



American Society of
Health-System Pharmacists
7272 Wisconsin Avenue
Bethesda, Maryland 20814
(301) 657-3000
Fax: (301) 664-8877
www.ashp.org

September 14, 2007

Centers for Medicare & Medicaid Services
Department of Health and Human Services
Attention: CMS-1392-P
P.O. Box 8011
Baltimore, MD 21244-1850

Re: CMS-1392-P, Medicare Program: Proposed Changes to the Hospital Outpatient Prospective Payment System and CY 2008 Payment Rates; Proposed Changes to the Ambulatory Surgical Center Payment System and CY 2008 Payment Rates; Medicare and Medicaid Programs: Proposed Changes to Hospital Conditions of Participation; Proposed Changes Affecting Necessary Provider Designations of Critical Access Hospitals.

Dear Sir/Madam:

The American Society of Health-System Pharmacists (ASHP) is pleased to submit written comments pertaining to the proposed changes to the Hospital Outpatient Prospective Payment System and CY 2008 Payment Rates. ASHP represents pharmacists who practice in hospitals and health systems. The Society's more than 30,000 members include pharmacists and pharmacy technicians who practice in a variety of health-system settings, including inpatient, outpatient, home care, and long-term-care settings.

ASHP will comment on two sections of the proposed rule: (1) Specified Covered Outpatient Drugs and (2) Quality Data.

The following is an overview of ASHP's recommendations:

- **ASHP strongly recommends that CMS not require hospitals to remove the pharmacy overhead charge from the charge for the drug or biological, and report the pharmacy overhead charge on an uncoded revenue code line on the claim.**

- **ASHP strongly recommends that CMS adopt the APC Panel's recommendation to establish a three-phase approach to establish payment for pharmacy overhead costs.**
- **ASHP strongly recommends that CMS reimburse all separately payable drugs at no less than ASP plus six percent.**
- **ASHP urges CMS to delay finalizing the specifications for the quality measures until all the measures have been endorsed by the National Quality Forum (NQF).**
- **ASHP recommends that CMS delay the data collection requirement for the quality measures until the measures have been endorsed by NQF and have been fully field-tested.**

OPPS: Specified Covered Outpatient Drugs

During its March 2007 meeting, the Centers for Medicare and Medicaid Services (CMS) Advisory Panel on Ambulatory Payment Classification (APC) Groups agreed to recommend that CMS implement a three-phase plan to address OPPS payment for pharmacy overhead costs. The first phase of the recommended plan would have involved CMS working with interested stakeholders to develop a system of defining pharmacy overhead categories for outpatient drugs that require different levels of pharmacy resources. In addition, this phase included a provision recommending that CMS provide payment for pharmacy overhead costs by setting payment rates for the developed categories through New Technology APCs. The second phase called for CMS to review estimates of pharmacy overhead costs and to consider external survey data from stakeholders. The third phase called for specific billing of pharmacy overhead costs using HCPCS codes on the same claim as a drug administration service. In its Proposed Rule, CMS refused to adopt this recommendation.

The APC Panel recommended that the overhead payments be made in addition to maintaining the current ASP plus six percent payment rates for separately payable drugs and biologicals that do not have pass through status. Instead, CMS is proposing to lower the reimbursement rate for separately payable drugs to ASP plus five percent.

The APC Panel's recommended approach would have enabled CMS to develop a payment methodology that more accurately reflects cost and overhead expenses while protecting beneficiary access to care. However, instead of including payment for pharmacy overhead costs in the proposed rule, CMS has proposed to require hospitals to remove the pharmacy overhead charge from the charge for the drug or biological, and report the pharmacy overhead charge on an uncoded revenue code line on the claim beginning in CY 2008.

ASHP believes this new requirement would create a significant administrative burden for hospitals, without the promise of payment. Hospitals will find it extremely difficult, if not impossible, to break out the overhead costs and include them as a separate billing line item. Additionally, since private payers require a single line item for the drug cost, the CMS requirement would necessitate the implementation of two separate billing systems, further increasing the hospital pharmacy's labor costs. There is also likely to be great variability in the data submitted by the hospitals, undermining the usefulness of the data collected.

- **ASHP strongly recommends that CMS not require hospitals to remove the pharmacy overhead charge from the charge for the drug or biological, and report the pharmacy overhead charge on an uncoded revenue code line on the claim.**
- **ASHP strongly recommends that CMS adopt the APC Panel's recommendation to establish a three-phase approach to establish payment for pharmacy overhead costs.**

The APC Panel also recommended that payment rates remain at the current ASP plus six percent reimbursement rate for separately payable drugs and biologicals that do not have pass-through status. Instead, CMS is proposing to lower the reimbursement rate for separately payable drugs to ASP plus five percent. ASP plus five percent is insufficient to cover pharmacy costs and will not adequately cover the costs of managing medications. Hospitals and health systems and their pharmacy departments will bear the burden of the lower reimbursement rate, while providing necessary patient care, knowing that their reimbursement will not cover the costs incurred.

- **ASHP strongly recommends that CMS reimburse all separately payable drugs at no less than ASP plus six percent.**

Quality Data

The Tax Relief and Health Care Act of 2006 (TRHCA) requires hospitals to report data for selected quality measures, or incur a reduction in their annual payment update factor of 2.0 percentage points. TRHCA also requires CMS to establish a program under which hospitals will report the data on the quality of hospital outpatient care using standardized measures of care, effective for payments beginning in CY 2009. CMS is currently finalizing the specifications for the 10 quality measures identified by the Agency and expects to release these specifications to the public by the Fall of 2007.

ASHP commends CMS for developing hospital outpatient measures that are "harmonized" with measures for assessing comparable inpatient and ambulatory care, to assure that comparable care in different care settings can be evaluated in similar ways.

- **ASHP urges CMS to delay finalizing the specifications for the quality measures until all the measures have been endorsed by the National Quality Forum (NQF).**

As a member of the NQF, ASHP believes that health care quality improvement programs should adopt standard quality measures that are developed with the involvement of pharmacists, are evidence-based, and promote the demonstrated role of pharmacists in improving patient outcomes. All measures, including those identified by CMS for possible inclusion for CY 2010 or subsequent years, should be endorsed by NQF.

CMS is also requiring that, in order for hospitals to receive the full OPPTS payment update for services furnished in CY 2009, hospital outpatient settings must submit data on the ten measures, effective with hospital outpatient services furnished on or after January 1, 2008.

- **ASHP recommends that CMS delay the data collection requirement for the quality measures until the measures have been endorsed by NQF and have been fully field-tested.**

To require hospitals to put a system in place to collect these data prior to the completion of field-testing and endorsement by NQF runs the risk of hospitals reporting invalid and unreliable data. Additionally, it is unduly burdensome to require hospitals to implement the required systems in such a short amount of time.

ASHP appreciates this opportunity to present its written comments on the proposed changes to the Hospital Outpatient Prospective Payment System and CY 2008 Payment Rates. Feel free to contact me if you have any questions regarding our comments. I can be reached by telephone at 301-664-8702, or by e-mail at jcoffey@ashp.org.

Sincerely,



Justine Coffey, JD, LLM
Director, Federal Regulatory Affairs