

Sidley Austin’s Analysis of Key Provisions of the CY 2012 Hospital Outpatient Prospective Payment System (HOPPS) and Ambulatory Surgery Center (ASC) Final Rule with Comment Period

Key Provisions:

Multiple Imaging Composite APCs

- CMS will continue to pay for all multiple imaging procedures within an imaging family performed on the same date of service using the multiple imaging composite payment methodology.
- CMS rejected commenters request to provide a separate APC payment when multiple imaging services of the same modality are provided on the same date of service, but at different times (similar to CMS’ evaluation/management (“E/M”) policy), because CMS believes efficiencies are achieved when the same imaging modality is used even at different times during the day on the same patient. In addition, CMS did not believe the E/M policy was an appropriate comparison, because, unlike radiology departments, clinics often operate independently from each other in different parts of the hospital with separate staff provided different services. (p. 193-194)
- CY 2012 Approximate APC Median Cost:
 - Ultrasound = \$192
 - CT & CTA without contrast = \$432
 - CT & CTA wit contrast = \$722
 - MRI & MRA without contrast = \$700
 - MRI & MRA with contrast = \$1,001

Whole Hospital and Rural Provider Exceptions to the Physician Self-Referral Prohibition

- Pursuant to the statutory requirements of the Patient Protection and Affordable Care Act, CMS is implementing a process in this Final Rule whereby certain physician-owned hospitals may apply for an exception to the prohibition on expansion of facility capacity. (p. 1321) Exceptions for expanding facility capacity will protect only those referrals made after the exception is approved. (p. 1319).

Provider Agreement Regulations on Patient Notification Requirements

- Physician-owned hospitals are subject to certain requirements as part of their Medicare provider agreements, which include notification to inpatient and outpatients in instances where a hospital does not have a doctor of medicine or osteopathy present 24 hours a day, 7 days a week. (p. 1353-1354) In addition to other modifications, the Final Rule limits the categories of outpatients who must be notified to only those outpatients who receive observation services, surgery, or services involving anesthesia. (p. 1360)