

NEWS BREAK

November 19, 2010

Medicare Cuts to be Postponed Until January

On November 18, Senate Majority leader Harry Reid reached agreement with Senate Minority Leader Mitch McConnell on a unanimous consent request for a 31-day reprieve from the 23 percent Medicare physician payment cut scheduled to take effect on December 1, meaning physicians' current payment rates will remain in effect through December 31. House leaders said they would follow suit when they return from Thanksgiving break on Monday, November 29.

Senate Finance Committee Chairman, Max Baucus (D-MT) and ranking Republican, Charles Grassley (R-IA) said the 30-day measure would give Congress more time to develop a longer term extension during the month of December. When lawmakers return next month, they will consider a one-year SGR deal that prevents cuts through December 31, 2011 and provides an update.

They are working to secure a way to fully pay for the yearlong cost of stopping the cuts. Democratic leaders in the House and Senate have suggested that a year-long SGR proposal could be rolled into a larger bill that addresses the expiring Bush tax cuts. Leaders of both parties are meeting with President Obama on November 30 to negotiate the tax package.

The cost of the one-month extension is paid for by using savings from a Centers for Medicare and Medicaid (CMS) proposal that reduces Medicare payments for multiple therapy services provided by therapists to patients in one day.

CMA is pleased that Congress will act to stop the devastating 23 percent payment cut facing physicians on December 1. This stop-gap will allow physicians to continue to see Medicare patients and protect access to care for California's seniors and military families.

The Medicare rates also affect private sector rates, making for an enormous impact on California physicians and patients in all sectors. CMA will continue to aggressively advocate for a longer-term fix to the SGR. CMA is also working to include the California GPCI fix in the SGR bill. The GPCI provision would update the Medicare geographic payment localities in California.

CMA urges physicians to continue to call, email and meet with their congressional representatives during the month of December until Congress passes a yearlong fix. After that package is adopted, it will be incumbent on organized medicine to help develop an ultimate long-term solution to the unsustainable SGR payment formula.

CMA thanks all county medical societies and physicians for their advocacy to stop the SGR cuts. California physicians working together stopped the cuts. Great work so far!

Time to declare Medicare participation for 2011

It's that time of year again – time for physicians to decide about their participation in Medicare. Physicians have until Dec. 31, 2010 to make changes to their status for 2011.

Participation decisions are binding for one year, unless physicians choose to opt out entirely. Once you opt out, you cannot opt back in for two years.

As always, physicians have three choices regarding Medicare: Be a participating provider; be a nonparticipating provider; or opt out of Medicare entirely. A participating physician must accept Medicare allowed charges as payment in full for all Medicare patients.

A nonparticipating provider can choose to accept or not accept assignment on Medicare claims on a claim-by-claim basis. Nonparticipating physician fees are 95 percent of participating physician fees. If you choose not to accept assignment, you can charge the patient 9.25 percent more than the amounts allowed in the participating physician fee schedule.

Physicians who opt out of Medicare are bound only by their private contracts with their patients. Medicare's limiting charges do not apply to these contracts, but Medicare does specify that these contracts contain certain terms. When a physician enters into a private contract with a Medicare beneficiary, both the physician and patient agree not to bill Medicare for services provided under the contract.

For more information on physicians' Medicare participation options, see CMA On-Call document #0151, "**Medicare Participation (and Nonparticipation) Options**." On-Call documents are free to members at the **CMA members-only website**. Nonmembers can purchase On-Call documents for \$2 per page in the **CMA bookstore**.

Contact: Michele Kelly, 213/226-0338 or mkelly@cmanet.org.

CMA introduces draft 'Model ATD Exposure Control Plan'

To help physicians understand and comply with the California Occupational Safety and Health Administration's (OSHA) new aerosol transmissible disease (ATD) standard, the California Medical Association (CMA) introduced participants of the webinar "**Take A Deep Breath And Cough: Compliance With The ATD Standard**" to CMA's draft "Model ATD Exposure Control Plan," developed by Jeff Tanenbaum, Chair of the Nixon Peabody LLP Occupational Safety and Health Group and one of the leading OSHA attorneys in the nation. In addition, as announced in the webinar, model policies and procedures are also being developed for "referring" and "exempt" medical offices, which have more limited obligations under the ATD Standard.

CMA Members may request the CMA Model ATD Exposure Control Plan, or the Model Policies and Procedures for Referring or Exempt Employers by e-mailing CMA at legalinfo@cmanet.org.

The model plan guides physicians' offices in identifying specific occupational exposure control policies and procedures that the practice needs to develop and document, with prompts to customize the plan for various office settings.

ATDs require "droplet precautions" or "airborne infection isolation." The new standards cover health care facilities, including hospitals, nursing facilities, clinics, medical offices, long-term care facilities, emergency services and transport providers, and other defined high-risk workplaces.

Under the new standards, covered employers are required to offer influenza, measles, mumps, rubella, Tdap, and varicella vaccines to their employees. (Currently, covered employers are only required to provide the seasonal flu vaccine.) Employees who decline these vaccines must complete declination statements.

These new standards come in addition to the standards that took effect last year requiring employers to have written infection control procedures in place. The written infection control plan must include, among other things, a list of all high-hazard procedures performed in the facility, a respiratory protection plan, procedures for identifying, isolating, and transferring potentially exposed individuals, and detailed procedures to follow in the event of an exposure incident.

The webinar, "[Take a Deep Breath and Cough: Compliance with the ATD Standard](#)," is available for on-demand viewing for CMA members.

For more information on the new ATD standard, see CMA On-Call document #1842, "[Protecting Employees from ATDs in the Health Care Workplace](#)." On-Call documents are free to members at the [CMA members-only website](#). Nonmembers can purchase On-Call documents for \$2 per page in the [CMA bookstore](#).

