

MedPAC Recommends a Reduction in Hospital Outpatient Department Medicare Payments

By Douglas Swill and Eric Berman

At its Jan. 12, 2012, meeting, as one of its advisory recommendations to Congress on Medicare payments, the Medicare Payment Advisory Commission (MedPAC) recommended that Congress direct the Department of Health and Human Services to reduce payment rates for evaluation and management (E&M) services provided in hospital outpatient departments so that total payment rates for these visits are the same whether the service is provided in an outpatient department or a physician's office. E&M services generally include routine visits, consultations and preventive medicine visits.

Background on MedPAC

MedPAC is an independent congressional agency established to advise Congress on issues affecting the Medicare program. MedPAC meets publicly to discuss policy issues and formulate its recommendations to Congress. In March and June of each year, MedPAC issues reports to Congress as the primary outlet for its recommendations.

Basis for Recommendation

The basis for the E&M recommendation is twofold. First, MedPAC believes that payments under Medicare should relate to the service regardless of where the service is actually provided. Second, MedPAC sees an increased level of hospital acquisition of existing physician practices and of physicians electing employment arrangements with hospitals.

MedPAC believes that this increase in hospital-physician affiliation has caused the billing of E&M services to shift from free-standing physician offices to hospital outpatient departments at an accelerating rate. MedPAC stated that E&M services in hospital outpatient departments have increased at an annual rate of 3.5 percent per year between 2004 and 2008, and have further increased by 9.9 percent in 2009 and 12.9 percent in 2010. MedPAC is concerned that such an increase in hospital-physician integration is

problematic for purposes of E&M payments because rates for E&M services are typically much higher in the Outpatient Prospective Payment System than in the Physician Fee Schedule.

MedPAC believes that, after a comparative analysis of complexity, capacity and packaging of ancillary services, the level of care provided at a hospital outpatient department versus a free standing physician's office is not sufficiently different to justify two different payment rates for E&M services. Accordingly, MedPAC's recommendation to align the Outpatient Prospective Payment System and Physician Fee Schedule rates for E&M services is based on its conclusion that the services are equal and, therefore, equal payment for equal services is appropriate.

Transition and "Stop Loss" Protection

MedPAC noted its concern regarding the effect of the E&M recommendation on hospitals that provide a critical source of primary care to low-income patients. To address this concern, MedPAC is recommending a three-year transition period. During this transition period, MedPAC is recommending a "stop loss" protection, in which payment reductions to hospitals with a disproportionate share patient percentage at or above the median level of .25 percent would be limited to 2 percent of overall Medicare revenues. After the transition period, MedPAC stated the recommendation will reduce the overall Medicare revenue of hospitals by 0.6 percent and outpatient Medicare revenue by 2.8 percent.

In response to the recommendation, the American Hospital Association (AHA) is requesting Congress to reject MedPAC's recommendation. The AHA stated that it was disappointed with the recommendation and disagreed with MedPAC's assessment that E&M services provided in a hospital outpatient setting versus a physician's office are equal in both complexity and costs. Rather, AHA argues that hospitals see more complex, sicker patients with higher associated costs. AHA stated that the reduced reimbursement rate for E&M services will affect the ability of hospitals to provide services and will jeopardize patient access to care.

What Is Next?

MedPAC believes that the E&M recommendation may slow the current shift to physician-hospital integration. However, MedPAC emphasized that the recommendation of equal payments for E&M services is not motivated by an attempt to limit hospital acquisition of physician practices or hospital employment of physicians. Rather, MedPAC's concern is that, to the extent such affiliation occurs, it is necessary to address the implications to Medicare.

MedPAC would like to see Medicare move away from what MedPAC considers a siloed and inconsistent payment system. MedPAC acknowledged other approaches, including bundling around hospital admissions, in which a single payment would cover the services provided not just by the hospital, but also by physicians and post-acute providers. In addition, MedPAC referenced the Accountable Care Organization (ACO) approach, in which an ACO receives payment for the full range of services and the ACO assumes both

clinical and financial responsibility for a defined population. MedPAC believes these are preferable approaches, but believes that such options will transition into Medicare slowly. Until then, MedPAC would like to see the traditional fee-for-service Medicare program move towards the principle of paying the same amount for the same service, regardless of the provider type. Thus, providers should expect to see similar recommendations by MedPAC in the future.

MedPAC's recommendations will be included in its report to Congress in March. The complete transcript of the Jan. 12 and 13 MedPAC meeting is available at <http://www.medpac.gov/transcripts/01121312MedPAC.pdf>.

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