on how the new Medicare law (Public Law 110-275) will positively affect Medicare payments to your practice and seniors' access to mental health services.

Payments for Psychotherapy

MIPPA increases payments for psychotherapy by five percent ($45 million more for these services) from July 1, 2008 through December 31, 2009 to partially offset cuts imposed in 2007. As you know, payment levels for psychotherapy and other psychological services suffered steep cuts in 2007 as a result of the Centers for Medicare and Medicaid Services' (CMS) most recent review of Medicare payment. Every five years, CMS looks at services codes and determines whether they are overvalued or undervalued. After the decision was made to boost payment for "evaluation and management" (E/M) codes starting January 1, 2007, budget neutrality requirements forced a reduction in payment for all other codes. Among providers, psychologists were the hardest hit by this payment reduction.

At the time of the reduction, the APA Practice Organization (APAPO) immediately began advocating for relief for members adversely affected by the cut, first by securing language in the House's Children's Health and Medicare Protection Act to restore Medicare funding for psychological services. The House passed the legislation in 2007. Since then, the APAPO has ensured that restoration language was included every time the House and Senate voted on Medicare legislation — throughout all six votes. Unfortunately, we faced strong pressures in the House and Senate to avoid language that could raise opposition. As a result, we had to compromise this year and drop our request for psychologist eligibility for reimbursement for E/M services. While we did not get all that we wanted, nevertheless the inclusion of the restoration provision marks a significant and unprecedented victory for psychology. Through APAPO advocacy, psychotherapy codes were the only codes that Congress provided relief for through this law. When Congress returns to Medicare issues in 2009, APAPO will keep up the fight to extend the restoration provision and provide psychologists with E/M eligibility.

As you know, in addition to the adjustments stemming from the five-year review, CMS also announced in 2007 changes in practice expense (PE) methodology for all Medicare providers phased in through 2010. These changes increased payment rates for some psychologist services and decreased the rate for others. On average, CMS projected that

practice expense payments for psychologists would drop by 2% each year through 2010, and these reductions are still expected to be applied in 2009.

While we lobbied Congress for relief from the five-year review cut, we determined that it was best to address the practice expense methodology change, which we view as flawed, at the regulatory level since it has produced mixed results on psychologists' payment rates for different services. We have joined with the AMA and many other specialty societies, all of whom agree with our position, to provide CMS with new practice expense data from a massive survey project. This survey is now underway and is expected to produce data for CMS to review in 2009. We believe that CMS will reevaluate the practice expense component of payment in a manner favorable to psychology once new data is considered.

Medicare Coinsurance Parity

Currently, Medicare beneficiaries are responsible for paying 50 percent of the approved amount for outpatient mental health services, but only 20 percent for other services. Under MIPPA, mental health services will enjoy the same 80-20 percent split in coinsurance by 2014. A phase-in to coinsurance parity for outpatient mental health services begins in January 2010, when beneficiaries will pay 45 percent coinsurance; the figure drops to 40 percent in 2012, 35 percent in 2013 and 20 percent in 2014. This long-awaited end to the financial obstacle of discriminatory copayments will help seniors gain access to the quality mental health treatment they need and deserve. The provision of the new law is expected to cost $500 million over the next five years.

The APAPO, a founding member of the Medicare Mental Health Equity Coalition, worked in tandem with Senators Olympia Snowe (R-ME) and John Kerry (D-MA) to advance the coinsurance parity issue and win this important victory for psychology.

Sustainable Growth Rate (SGR)

The SGR is part of a formula that determines each year if Medicare reimbursements will increase or decrease from the year before. For the last six years, the proposed reimbursement rate has dropped; every year Congress has taken action to stop the cut from taking effect. In December 2007, Congress delayed implementation of a 10.1 percent cut in 2008 Medicare payments from taking effect for six months, until July 1. MIPPA postpones this cut for an additional 18 months and provides a 1.1 percent payment update for 2009. The SGR formula has created an untenable situation for Medicare patients, providers and the system as a whole, where every year we must collectively fight an automatic cut in Medicare payment rates. We will continue to press Congress for a permanent solution to equitably determine Medicare payments and keep fighting year after year for better reimbursement rates in the meantime.

PQRI Bonus Payments

Since July 1, 2007, CMS has provided bonus payments of 1.5 percent to providers voluntarily reporting certain quality measurements under the Physician Quality Reporting Initiative (PQRI). Under MIPPA, PQRI bonus payments will increase to 2 percent in 2009 and 2010.

Rural and Veterans Mental Health

MIPPA uses an existing Medicare grant program to expand mental health services delivery in rural areas by authorizing an additional $50 million for mental health services under this program in 2009 and 2010. States that apply for available funds would be able to use the monies they receive to reimburse providers of mental health services. Although the relevant provision in the law highlights the needs of veterans who served in Iraq and Afghanistan, the mental health services also would be available to other residents of rural areas.

Claims Processing

MIPPA applies its payments provisions retroactively to July 1, 2008, when the previous postponement of the SGR cut expired. Since Congress was considering the Medicare bill in June, the Centers for Medicare and Medicaid Services (CMS) had instructed its contractors to hold claims for Medicare services provided July 1, 2008 or later that were received for processing during the first 10 business days of the month.

On July 16, one day after MIPPA was enacted, CMS announced that local contractors will need approximately 10 business days to incorporate the new payment rates into their systems. As a result, psychologists may wish to delay filing Medicare claims until August 1.

If any claims for services provided on or after July 1 are processed before the new rates are set, the payment to Medicare providers will reflect the 10.6 percent cut that went into effect on July 1. Any claims that were paid at the lower rate will be reprocessed by the local contractors at the higher rate once their systems have been updated.

Passage of MIPPA is a huge victory for psychology and will make a real difference in both payments to your practice and seniors' access to mental health services. The APA Practice Organization will keep up the fight in every legislative and regulatory avenue to ensure that your services are fairly and adequately compensated. Thanks again for all of your hard work.

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