



December 29, 2017

**Via Electronic Submission**

Seema Verma, Administrator  
Centers for Medicare and Medicaid Services  
Department of Health and Human Services  
*Attn:* CMS-1678-FC  
P.O. Box 8013  
Baltimore, MD 21244-1850

**RE: Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs [CMS-1678-FC]—RIN: 0938-AT03**

Dear Administrator Verma:

The Society for Vascular Ultrasound (“SVU”) thanks the Centers for Medicare and Medicaid Services (“CMS” or the “Agency”) for this opportunity to comment on the Hospital Outpatient Prospective Payment System (“HOPPS”) Final Rule for calendar year (“CY”) 2018 (the “Final Rule”).<sup>1</sup> SVU is a professional society comprised of over 5,700 vascular technologists, sonographers, nurses, and physicians who provide a variety of high-quality vascular ultrasound services<sup>2</sup> to Medicare beneficiaries in all sites of care, including hospital outpatient departments, freestanding clinics, and increasingly Ambulatory Surgical Centers (“ASCs”).

Vascular ultrasound is a critical diagnostic tool that uses sound waves to obtain images of internal anatomic structures. It offers a highly sensitive, non-invasive, and low-cost means of examining internal vessels. Vascular ultrasound utilization not only saves Medicare dollars, but also reduces the risks involved with other more expensive or invasive diagnostic imaging modalities, which may present more significant morbidity and mortality risks. With this in mind, SVU offers these comments on the Final Rule from the perspective of vascular ultrasound.

**I. Overview of SVU’s Comments**

In summary, SVU presents for CMS’ consideration the following comments to the Final Rule regarding the final imaging without contrast APC groupings for CY 2018:

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<sup>1</sup> 82 Fed. Reg. 59216 (Nov. 13, 2017).

<sup>2</sup> Such services and related codes include: 93880, 93882, 93886, 93888, 93890, 93892, 93893, 93922, 93923, 93924, 93925, 93926, 93930, 93931, 93965, 93970, 93971, 93975, 93976, 93978, 93979, 93980, 93981, 93990, G0365, and 76706 (formerly G0389).

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- We applaud the Agency's decision not to finalize its proposal to add a fifth level to the Imaging without Contrast APCs for CY 2018, as this would have caused widespread payment instability for imaging providers.
  - In addition, we are so grateful for CMS' incredible responsiveness and careful consideration of SVU's concerns with respect to the reassignments inadvertently made to the existing CY 2017 groupings in the CY 2018 Final Rule.
  - Those changes would have had a devastating impact on reimbursement for certain vascular ultrasound services both in the hospital outpatient department and physician fee schedule sites of care.
  - Accordingly, SVU sincerely appreciates CMS' effort, especially during this incredibly busy time of the year, to prepare a Correction Notice<sup>3</sup> to the CY 2018 Final Rule that, among other things, restored certain complex vascular ultrasound services to APC 5523 for CY 2018.<sup>4</sup>

These comments are addressed in greater detail below. Again, SVU sincerely thanks the Agency for all the time it spent during this rulemaking cycle considering our concerns from the perspective of vascular ultrasound.

## **II. Appreciation for the Correction Notice to the CY 2018 Final Rule**

SVU applauds CMS' decision not to finalize its proposal to add a fifth level to the Imaging without Contrast APCs in recognition of the "importance of payment stability for providers."<sup>5</sup> In addition, we sincerely appreciate CMS' effort to prepare a Correction Notice to the CY 2018 Final Rule, reversing an inadvertent error that, if uncorrected, would have reassigned the following critical vascular ultrasound procedures from APC 5523 (Level 3) to APC 5522 (Level 2):

- 93880 (Duplex scan of extracranial arteries; complete bilateral study)
- 93930 (Duplex scan of upper extremity arteries or arterial bypass grafts; complete bilateral study)
- 93978 (Duplex scan of aorta, inferior vena cava, iliac vasculature, or bypass grafts; complete study)

Specifically, the reassignment of these complex, bilateral vascular ultrasound procedures would have caused their reimbursement to decrease from \$225 in 2017 to \$118 in 2018, cutting payment for these services by over 47%. SVU was deeply concerned that cuts of this magnitude would have made it impossible for many of our members to continue providing vascular ultrasound services, significantly limiting Medicare beneficiaries' access to these life-saving, non-invasive diagnostic imaging procedures. Further, we were concerned that these reassignments would have (1) created additional 2 times rule violations contrary to the Agency's stated rationale for the reassignments; and (2) raised serious concerns with respect to the clinical and resource homogeneity of the groupings.

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<sup>3</sup> Medicare Program: Hospital Outpatient Prospective Payment and Ambulatory Surgical Center Payment Systems and Quality Reporting Programs; Correction ("Correction Notice"), 82 Fed. Reg. 61184 (Dec. 27, 2017).

<sup>4</sup> The vascular ultrasound codes restored to APC 5523 by the Correction Notice and corresponding addenda are: (1) 93880 (Duplex scan of extracranial arteries; complete bilateral study); (2) 93930 (Duplex scan of upper extremity arteries or arterial bypass grafts; complete bilateral study); and (3) 93978 (Duplex scan of aorta, inferior vena cava, iliac vasculature, or bypass grafts; complete study).

<sup>5</sup> 81 Fed. Reg. at 53910.

The extreme impact of the reassignments and the inconsistency with the Agency's stated rationale caused SVU to wonder if the reassignments were the result of an inadvertent error. Accordingly, we requested a teleconference call with CMS just before the Thanksgiving holiday, which the Agency graciously agreed to. On that teleconference call, the CMS team thoughtfully listened to the concerns of several SVU representatives and concluded by reiterating that CMS' intent in the CY 2018 Final Rule was to maintain payment stability and homogenous classifications while mitigating potential 2 times rule violations.

Consistent with that intent, CMS appears to have worked tirelessly to prepare a Correction Notice that was released in the Federal Register on December 20, 2018, published on December 27, 2018, and will go into effect on January 1, 2018, identifying the reassignment of these vascular ultrasound services to APC 5522 (Level 2) as an inadvertent error and restoring those services to APC 5523 (Level 3) for CY 2018.

SVU understands that the issuance of this Correction Notice was a considerable undertaking for the Agency, especially during this incredibly busy time of the year, and on behalf of the vascular ultrasound community, we sincerely thank the Agency for the time and energy spent ensuring that these inadvertent errors were corrected in advance of the new calendar year.

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We thank you for your consideration of these comments to the Final Rule and for all the time CMS spent during this rulemaking cycle considering SVU's concerns from the perspective of vascular ultrasound. We look forward to continuing to work with the Agency to improve the health of Medicare beneficiaries.

Respectfully submitted,



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